

CONTRACT AND PROCUREMENT PROCEDURE RULES

These Contract and Procurement Procedure Rules ('CPPRs') set out the rules that must be followed by Stroud District Council ('the Council') when it procures all goods, services and works. They have three main purposes:

- to ensure that the Council obtains value for money when procuring any goods, service and works;
- to ensure that the Council complies with current UK and European law and this Council's policies that govern the procurement of goods, services and works and;
- to establish procedures which, when followed, should protect the Council, its Officers and Members from any allegation of acting unfairly or unlawfully which may be made in connection with any procurement by the Council of any goods, services or works.

Adopted 2015 amended October 2020

General

1. Every contract entered into by the Council shall comply with these CPPRs and with any relevant UK or European law currently in force in England.
2. These CPPRs do **not** apply to the employment of staff (**excluding** the engagement of external consultants and temporary staff engaged through recruitment agencies or similar); the instruction of Counsel and the engagement of Arbitrators, Adjudicators or Mediators in connection with construction related disputes. Guidance and advice in such matters should be sought from Human Resources or from the Head of Legal Services as appropriate.
3. Officers must also comply with guidance or advice issued by the Head of Legal Services in respect of matters arising from individual tenders or requests for quotations entered into or proposed to be entered into by the Council.

Responsibilities – Directors

4. Each Director shall ensure that all permanent and temporary Officers of the Council or those third party individuals or organisations working to their instruction carrying out the procurement of goods, works and services for the Council comply with these CPPRs at all times.
5. Each relevant operational manager shall be responsible for managing the preparation of suitable and appropriate specifications or requirements (including but not limited to appropriate insurance cover) for **all** contracts of whatever total estimated value relevant to their service area.
6. For all planned procurement where the total estimated value of the contract exceeds £250,000, the Director or Head of Service who signs the Procurement Plan Form described in CPPR 9 below shall, in consultation with the relevant Committee Chair and the Head of Legal Services, agree whether a formal decision of the relevant Committee is required prior to the commencement of a particular procurement.

Procurement Thresholds

7. Each potential contract shall be progressed according to the total estimated value of the contract as calculated and shown in CPPR 10 below. The total estimated value of a contract is the cost of the contract to the Council not just for the initial term but also for any extended term to its conclusion. Where there is doubt over the total estimated value of a contract, the next financial threshold up should be used.
8. Where the total estimated value of the contract is equal to or more than £5000 (five thousand pounds), the South West Procurement Portal (www.supplyingthesouthwest.org.uk) must be used **unless** an exemption from compliance with these CPPRs can be properly applied (See CPPR 15 – 18 inclusive below). Further guidance in connection with the use of the South West Procurement Portal can be obtained from the Council Procurement Officer.

9. Contracts with a total estimated value of **£25,000 or above** must be notified to the Council Procurement Officer using a completed Procurement Plan Form **prior** to the commencement of a tender or quotation exercise. This completed Procurement Plan Form must be shared with the Head of Legal Services to ensure that appropriate contractual terms and conditions are being relied upon for the particular tender or quotation exercise. The Council Procurement Officer shall retain a record of all completed Procurement Plan Forms submitted.
10. The following procurement thresholds must be followed when purchasing goods or services or arranging works on behalf of the Council :

Up to £5,000

Officers must be able to demonstrate value for money by comparing prices from different suppliers or contractors. It is recommended that **at least three suppliers or contractors are approached** by telephone or e-mail and prices obtained. All prices received should be recorded in writing by the Officer obtaining the prices. All contracts or purchase orders must be in writing.

£5,000 upto £75,000

Having first complied with the requirements of CPPR 9 above, Officers must be able to demonstrate value for money by obtaining **at least three written quotations** from different suppliers or contractors utilising the South West Procurement Portal. A quotation is a written document that clearly sets out the requirements of the Council and invites suppliers or contractors to submit a price(s) for the supply of their goods, services or works. All contracts or purchase orders must be in writing.

