

# Procurement Policy

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<b>Related Legislation/Applicable Section of Legislation</b>	Public Contracts Regulations Public Procurement Regulations 2015 Bribery Act 2010
<b>Related Policies, Procedures, Guidelines, Standards, Frameworks</b>	Council's Standing Orders and Scheme of Delegation Council's Financial Guidance
<b>Replaces</b>	
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<b>Sponsor Directorate</b>	Finance and Governance
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## **Document Control**

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4.1	08.09.17	Amendments to reflect new approved process.	Sam Faulkner	For review by HOS.
4.2	08.09.17	Amendments to reflect scheme of delegation	Sam Faulkner	For review by HOS.

4.3	08.09.17	Correction to wording.	Sam Faulkner	For review by HOS.
4.4	11.09.17	Discussed with and Procurement Manager.	Sam Faulkner	Approved.

## 1. Strategic Context

1.1 The Mid and East Antrim Corporate Plan outlines five strategic priorities. This Procurement Policy and the work carried out by the Procurement Department across Mid and East Antrim helps to achieve two of the strategic priorities – Developing a high performing Council and Growing the Economy.

1.2 The Procurement Vision agreed by the Mid and East Antrim STC was:

*‘Delivering best value procurement to Mid and East Antrim rate payers from a joined-up and collaborative central procurement ethos, conducted in an efficient, effective and economic way.’*

1.3 This procurement policy and approach across Mid and East Antrim aligns to this procurement vision. It also aligns to the Local Government Procurement Toolkit ensuring best practice across the region by having, for example, agreed procurement policies and a qualified procurement team.

## 2. Background

2.1 Procurement deals with the **whole life cycle** process of the acquisition of goods, services and works from third parties, beginning when a potential requirement is identified and ending with the conclusion of a service contract or ultimate disposal of an asset

2.2 Procurement increasingly involves making complex decisions which help to support the organisations wider policies and objectives relating to best value for money, sustainability and environmental concerns.

2.3 In the context of a procurement process, obtaining “**best value for money**” means choosing the bid that offers “most advantageous combination of cost, quality and sustainability to meet customer requirements”.

2.4 This not is necessarily the lowest initial price option and requires the assessment of the on-going revenue / resource cost as well as the initial capital investment. The criterion of best value for money is used at the award stage to select the bid that best meets the requirements.

2.5 To obtain best value for goods and services staff should ensure consideration is given to:

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<b>Right Price</b>	Staff must ensure that total acquisition costs/whole life costs are considered as opposed to merely price.
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<b>Right Quality</b>	An assessment should be carried out to ensure the product is fit for purpose.
<b>Right Quantity</b>	Consider bulk buying to maximise discount. Use central procurement department to consolidate all orders to bulk buy and distribute to end users. Consider supplier partnership so that supplier holds stock and release on a call off basis. Consideration should also be given to procuring too much i.e. potential for excess to be scrapped.
<b>Right Place</b>	That there are clear delivery instructions to ensure deliveries are made to the correct location.
<b>Right Time</b>	Consider differing opening hours for each location. Can goods be procured on a just in time basis to avoid unnecessary storage cost?
<b>Right Supplier</b>	It is essential to ensure suppliers are selected in an open, fair, non-discriminatory, transparent manner giving consideration to financial standing, capabilities, H&S policies, employment practices etc.
<b>Right Environmental Impact</b>	Actions such as production methods, transport, operating requirements such as fuel, energy efficiency, disposal etc. must be considered.

The principles which underpin the Procurement Policy are set out in **Appendix A**.

### 3. Value for Money

- 3.1 Mid and East Antrim Council aims to achieve best value for money for all areas of non-pay expenditure whilst continuing to maintain minimal risk and to provide high quality services to all stakeholders.
- 3.2 The Council will strive to achieve value for money whilst supporting the local economy and achieving “sustainable” targets.
- 3.3 Good Procurement practice is critical to this and procurement decisions must be made with due consideration, where relevant of:
- Accounting Policies
  - Budgetary Constraints
  - Whole Life Costs
  - Risk Management
  - Total Supply Chain Costs / Routes
  - Product Standardisation
  - Supplier Rationalisation
  - Supplier Diversity (SMEs)
  - Third Sector Organisations

- Innovation
- Competition
- Stock Holdings
- Sustainability and Environmental Issues
- Equality and Diversity
- Social Issues
- Policies
- Procedures
- Strategies
- Business Plan

- 3.4 The Council will actively encourage all suppliers to compete for business.
- 3.5 Council must ensure that, where there is an identified need for repeat orders over a 12 month period, such orders must be collated and an appropriate procurement exercise undertaken as required within the thresholds denoted within Section 5 and for EU values, **Appendix B** of this document.
- 3.6 Internally to promote the achievement of best value within a procurement exercise, it is important to liaise with colleagues across departments to capture any upcoming requirement for similar goods or services. This approach will minimise procurement effort and help encourage the development of contracts that are greater in scope, which will in turn provide more opportunities for cost saving through sourcing a larger volume of goods or services at a given time. To facilitate this collaborative approach, all managers should outline their future requirements to central procurement for the next 6 and 12 month period where possible.
- 3.7 The Council will endeavour to work in a collaborative manner at every opportunity with other local government councils and public bodies. Rules apply to the setting up and processing of requirements collaboratively, therefore they must only be processed by the Procurement Department.
- 3.8 The advantages, disadvantages and risks of procuring a requirement collaboratively must be assessed on a case by case basis. It is important to consider the protection of a competitive market for future use. Therefore, council will also ensure that any aggregation of requirement or collaborative action does not dilute the sustainable approach to procurement.
- 3.9 This is achieved through the use of intelligent procurement e.g. the use of “lots” (these may be geographic, financial, or other packages of work) which allow smaller bidders equal opportunity to bid for parts of a larger contract. The Procurement Department will ensure that lots are not used to artificially disaggregate spend or contracts.
- 3.10 Collaborative early engagement of the market to inform contract options is another way in which all partners can ensure that smaller and third sector businesses in their areas can be encouraged to bid for work.

