



PROCUREMENT STANDING ORDERS

December 2022

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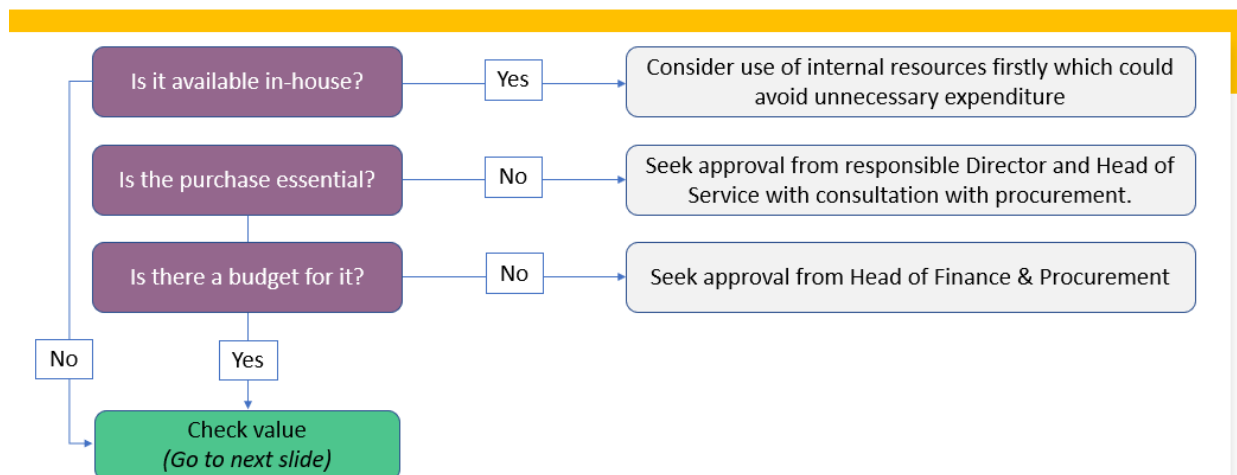
Final Version 3.0

SUMMARY OF KEY REQUIREMENTS AND THRESHOLDS WITHIN THE PROCUREMENT STANDING ORDERS

The Procurement Sharepoint site hosts all procurement related processes, templates and associated documentation. For further details of the process to be followed at each Threshold in the tables below, please visit the Sharepoint:

Start with a quick check

When you identified a requirement ...



Next, assess what's the value

What is the requirement value?

Go to [Procurement Policies & Procedure -> 1. Council's Standing Orders](#) for guidance on how to calculate the value

Under £2k for goods and services and £5K for works	• Follow Process 1 (Best Value)
Goods / Services £2,000 - £19,999	• Follow Process 2 (Request for Informal Quote)
Goods/Services £20,000-£49,000	• Follow Process 3a (Quick Quote via PCS)
Works £5,000-£499,999	• Follow Process 3b (Quick Quotes via PCS)
Goods/Services £50k – Threshold; Works £499,999 - Threshold;	• Follow Process 4a (Regulated Procurement) or Process 4b for works (non-regulated procurement)
Goods/Services/Works > Threshold	• Follow Process 5 (Above Threshold)

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Procurement Standing Orders

1. Introduction, Purpose and Ambit

- 1.1 The purpose of Procurement Standing Orders (“the Standing Orders”) is to set clear rules and procedures for the procurement of goods, works and services for Dumfries and Galloway Council (“the Council”). The rules and procedures help ensure that the Council complies with its legal obligations and is fair, transparent and accountable in its dealings with contractors and suppliers. These Standing Orders are also intended to ensure that the Council obtains best value for money and that it is taking good care of the public pound.
- 1.2 The Standing Orders are made under Section 81 of the Local Government (Scotland) Act, 1973 and shall apply to the making of all contracts by or on behalf of the Council. For the avoidance of doubt, the term “contract” includes any form of agreement, written or unwritten, to which the Council is a party which creates rights and / or responsibilities for any of the parties involved but excludes a Grant.
- 1.3 The Standing Orders are subject to any overriding requirements of the Procurement Reform (Scotland) Act 2014 and all regulations and guidance made under and in terms of the Act (“the Procurement Reform Act”).
- 1.4 These Standing Orders apply to all Council Departments.
- 1.5 For the procurement of care and social services, the Scottish Government’s statutory guidance for procurement for health and social care services shall also be followed.
- 1.6 For the procurement of works contracts, the Scottish Government’s Construction Procurement Handbook shall also be followed.
- 1.7 No tenders shall be invited, nor any offer made or acceptance until a Contract Strategy Document, Framework Utilisation Form or a Negotiated / Contract Extension Request form, including the information set out within Schedule 1, 2 or 3 respectively, has been approved. Likewise, no contract shall be awarded without the approval of the Contract Authorisation Report, in the form set out within Schedule 4.