All contracts with an estimated value of £25,000 and above must also be published on the Contracts Finder operated by the Cabinet Office (through the South West Procurement Portal) in accordance with the provisions of Part 4 Chapter 8 of the Public Contracts Regulations 2015.

£75,000 to EU Thresholds

Having first complied with the requirements of CPPR 9 above, **at least three formal tender responses** must be obtained in accordance with the procedures set out in these CPPRs and utilising the South West Procurement Portal. Advice on these procedures should be obtained from the Council Procurement Officer. All contracts must be in writing.

Where a **works contract** to be tendered has a total estimated value within **10%** of the relevant EU threshold, the above EU Thresholds procedure described below should be followed.

Where a **supplies or services contract** to be tendered has a total estimated value within **5%** of the relevant EU threshold, the above EU Thresholds procedure described below should be followed.

Above EU Thresholds

Having first complied with the requirements of CPPR 9 above, any Contract with a total estimated value above the relevant EU Threshold must be **formally tendered** in accordance with the provisions of the Public Contracts Regulations 2015 and utilising the South West Procurement Portal. Advice on these procedures should be obtained from the Procurement Officer. All contracts must be in writing.

Tenders (for contracts with a total estimated value of £75,000 or more)

11. Notwithstanding the requirements of CPPR 9 above, advice in relation to the most suitable form of tendering procedure must be obtained from the Council Procurement Officer **prior** to the commencement of the tender exercise. The tender documentation routinely included with each invitation to tender published by the Council shall be in a form approved by the Council Procurement Officer in consultation with the Head of Legal Services.
12. Depending on the nature of the goods, services or works to be procured by the Council, it will be necessary to consider the most suitable form of contract to be relied upon. Advice in relation to the most suitable form of contract to be relied upon should be obtained from the Head of Legal Services **prior** to the commencement of the tender exercise.

Requests for Quotations (for contracts with a total estimated value of £5,000 up to £75,000)

13. Notwithstanding the requirements of CPPR 9 above, advice in relation to the quotation procedure (including but not limited to the most suitable form of contract to be relied upon) should be obtained from the Council Procurement Officer **prior** to the commencement of the quotation exercise. The request for quotation documentation routinely included with each request for a quotation and published by the Council shall be in a form approved by the Council Procurement Officer in consultation with the Head of Legal Services.
14. For the purpose of these CPPRs, where any public notice is required to be given (regardless of the total estimated value of the contract), it shall be published on the South West Procurement Portal.

Exemptions

15. Except for CPPR 18 (d) and (e) below, an exemption from compliance with these CPPRs in the case of the contract values specified, **must** be approved by:

(a) Contracts up to £25,000 - the Director (or in his absence the relevant Head of Service) for the service area concerned; and

(b) Contracts of £25,000 above - the Monitoring Officer

and in both cases prior to the commencement of the tender or quotation exercise and only for contracts which have a total estimated value which can clearly be demonstrated to be below the relevant EU threshold.

16 Where an exemption is required as a matter of urgency, written approval should be sought by the relevant Director in consultation with the Monitoring Officer and / or Council Procurement Officer. For the avoidance of doubt, urgency that could have been avoided through reasonable foresight and planning will not normally be acceptable as an adequate reason for a departure from compliance with these CPPRs.

17 The Council Procurement Officer shall maintain a register of all approved exemptions together with the reasons given for approving and applying the exemption.

18 Exemptions from compliance with these CPPRs may be applied in the following circumstances:-

(a) (i) the supplies or services to be provided relate to goods, services and materials which are proprietary articles; (ii) the supplies or services are sold or charged only at a fixed price and no satisfactory alternative is available or (iii) if there would be no genuine competition for either the goods, materials or services; or

(b) the Council is issuing a grant to support the costs of an organisation whereby the activities of that organisation support or complement the objectives of the Council. However, where there is potential for more than one organisation to be eligible for the grant, it would normally be expected that a tender or quotation exercise would be carried out in accordance with these CPPRs; or

(c) other reasons reported to and approved in writing by the Monitoring Officer for contracts over £25,000. The Director (or in their absence the relevant Head of Service) for the service area concerned must approve contracts valued under £25,000.