#### 4. General Points

- 4.1 To request procurement to commence and undertake a quote or tender exercise, appropriate staff must complete and submit a request form as denoted in **Appendix C**. **No process will be commenced by procurement until fully completed forms are submitted. All requests must be submitted to [procurement@midandeantrim.gov.uk](mailto:procurement@midandeantrim.gov.uk).**
- 4.2 Where an officer ignores the central procurement process, they may be responsible for any resultant action against the Council should this arise.
- 4.3 It is essential that the Procurement Department are involved in any matters as early as possible to minimise the potential exposure to risk, or delays to the process.
- 4.4 All approved Business Cases / Economic Appraisals should be made available to the Procurement Department at the commencement of any process. The Procurement Department will not be able to progress the exercise further without the relevant documentation and approvals.
- 4.5 By signing an official order you are committing the Council to a contract on which the Council may be liable to challenge.

#### 5. Thresholds

##### 5.1 **Council Thresholds**

- 5.2 The table below sets out the thresholds at which the different procurement processes are triggered:

EXPENDITURE BANDS	NO. OF QUOTATIONS REQUIRED
£0 - £2999.99	Minimum of 1 telephone / email quotation sought by appropriate departmental officer.

*Note – expenditure below £2999.99 delegated to appropriate officers, however spend remains subject to central controls, for example but not limited to - IT, furniture, stationery, building maintenance, printing, consultants and other framework agreements which may be in place. Procurement Department must be consulted for guidance.*

EXPENDITURE BANDS	NO. OF QUOTATIONS REQUIRED
£3,000 - £7,999.99	Minimum of 3 written / email quotations via central procurement
£8,000 - £29,999.99	Minimum of four written / email quotations via central procurement
£30,000 +	Publicly Advertised Tender

### 5.3 **EU Thresholds**

- 5.4 Contracts in excess of the EU Thresholds Contracts require publicly advertised tenders in the EU Journal, i.e. where the estimated value of the contract (net of VAT) exceeds the relevant financial threshold as detailed in Public Contracts Regulations. The current thresholds are outlined in **Appendix B**.
- 5.5 The values contained in Appendix B will be reviewed and updated following any changes by the EU.
- 5.6 The rules expressly prohibit deliberately splitting contracts to bring them below the thresholds.
- 5.7 The value of a requirement is calculated on a 12 month spend estimate and / or the life time value of the contract. This denotes the threshold you should apply to determine the procurement process (ie quoting for the same item several times over a 12 month period or a requirement with options to extend may exceed tender value).
- 5.8 Should you anticipate, or become aware of an ongoing need for a requirement, you must contact the Procurement Department immediately for advice and guidance.

### 6. **Approval of Spend**

- 6.1 There are financial limits setting out the levels of authority delegated for the purchase of goods and services. **Only named officers, as detailed within the order authorisation list, may approve purchase orders within their delegated financial authority.**
- 6.2 Officers may only be included on the list following approval from the Director of Finance and Governance or other nominated officer.
- 6.3 The Procurement Department is responsible for ensuring that best value for money is obtained commensurate with specifications and the requisition system is an essential aspect of this process.
- 6.4 No instructions are to be given to any supplier in advance of quote or tender requests being prepared and sent to the Procurement Department for the process to commence.
- 6.5 For quotations, the Procurement Department must confirm spend complies with all necessary procurement and audit requirements. Upon confirmation the appropriate order signing or budget holder may then proceed to place the order. No orders may be placed without confirmation from the Procurement Department.

- 6.6 For tenders, the Procurement Department must confirm the spend complies to all necessary procurement and audit requirements. The recommendation report will be presented by the Procurement Department or other nominated officer for noting or approval as appropriate by the relevant Council Committee.
- 6.7 Upon approval to proceed, the appropriate order signing officer or budget holder may then proceed to place the order. No orders may be placed without confirmation from procurement.

## **7. Business Case/Economic Appraisal**

- 7.1 A business case should be developed and approved (unless otherwise agreed) for the purchase of any goods, works or services in excess of the limits contained in the Business Case guidance, currently £30k.
- 7.2 An economic appraisal must be conducted for the purchase of any goods, works or services in excess of £500k.
- 7.3 The purpose of this exercise is to establish why the goods or service is required, how much it will cost and clearly identify what benefits it will bring to the department and ultimately to the Council.
- 7.4 Business cases and economic appraisals will be approved in line with the Council's Scheme of Delegation.