The following exemptions from compliance with these CPPRs do **not** require the formal approval of the Monitoring Officer where they exceed £25,000 but must only be relied upon with the written approval of the Council Procurement Officer who shall maintain a register of such approved requests in accordance with CPPR 16 above:

(d) tenders or quotations have been invited on behalf of any consortium, association or similar body of which the Council is a member, or on behalf of any other local authority, or public body, with whom the

Council has a contract, agency agreement, partnering agreement or similar, provided that the approved procedure of any such body for the invitation of tenders and quotations has been followed;

- (e) where properly concluded Framework Agreements or Dynamic Purchasing Systems are relied upon but only where the guidance and award criteria set out for the particular Framework Agreement or Dynamic Purchasing System is strictly adhered to in the engagement of the contractor or supplier.

Submission of Tenders or Requests for Quotations

- 19 Where an invitation to tender or request for a quotation is published on the South West Procurement Portal in accordance with the thresholds set out in these CPPRs, the procedures stipulated by the South West Procurement Portal Administrator for the receipt, evaluation, rejection and/or award of a tender or quotation must be followed in all circumstances.

Opening and Acceptance of Tenders or Requests for Quotations

- 20 All tenders or requests for quotations received shall be opened on the South West Procurement Portal on the same occasion and in the presence of at least two Officers of the Council of whom at least one should be a Council Unit Manager or above who has not previously been involved in the tender or request for quotation in question.
- 21 All tenders for contracts or requests for quotations published on the South West Procurement Portal shall be recorded on the Portal or otherwise in a manner approved by the Head of Legal Services.
- 22 All tenders (with a total estimated value of £75,000 or more) shall be evaluated in accordance with the evaluation criteria set out in the invitation to tender. The Council would usually award a contract where it represents the most economically advantageous tender (MEAT) and delivers best value for money.
- 23 The evaluation criteria set out in the invitation to tender (for contracts with a total estimated value of £75,000 or more) shall be strictly observed at all times throughout the contract award procedure by any Council Officer involved in the process.

Notification of Tender Results and Debriefing

- 24 Notification of the award of a tender (with a total estimated value of £75,000 or more) shall be carried out in consultation with the Council Procurement Officer utilising prescribed forms and documentation.
- 25 All procurement exercises for tenders with a total estimated value of £75,000 or more should incorporate a formal standstill period of at least 10 calendar days if the award decision is sent electronically to all tenderers (or at least 15 calendar days if sent to all tenderers by other methods) between communicating the award decision to all tenderers and entering into a contract with the successful tenderer. If the award of a tender is challenged during the standstill period, it is vital that details of the challenge are **immediately** notified to the Council Procurement Officer and Monitoring Officer.
- 26 If an unsuccessful Contractor or Supplier makes a request for further information relating to their tender or for other reasons, advice should be sought from the Council Procurement Officer in consultation with the Monitoring Officer before responding to the unsuccessful Contractor or Supplier.

Alterations to Tenders or Quotations

- 27 Where an examination of a tender or a quotation reveals clerical or arithmetical errors or discrepancies which would alter the tender or quotation submitted, the contractor or supplier concerned shall be given details of such errors and discrepancies in writing by the relevant Director and (a) in the case of a clerical or arithmetical error be afforded no more than three working days to correct such an error or (b) be afforded no more than three working days to confirm or withdraw their tender to the relevant Director. If when contacted about an error or discrepancy, the contractor or supplier concerned decides to withdraw their tender or quotation, the next tender or quotation in competitive order shall be considered in place of the withdrawn tender or quotation.