## **8. Specifications**

- 8.1 A specification can be defined as "a statement of needs to be satisfied by the procurement of external resources". Its purpose is to present prospective suppliers with a clear, accurate and full description of the Council's needs, to enable them to propose a solution to meet those needs. The supplier's response to the requirement is evaluated to arrive at, depending upon the procurement strategy, either the supplier to be awarded the contract, or those suppliers invited to take part in negotiations.
- 8.2 It is illegal to split requirements to avoid any designated procurement process relevant to value.
- 8.3 Specifications must be clear, and non-discriminatory.
- 8.4 The requirements in the specification subsequently become incorporated in the contract with the successful supplier.
- 8.5 When drawing up Specifications, they
  - a. must be clear and concise so that a "reasonable person" can interpret what the requirements are;

- b. must not seek “proprietary goods”, (eg a Vauxhall 1.7d van), as this effectively limits the market for the goods that can be tendered; and
  - c. cannot normally state preference for a geographical, brand identity, or other similar basis. In addition, any references to a qualification or approval body must not be restricted, but open to others similar or equivalent.
- 8.6 **Specifications must be completed in accordance with the template contained at Appendix D. The only exception to this format is for construction or other appropriate tenders whereby the appropriate standard Central Procurement format will be used.**
- 8.7 **From 1 July 2017**, any person writing a specification **must have adequate experience and knowledge of the subject matter. They must also confirm they have read the guidance and received training.** Procurement will maintain a list of staff who are in receipt of specification training. Specifications will not be accepted from staff who have not received training.
- 8.8 **Each specification must have a covering document control sheet which must be completed by each person reviewing the specification. This cover sheet will be removed by procurement prior to issue.**
- 8.9 **All changes made during the development stage must be completed by using ‘track changes’.**
- 8.10 **The tender specification will only be issued once the Procurement Manager has approved and signed off the document control sheet verifying the final version.**
- 8.11 Tenders must remain open for a minimum of 2 weeks and quotes must remain open for a minimum of 1 week.
- 8.12 Tender specifications must be prepared and approved by each service area, with support and guidance available from the Procurement Department.
- 8.13 **Cost Formula - Only the approved Mid and East Antrim cost evaluation formula is acceptable. All specifications must include the approved cost formula (lowest acceptable cost submitted divided by cost being assessed) x % available for the cost score.**
- 9 **Direct Award Contracts**
- 9.1 A Direct Award Contract is the process where a contract is awarded to a supplier without a competition. The rules around the use of Direct

Award Contracts are denoted within the Direct Award request form within **Appendix E**.

9.2 **Staff requesting a Direct Award Contract must complete the form within Appendix E and return directly to procurement.**

9.3 Upon review of requests submitted, should the Procurement Manager support such a request, a recommendation report will be constructed and submitted to OMT, SMT or Council as appropriate for approval. Procurement will notify the appropriate staff if their request has been successful or not.

9.4 Direct Award Contracts / quote actions do not apply when a procurement competition has been held in accordance with Council policy and only one submission has been returned.

## **10 Selection of Suppliers**

10.1 All tender opportunities may be advertised in regional press, Council website(s) approved e-tendering site(s) and in the EU Journal, if appropriate.

10.2 The Council will strive towards attracting the optimal number of suppliers.

10.3 The Council shall actively encourage all suppliers to participate in any processes held. Council will achieve this by hosting or attending meet the buyer events, or procurement awareness sessions.

10.4 Equipment and / or consumables provided free, on loan for the purposes of trial or testing must be discussed and agreed in advance with the Procurement Department.

10.5 All submissions will be evaluated on a 2 stage approach.

- Stage One: Selection criteria
- Stage Two: Award criteria

The Procurement Department will ensure the criteria set within each stage is relevant to the process and complies with Procurement Regulations.

10.6 All potential suppliers must satisfactorily complete the Council's standard declarations, accept Council Terms and Conditions and obtain a pass in each of the stage 1 criterion set within the specification to ensure compliance with all statutory requirements.

- 10.7 All suppliers participating in tender/quote processes must be notified of their success/failure by the Procurement Department as soon as possible.
- 10.8 In specifying products of a particular characteristic, purchasers should take care not to discriminate either directly or indirectly – for example in breach of the EC rules and regulations.
- 10.9 In contract award procedures, which involve the selection of suppliers to be invited to tender or negotiate, the selection should be made on the basis of objective criteria, taking account of the evidence permitted under the EC rules where they apply.
- 10.10 Purchasers should ensure that, consistent with their legal obligations, any minimum standards of financial or economic standing and technical capacity of suppliers are proportionate to the contract(s) in question and that in selecting participants' undue emphasis is not placed on size.
- 10.11 Whilst seeking the information required above, it would not be consistent with value for money policy for purchasing power to be used to pursue other aims. Purchasers should seek only such information from potential suppliers as is necessary.
- 10.12 Purchasers should not seek information, which cannot legitimately be taken into account.
- 10.13 It is not acceptable or legal to procure goods in various batch sizes to avoid the tender or quotation process.
- 10.14 Suppliers invited to quote may be selected from:
- Annual tender list
  - Select list
  - Existing supplier
  - Procurement network connections
  - Supplier data base compiled by procurement
  - Research
- 10.15 Options exist to draw down goods and services from other organisation's procurement frameworks such as, but not limited to the Crown Commercial Service (CCS) or Belfast City Council. Care should be taken to ensure these frameworks make specific reference to Northern Ireland Local Authorities or ideally, Mid and East Antrim Borough Council. CCS will provide a list of suppliers for whom a suitable tendering procedure has already been carried out. Quotes should still be obtained via Council Central Procurement from the suppliers on any framework and ultimately call-off should be in accordance with the terms of the framework agreement.
- 10.16 In the interests of best value, it may be beneficial to join with