Withdrawal by a successful Supplier or Contractor

- 28 Where prior to the execution of a formal contract, a successful contractor or supplier withdraws their tender or quotation, the next tender or quotation in order may be examined and considered for award **provided** that the next tender or quotation is still valid **and** the award does not breach any regulatory provision or judicial order.

Before proceeding to award a tender or quotation for a replacement tender or quotation under this CPPR, the relevant Director must notify the Council Procurement Officer.

Contracts Register

- 29 Details of all contracts **awarded** with a total estimated value of **more** than £75,000 must be entered on the Corporate Contracts Register maintained by the Council Procurement Officer. This Register shall specify for each contract the name of the contractor, the works to be executed or the goods or services to be supplied and the total estimated contract value.

Contract Form and Execution

- 29 All contracts, regardless of value, entered into by the Council shall be in writing and signed by a duly authorised Council Officer. Contracts with a total estimated value of **£75,000 or above** must be signed by the relevant Director or by the Chief Executive.
- 30 All contracts entered into by the Council should **as a minimum** specify the goods, materials or services to be supplied and the work to be executed (all of which must accord with any current policy, guidance, specification or Code of Practice formally adopted by or required to be adhered to by the Council); the price to be paid (together with a statement as to the amount of any discount(s) or other deduction(s)); the period(s) within which the contract is to be performed and the termination provisions (including but not limited to early termination due to the poor performance of the supplier or contractor during the term of the contract).

Guidance on appropriate contractual terms can be obtained from the Head of Legal Services (in consultation with the Council Procurement Officer) **prior** to the commencement of any tender exercise or purchase undertaken by the Council.

31. No contractor or supplier should commence works or supply goods or services to the Council until the relevant contractual documents have been signed and completed by all relevant parties. One original signed and completed contractual document should be forwarded to the Council Procurement Officer for indexation and retention. Arrangements will then be made for an electronic completed copy of the contract to be forwarded to the relevant Director and the Officer with day-to-day responsibility for managing the contract to assist in the operation of the contract during its term. The other original signed and completed contractual document should be forwarded to the appointed supplier(s) or contractor(s) for their records.

Contract Extensions

32. A contract may be extended before the expiry date only where it is expressly in accordance with its terms and such an extension does not compromise the basis upon which the contract was originally procured. In all cases where it is proposed to extend an existing contract, advice and guidance must be sought from the Council Procurement Officer in consultation with the Head of Legal

Services **before** any negotiations are entered into with suppliers or contractors over an extended term.

33. Where the terms of a contract:

- (i) do not expressly provide for an extension; or
- (ii) once a contract has expired; or
- (iii) where an extended term alters the basis on which the service, supply of goods or works were originally procured; or
- (iv) where the extended term would lead to the total value of the contract exceeding the relevant EU threshold applicable at the commencement of the extended term; or
- (v) where such an extended term would be in breach of statutory regulation

the relevant contract may **not** be extended.

Variations other than Contract Extensions

34. No variation may be made to a contract if the proposed variation means that the works, services or goods would become substantially different in scope or type to those originally contemplated by the original tender or quotation exercise.

Where a variation to a contract is being considered, advice **must** be sought from the Head of Legal Services (in consultation with the Council Procurement Officer) **prior** to entering into any discussions or negotiations with a supplier or contractor about a variation to an existing contract.

Contract Management

35. Throughout the term of a contract, the relevant Director must ensure that the contract is properly monitored **at least** in respect of the following matters:

- (i) Performance (including but not limited to User Satisfaction);
- (ii) Compliance with Specification and Contractual Terms;
- (iii) Prices or Costs charged;
- (iv) Anticipation of completion dates to plan for subsequent service requirements.

Partnerships and Collaborative Arrangements.

36. Where the Council is the Lead Authority in any partnership or collaborative arrangement with other organisations or bodies, these CPPRs shall apply to the procurement of any goods, services or works carried out with or on behalf of those other organisations or bodies.