another Council or Councils in a joint tendering exercise. In such exercises, there should be a clear understanding around liability and an indemnity agreement should be produced. A joint tendering exercise will only be undertaken with the prior approval of Council and on obtaining an assurance from the other Council(s) that they have appropriate procurement measures in place. In such cases, the lead Council must be clearly named and the procurement is to be structured in a manner that makes clear which Councils are to be party to and benefit from the procurements. Financial limits and scope are to be clearly stated.

## **11 Pre-Qualification Questionnaires (PQQ)**

- 11.1 The Procurement Department must be contacted for guidance where the use of a PQQ is proposed. This is also known as a restricted procedure.
- 11.2 PQQ documents will be constructed and issued by the Procurement Department via open competition. The evaluation of responses will be undertaken by the tender evaluation team based on pre-determined criteria, which may include the tenderers organisational and financial structure, capabilities, list of previous similar work carried out and client references etc.
- 11.3 The PQQ process allows the top scoring **six** contractors deemed as having the capacity and resources to perform the contract satisfactorily to progress within the competition.
- 11.4 This process will be limited to high cost complex contracts, usually construction.

## **12 Tenders and Quotes**

- 12.1 A tendering process can be a lengthy process.
- 12.2 If the procurement is regulated by European Procurement legislation, the timescale will be lengthened considerably.
- 12.3 The quotation process may be shorter, but specific time scales will apply, therefore the Procurement Department must be consulted.
- 12.4 The tender/quote process may include, but not limited to the following:
  - Business Case preparation and approval;
  - Procurement involvement in the process;
  - Preparation of specification and brief, including evaluation criteria;
  - Public advertisement in the local press and in the OJEC if value is above the relevant EC Procurement threshold. Information should

include who the Tender should be addressed to, how the Tender should be packaged, addressed and returned, and the final delivery date and time (e.g. midday) (quotes do not require public advertisement);

- All tender/quote (above £3k) documents must be issued by the Procurement Department;
- Tender/quotes to be returned to the Procurement Department to be opened after the closing date;
- Forwarded to the evaluation panel to evaluate the tender against the pre-determined criteria and evaluation forms completed;
- Recommendation report prepared by Procurement Department for approval. Procurement Department will create Tender/Quote Evaluation Reports and Recommendation Reports to maintain consistency. Reports must be counter signed by the relevant Lead Officer to maintain consistency;
- for tenders a report for noting shall be submitted by procurement to P&R Committee
- Procurement Department issue letters of regret and award and also deal with debriefs; and
- Monitoring of contract carried out.

12.5 The Procurement Department must be contacted and included as early as possible in the process to give guidance and advice as required on procedures, document preparation etc.

12.6 The Procurement Department will ensure that all documentation fulfils all internal and external audit requirements.

12.7 All tenders and quotes must be dealt with centrally by the Procurement Department in accordance with procedures detailed within this Policy and any other instruction which may be given by the Chief Executive, Director of Finance and Governance or other nominated officer.

12.8 It is not acceptable to go out to Public Tender if you do not have a clear intention to order. This includes having the relevant approvals, budget / funding in place. To do so exposes the Council to considerable risk.

12.9 Tenders may be received via the approved e tender portal(s) only. All quotes will be received by email or hard copy until such time as a dedicated portal is operational within the Council. Quotations must be returned to the Procurement Department who will hold the submissions until the closing time and date has expired.

12.10 Late tenders/quotes will not be accepted.

12.11 Submissions provided in any other format than those detailed within the specification documentation will not be accepted.

12.12 The Council is not bound to accept the lowest or any tender/quote.

### **13 Terms and Conditions**

- 13.1 Mid and East Antrim Council's standard Terms and Conditions of Contract should be used and any attempt by tenderers to use their own terms and conditions of contract must be resisted.
- 13.2 Acceptance of the Council Terms and Conditions issued with any tender/quote documents must be signed as accepted and adopted by all suppliers to remain in place for the duration of the contract.
- 13.3 For works contracts, Council will adopt documents from the suite of NEC or JCT or any other works contract which may be appropriate to the works required.

### **14 Receipt of tenders**

- 14.1 All tender documents are to be received and held centrally by the Procurement Department.
- 14.2 Documents issued will specify closing date, time and return methods acceptable.
- 14.3 Tenders will only be received by the approved e tendering portal as instructed within the specification issued.

### **15 Receipt of Quotes**

- 15.1 For all quotes in excess of £3k all submissions are to be received and held centrally by the Procurement Department.
- 15.2 Documents issued will specify return date, time and methods acceptable.
- 15.3 Quotes may be submitted by electronic means.

### **16 Opening of Tenders / Quotes**

- 16.1 Tender submissions will be opened by the Procurement Department. The use of the appropriate e-portal will provide an audit trail.
- 16.2 Quote submissions will be opened by the Procurement Department.

### **17 Conflict of Interest**

- 17.1 All relationships with contractors or potential contractors must be made known to the Procurement Department who may inform other senior management as appropriate.
- 17.2 Orders and contracts must be in accordance with Council procurement procedures and no special favour should be shown in the tendering process to any business or potential suppliers particularly those run by for example, friends, partners or persons where a family relationship is deemed to exist.
- 17.3 Employees who deal with, engage or supervise contractors with whom they have previously had, or currently have, a relationship in a private or domestic capacity, should declare that relationship to the Procurement Department who may inform other senior management as appropriate.
- 17.4 A record will be maintained of declarations made at Tender / Quote Evaluation and Selection meetings, including where Officers declare “no conflicts of interest”.
- 17.5 All evaluation team members **must read and sign the Conflict of Interest / Confidentiality agreement**. This document will be provided to the panel by Procurement and must be returned to procurement. The document is attached at **Appendix F**.

## **18 Evaluation of Tenders / Quotes**

- 18.1 **Procurement will attend tender evaluations** and issue the panel with the relevant evaluation forms populated with the relevant evaluation criteria. The forms will consist of:

**Individual Evaluation Forms** – each Panel member must complete one of these per supplier being evaluated (**Appendix G**). Should a panel member have to amend their individual score during moderation, the full reason for change must be clearly documented on the individual score sheet within the space provided.

**Moderated Evaluation Form** – the Chair of the panel will consult with each panel member to agree a standard moderated score and detail the reason for awarding that score. This form will be signed by all panel members (**Appendix H**).

Cost only assessment must be recorded on the **Cost Only Evaluation Form (Appendix I)**.

For cost only evaluations under £30k evaluation will be conducted and award made solely by a member of the Procurement Department. There will be no requirement for other departments to provide evaluation panel members.

The Procurement Department will calculate the cost % to be awarded to each submission based on the formula **(lowest acceptable cost submitted divided by cost being assessed) x % available for the cost score.**

Tenders or quotes must not be evaluated in any other format other than the forms provided and approved by procurement.

**All tender evaluation forms must be signed by both the Procurement Officer and Procurement Manager.**

**All quote evaluation forms must be signed by the Procurement Officer.**

18.2 Procurement Department will instruct the panel on the procedure to be followed before the commencement of the evaluation.

18.3 The Procurement Department may attend evaluation panel meetings on an advisory basis.

18.4 Evaluation of tenders should, where possible, be carried out utilising the e-technology available. This will permit evaluation to take place at any time in any location. The panel will be required to moderate individual scores at one mutually agreeable time.

18.5 Evaluation criteria must be clearly stated within all tender / quote documents issued. All submissions will be evaluated on a 2 stage approach.

- Stage One: Selection criteria

Where a submission fails to achieve a pass for all the evaluation criteria set at this stage they **must not** progress to stage 2 evaluation.

- Stage Two: Award criteria

Must be in accordance with the criteria issued within the specification. No change to the criteria or weightings allocated will be made at evaluation stage.

18.6 **For tenders and quotes, with the exception of cost only evaluations under £30k, the evaluation team must comprise of a minimum of 3 members.** Members must have a working knowledge of requirement or a relevant professional qualification (e.g. Quantity Surveyor) if required to assess submissions. Elected Members will not be permitted to evaluate tenders or quotes.

- 18.7 Criteria specified within invitation documents issued must not be changed at evaluation stage. On occasion, price alone may be acceptable but the preferred criteria should be Most Economically Advantageous Tender (MEAT) which will ensure the compliant bid offers best value for money on a life time basis:
- a. On the cost side, the relevant factor is whole life cost, not lowest short-term price. Whole life cost takes into account all aspects of cost over time, including for example capital, maintenance, management, operating and disposal costs, wherever they fall. For complex procurements, including not only large supplies and service contracts but also construction projects, whole life costs may be very different from and only loosely related to initial price.
  - b. On quality, higher expenditure on better quality might well be offset on a whole life cost basis, for example by lower maintenance costs, longer life or higher residual value and therefore justified on cost grounds alone. However, a better quality solution to the requirement, for example, in terms of service standards might add to whole life cost. In all cases it is for the purchaser to consider carefully whether increased benefits justify higher cost, providing better value for money in meeting requirement.
  - c. The Procurement Department will ensure the criteria set within each stage is relevant to the process and complies with Procurement Regulations. All potential suppliers must satisfactorily complete the Council's standard declarations standard declarations, accept Council Terms and Conditions and obtain a pass in each of the stage 1 criterion set within the specification to ensure compliance with all statutory requirements.
- 18.8 When staff are given details of tenders/quotations for evaluation they must act in a responsible, accountable, open and transparent manner.
- 18.9 When there are a number of tenders/quotations, the Council will seek the best value for money solution based on quality and total life costs.
- 18.10 Staff should ensure adequate selection and award criteria required to reach a best value solution has been included in the original documentation. Procurement Department must be consulted to assist with evaluation criteria setting.
- 18.11 Should staff be in any doubt as to the validity of any tender / quote, the Procurement Department must be consulted. All tenders / quotes must only be evaluated on the information provided within the submission documentation. Assumptions cannot be made and previous knowledge or working relationship with a tenderer must not sway any evaluation. Should the need arise for further clarification this must only be processed by the Procurement Department.

- 18.12 Under no circumstances must any other member of staff contact any supplier to request information or discuss the tender / quote.
- 18.13 Where the anticipated value of the tender / quote exceed the original budget expectation Procurement Department must be contacted immediately. A decision will have to be taken on the process as it may require additional actions i.e. business case may be required, additional approval of spend may also be required.
- 18.14 **From 1 July 2017, all evaluation team members must confirm they have read the tender evaluation guidance and they have received tender evaluation training. Staff who have not attended evaluation training will not be permitted to evaluate any submissions. Procurement will maintain a list of staff who have attended such training.**

## **19 Award Criteria**

- 19.1 Award criteria must be defined within the specification issued and must not be changed or have sub criteria added during evaluation stage.
- 19.2 Contracts / orders can only be awarded / placed after all necessary procedures and approvals have been sought and obtained.
- 19.3 In determining the criteria for the award of contracts, purchasers should rarely rely on price alone where quality will impact the goods or services delivered. In most cases value for money (the most economically advantageous offer in EC terms) will involve other factors such as whole life cost, quality and delivery against price.

## **20 Tender / Quote Recommendation**

- 20.1 A report will be prepared by the Procurement Department for appropriate noting or approval. The Procurement Department will develop all reports to ensure consistency.
- 20.2 Evaluation panel recommendations must be approved before staff can proceed to order. Under the scheme of delegation Central Procurement can approve award of all contracts.
- Procurement will provide a monthly report for noting on tenders awarded to the P&R committee.
- 20.3 Unless there are very good reasons the selected tender/quote must offer best value for money.

- 20.4 The evaluation report must not make assumptions or statements which the evaluation panel cannot substantiate if challenged. Procurement Department must be contacted to assist with report content.
- 20.5 The report will indicate if the procurement is within budget but will not disclose the exact amount of the winning or any bid.

## **21 Communications with Suppliers (Potential and Existing)**

- 21.1 To maintain a supply chain to meet the needs of the Council appropriate, open, fair, transparent and effective communication must take place with both potential and existing suppliers.
- 21.2 To reduce the risk of legal challenge and compliance with governance and audit requirements, procurement advice and guidance should always be sought.
- 21.3 Communication with suppliers may be made via Phone, face to face, writing, email, letter or fax.
- 21.4 Communication may take place at the following stages:

### **a. Market identification**

Procurement Department should take action to identify sources within the market place. This may be achieved by holding Procurement Awareness Sessions, Supplier Training, Meet the Buyer events, networking etc.

### **b. Before tender / quote process**

Occasionally it may be necessary to “soft test” the market place by contacting suppliers to determine goods / services available and to obtain estimated cost for budget purposes. This action may be taken by the Procurement Department or an appropriate Council Officer provided they are following advice and guidance of procurement department.

### **c. Invite to Tender / Quote**

Communication of need and issue of invite to participate in a process must be issued by the Procurement Department. Invitations to tender will be advertised in the regional press, E-sourcing NI or any subsequent central Government approved e tender portal for Northern Ireland or the Republic of Ireland. Tenders above the EU threshold will adhere to the appropriate advertising requirements.

Quotes will be issued to named suppliers by the Procurement Department.

**d. Tender / quote process open 'live' time**

Whilst a tender / quote process is "live", potential suppliers may request, or Council may issue additional information / clarification on specification content. All communication with potential suppliers at this stage must be conducted by procurement. All participants must be notified of any clarifications, or additional information issued.

**e. During evaluation stage**

During the evaluation stage suppliers may request an update on progress of their submission or the evaluating team may request additional information / clarifications to permit a reasoned decision and recommendation. Communication with any potential supplier must fulfil certain requirements and be strictly governed. All communication with potential suppliers at this stage must be conducted by the Procurement Department.

**f. Post evaluation and subsequent ratification / approval to proceed**

Following appropriate authorisation to proceed, Procurement Department must notify all suppliers involved in the process of success or failure in writing. At this stage the Procurement Department will inform the successful company of the lead Council Officer responsible for the project / contract management. The Procurement Manager is responsible for writing to the companies to advise them of the outcome of their quotation or tender submission.

**g. Ordering**

Although Procurement Department inform suppliers of their success in the process, the actual order placement must be made by the appropriate officer with ordering signing authorisation. Purchase orders must detail supplier name, goods, date and total price prior to being sent out to the supplier.

**h. Debrief**

All suppliers, successful and unsuccessful, must be provided with a debrief on their submission and within the bounds of commercial confidentiality upon request.

All debrief replies must be constructed by the Procurement Manager/Officer and a member of the evaluation team.

The Procurement Department will check responses before issue to ensure compliance with all procurement obligations.

All debriefs will be communicated in writing.

***i. During contract period***

All communication must be undertaken by the contract manager and / or any other duly appointed Council personnel. Procurement Department must become involved during this period if any of the following arise:

***j. Contract extension***

Should a contract extension be available, notification of intention to avail or not to avail of, and if appropriate confirmation of extension must be issued by the Procurement Department.

***k. Poor supplier performance***

Should a contact manager identify poor supplier performance, the contract manager must contact Procurement Department for advice and guidance to ensure the correct process is followed. All written notification regarding performance concerns and any intention to or confirmation of termination must be issued by Procurement Department.

***l. Challenge, Conflict – dispute resolution***

Should a supplier challenge a decision the Procurement Department or other appropriate senior Council Officer(s) will review the panel decision.

Should a conflict or disagreement occur with a supplier the Procurement Department must be notified immediately. The Procurement Department or other appropriate senior officer will act as mediator and escalate the situation through the appropriate channels as necessary.

**22 Post Tender / Quote Negotiations**

- 22.1 There are severe restrictions on undertaking any form of negotiation after a tender / quote has closed.
- 22.2 In open or restricted procedures all negotiations with candidates or tenderers on fundamental aspects of contracts, variations in which are likely to distort competition, and in particular on prices, shall be ruled out.
- 22.3 Discussions with candidates or tenderers may be held only for the purpose of clarifying or supplementing the content of their tenders or

the requirements of the contracting authority, provided this does not cause discrimination.

## **23 Ordering**

- 23.1 All orders must be raised, only after approval is granted by Procurement Department and/or relevant Council Committee.
- 23.2 An official Council order number must be issued and authorised only by those duly authorised by the Council.
- 23.3 All line managers must ensure that they and their staff understand their purchase order authorisation limits.
- 23.4 There will be no retrospective purchase orders after the job has been completed and invoiced.
- 23.5 Orders can only be placed with suppliers who have been selected in the appropriate way.

## **24 Receipt of Goods**

- 24.1 All goods received must be accompanied by a delivery note, which must be duly signed by a relevant member of staff.
- 24.2 When signing delivery notes staff should add appropriate notes as follows:
  - contents unchecked, no visible damage to package;
  - contents unchecked, visible damage to package, drawn to the attention of the delivery personnel;
  - On receipt of goods, works and services they should be checked to ensure:
    - ✓ Correct goods have been delivered and delivery note received;
    - ✓ Correct quantity; and
    - ✓ Satisfactory quality.

## **25 Payment**

- 25.1 All invoices must be checked against the delivered goods / service and signed by the budget holder (or manager with required authorisation limit) and sent to purchase ledger promptly.
- 25.2 All line managers must ensure that they and their staff understand their approved invoice authorisation limits.

- 25.3 To maintain segregation of duties the order authoriser must not authorise invoices for payment.
- 25.4 All signed invoices must be returned, attached to order forms and delivery notes to Accounts Payable.
- 25.5 Where staged payments are to be made, for example construction, payment stages must be agreed at contract signing and all works must be verified as satisfactorily complete by the Council Project Manager before payments are issued.
- 25.6 The Council should make suppliers aware of the payment times each month and endeavour to pay their suppliers on time. Where there is no contractual provision or understanding, Council should pay suppliers within 30 days of receipt of the goods or services, or the presentation of a valid invoice or similar demand for payment, whichever is the later.
- 25.7 The Council's preferred method of payment is BACS
- 25.8 Payment will only be made upon successful delivery of goods, works or services. No advance payments will be made unless in exception circumstances.

## **26 Contracts**

- 26.1 Contracts are formed on the principle of offer and acceptance. The potential supplier makes an offer by submitting a response to a tender or quote opportunity. Upon Council confirmation of award or acceptance of the winning submission, a contract is formed.
- 26.2 The Council may have contracts signed by the Chief Executive or other nominated officers in place for procurement activity in excess of £30K.
- 26.3 The Procurement Department should retain a copy of any signed contracts above £30k for audit purposes.
- 26.4 The Council should ensure that all suppliers accept the Council's standard Terms and Conditions.
- 26.5 Every contract for building or engineering works shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with code (where applicable) or from the family of contracts under The New Engineering Contract (NEC) or any other appropriate approved works contract.
- 26.6 Contract reviews will be the responsibility of the primary user / owner of the contract(s). The nature and frequency of review will be

commensurate with the complexity and value of the contract.

**Contracts must be managed in line with the Council's contract management guidance available.**

- 26.7 No contract will be terminated without consulting the Procurement Manager who will consider all ramifications of termination and take legal advice if appropriate.
- 26.8 Variation of price clauses should not be used in contracts of less than two years duration.
- 26.9 Prompt payment clauses, in so far as government contracts should contain a clause requiring the supplier to pay its subcontractors promptly and ordinarily within 30 days of receiving a valid invoice.
- 26.10 Contracts, which have an extension period included within the original specification, can be extended to run for their full lifetime if required. Such practice is encouraged where staff are happy with the level of service they are receiving from the supplier as this approach minimises the need for additional procurement exercises. For example an initial one year contract with the option to extend for a further two periods of one year each can run for a total of three years. Contracts should not be extended beyond the period outlined in the tender documentation unless exceptional, unforeseen circumstances arise. Such extensions, if necessary, should only be made for the shortest period possible until a new contract can be put in place. The reasons for extending a contract beyond its advertised lifetime should be clearly detailed; a Direct Award Contract request must be submitted to procurement and appropriately approved.

## **27 Purchasing Agencies**

- 27.1 External Consultants must not perform any procurement activity on behalf of the Council.
- 27.2 If the Council employs private sector agents to undertake procurement on its behalf they should ensure a clear allocation of responsibilities and, where appropriate, obtain an indemnity from the agent against any cost incurred as a result of its failure to comply with the legal framework on their behalf.
- 27.3 Private sector agencies can only comply with the EC rules on behalf of the Council if appointed to do so. For example, they cannot purport to have complied with the EC rules in entering into a framework agreement for use by a number of public sector purchasers unless appointed to do so by a principle in the public sector.

## **28 Document Retention**

- 28.1 All procurement documentation will be retained as directed within the Council's Disposal Scheme and any legislative requirements which may apply.

## **29 Freedom of Information**

- 29.1 The Freedom of Information Act establishes a general right of access to all types of recorded information held, subject to certain conditions and exemptions.
- 29.2 The Council is obliged under the Freedom of Information Act to release certain information about the suppliers it contracts with into the public domain within certain limits and according to relevant exemptions.
- 29.3 The main exemption relevant to procurement is Commercial Interests which means trade secrets and information likely to prejudice the commercial interests of any person, including the public authority, holding it.

## **30 Roles and Responsibilities**

- 30.1 Officers must ensure they have taken reasonable steps to check that they have authority to purchase and confirm their authorisation limits.
- 30.2 Council, via its organisational structure, must ensure this procurement policy and all related procurement instruction or informative guidance will be cascaded down to all concerned with purchasing. It will become part of the corporate induction program.
- 30.3 It is the responsibility of management to ensure the correct procurement procedures are followed by ensuring the Procurement Department is involved at the commencement of any process.
- 30.4 It is the responsibility of the Procurement Department to work in partnership with budget managers and end users to ensure that through the application of professional skills and knowledge, good practice, procedures are adhered to and value for money is obtained.
- 30.5 In managing procurement, Council Officers are required that for all purchases, regardless of value should ensure that:
- a. Spend represents value for money – normally achieved through competition and by carrying out relevant analysis, i.e. whole life costing;

- b. The spend is legal – conforms to the internal regulations of the Council and all statutory requirements – staff must be aware of all relevant requirements;
- c. The spend complies with internal and external regulations relating to quote/tender values;
- d. Budget provision exists;
- e. All decisions can be justified, are transparent and accountable;
- f. The cost of the transaction involved in making the purchase is considered as part of the spend; and
- g. All transactions are carried out in strict accordance with the Procurement Legislation, Procurement Policy, Council Financial Guidance, or any other procedures as instructed by the Director of Finance and Governance.

30.6 Additionally the Council should:

- a. Advise and develop small and medium enterprises (SME's) and local suppliers in order that they have the capacity and understanding to compete for Council business, without discriminating against larger suppliers.
- b. Take into account appropriate workforce matters, within its legal powers, to ensure that external providers practice equal opportunities in employment and take due care and consideration on health and safety matters to ensure that they give due diligence to environmental policies.
- c. Ensure that the criteria for awarding contracts are based on the whole life cost, including disposal, of the goods or service provided (use the **Most Economically Advantageous Tender - MEAT**). Value for money is the optimum of whole life costs and quality (fitness for purpose) to meet the users requirements.
- d. Establish collaborative procurement arrangements with other organisations where it is advantageous to do so.
- e. Consult with employees to ensure that their views are considered when making procurement decisions that directly affect their employment.
- f. Consult with suppliers to ensure that the contract packaging is non-discriminatory, allows for competition and encourages innovation.
- g. Consider sustainability as an important criterion in any procurement providing that neither the cost nor availability prejudice service delivery. This will be taken into account in whole life costings.

- h. Benchmark against others, both in the public and private sector, to ensure best value is achieved.
- i. Ensure effective project management throughout the life of a product or service.

### **31 Training**

- 31.1 Regular training will be developed and delivered by the Procurement Department to all authorised signatories and administrative staff involved within any procurement activity. This training will be updated as required by changes in legislation and/or to improve governance.
- 31.2 Procurement staff will undergo relevant training on a regular basis.
- 31.3 Training materials will be supplemented with guidance as required, to ensure up to date procedural requirements and best practice are followed.
- 31.4 The Procurement Department will provide training to suppliers as required to empower them to conduct business with the Council and other public sector bodies.
- 31.5 **Staff who have not completed the relevant specification and evaluation training will not be able to participate in procurement exercises.**

### **32 Monitoring and Review**

- 32.1 **Compliance of this policy will be monitored through spot checks by the Head of Service for ICT, Procurement and Governance, and / or the Governance and Risk Manager, and subject to review by Internal Audit and the Local Government Auditor.**
- 32.2 Exceptions will be reported to Senior Management Team.
- 32.3 The policy will be reviewed annually or earlier if circumstances require.
- 32.4 The policy will be updated and implemented at the commencement of each new financial year in line with financial threshold, procedural changes, legal changes, and development of e-procurement, audit recommendations or any other change deemed to impact on procurement activity.
- 32.5 The Procurement Department will review all spend activity every 3 - 6 months to ensure compliance with procedures, analysis spend patterns and ensure correct procedures are followed for supplier appointment.

The spend analysis will seek to identify small repeat orders which result in the accumulated value exceeding other defined thresholds. Where a failure to follow procurement process has been detected, the Procurement Department will advise the Head of ICT, Procurement and Governance who will take the appropriate action.

- 32.6 A file log will be maintained by the Procurement Department to detail each time any file is removed from or returned to the Procurement Department.
- 32.7 Appendices to this Policy may be amended at any time by the Procurement Department to ensure Best Practice.

### **33 Asset Disposal**

- 33.1 Assets must be disposed of in accordance with the Council's Asset Disposal Policy.