2. Definitions

- 2.1 The following words and expressions used in these Standing Orders shall have the meanings hereby assigned to them:
 - a) “Act” means the Procurement Reform (Scotland) Act 2014 (as amended);
 - b) “Best Value” means the legal duty to secure continuous improvement in the performance of the Council’s functions as set out in section 1 of the Local Government in Scotland Act 2003;

- c) "Call-Off Contract" means a contract for the provision of goods, services or works to the Council which is procured under an existing Framework Agreement which the Council are permitted to use;
- d) "Collaboration Agreement" means the agreement which sets out the roles and responsibilities of all parties participating in a Collaborative Procurement;
- e) "Collaborative Procurement" means the procurement of goods, services or works by the Council in collaboration with one or more Contracting Authorities, as defined by the 2015 Regulations, with the aim of achieving value for money for the Council through sharing expertise, resource and / or by securing benefits through economies of scale through the aggregation of spend to create greater buying power.
- f) "Contract Documents" means the documents to be used in any procurement procedure and where different those intended to form part of any contract following on from a procurement procedure. It includes, but is not restricted to, the SPD, the invitation to tender for or to negotiate a contract, the proposed conditions of contract, the specification or the description of the goods, services or works required and the pricing document and includes any such documents or their equivalents issued using electronic means.
- g) "Contracting Authority" has the meaning given to it in Regulation 2(1) of the 2015 Regulations or as the case may be in Section 1 of the Act, typically for the purposes of these Procurement Standing Orders means the Council.
- h) "Contract Authorisation Report" means the document referred to in Standing Order 36.1, containing a summary of the tender process conducted and details of the contract recommended for award. This report shall be provided in the form at Schedule 4.
- i) Contract Notice means the notice published to advertise the procurement opportunity to the market and must include the minimum and specific requirements as set out within the 2015 Regulations.
- j) "Contracts Register" means the register of contracts which the Council maintains, pursuant to Section 35 of the Act, and which applies to all contracts of £20,000 or greater in value, maintained by the Corporate Procurement Team.
- k) "Contract Strategy Document" means the document referred to in standing order 1.7 which sets out the procurement strategy for delivery of a requirement and is agreed jointly between Finance and Procurement and the Procuring Service. This report shall be provided in the form at Schedule 1.
- l) "Council" means the Dumfries and Galloway Council constituted under the Local Government etc. (Scotland) Act 1994.
- m) "Dynamic Purchasing System" means an electronic procurement system developed for commonly purchased requirements. Such a system shall be open to any economic operator, meeting the minimum selection requirements,

throughout its duration. The number of operators placed on the system should not be restricted.

- n) "Electronic Means" means electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by radio, by wire, by optical means or by other electromagnetic means.
- o) "Financial Regulations" means the Council's Financial Regulations and Codes which provide policies to handle the Council's finances in accordance with Section 95 of the Local Government (Scotland) Act 1973.
- p) "Framework Agreement" means any agreement which sets out terms and conditions under which specific purchases (Call-Off Contracts) can be made throughout the term of the agreement, where the Council have expressly been named to use the agreement within the Contract Notice at the time of setting up the agreement.
- q) "GPA Thresholds" means the financial value thresholds derived from the Agreement on Government Procurement (GPA) by the World Trade Organisation and as updated within Schedule 5 of these Procurement Standing Orders.
- r) "Grant" means funding which is provided as a contribution towards another party's activities for its own purposes and which provides no goods or services to the Council in return.
- s) "Head of the Procuring Service" means the head of a service in the department for which the procurement is required and where the procurement is required for more than one service department, the meaning includes any one or more of the relevant Heads of Service.
- t) "Health or Social Care Services" means any of the services listed in the Schedule to the 2016 Regulations.
- u) "Public Contracts Scotland Portal" means the Scottish Government's official national portal for advertising public sector contract opportunities, which include the Quick Quote facility.
- v) "Quick Quote" means the online quotation facility on the Public Contracts Scotland Portal which allows Contracting Authorities to obtain competitive quotes electronically for low value requirements.
- w) "Quote" means a binding offer made by an organisation to provide goods, services or works to the Council. Typically, a quote may only provide a price for delivery of the requirement specified by the Council in their invitation to submit a quotation.

- x) “Regulated Contract” means a contract for the provision of goods or services with an estimated value / spend over £50,000 in total or a contract for the provision of works with an estimated value / spend over £2,000,000 in total, unless the Contract is excluded under the Procurement Reform Rules.
- y) “Regulated Procurement” means (i) any procedure carried out by the Council in relation to the award of a Regulated Contract including, in particular, the seeking of offers in relation to the contract and the selection of suppliers; and (ii) the award of a Regulated Contract by the Council.
- z) “Signature” or “Signed” includes a reference to a signature or other form of formal confirmation using electronic means, such as a digital signature, encryption or other formally recognised authority for identification purposes. For the avoidance of doubt, facsimile signatures are not acceptable.
- aa) “Social and Other Specific Services” means the services listed in Schedule 3 of the 2015 Regulations.
- bb) “Social Care” means the provision of care services or social work services as defined in sections 47 and 48 and schedules 12 and 13 of the Public Services Reform (Scotland) Act 2010 and the expression “Social Care Contract” shall mean a contract entered into for Social Care.
- cc) “SPD” means the Single Procurement Document. This document is consistently used throughout Scotland and enables tenderers to provide self-declarations to confirm their ability to meet the minimum requirements through a selection procedure. The use of the SPD is mandatory for Regulated Contracts.
- cc) “Sustainable Procurement Duty” means the duty of that name under the Act.
- dd) “Tender” means a formal legal document prepared by a supplier in response to an invitation to submit a tender to deliver goods, services or works to the Council. This will include specifics of how a requirement will be met and will generally include a price and response to qualitative criterion.
- ee) “the Threshold” for the purpose of these standing orders refers to the threshold under the 2015 Regulations and the Concession Contracts (Scotland) Regulations 2016. The sterling equivalent is recalculated every second year on 1 January of that year to ensure they remain aligned to thresholds set out in the GPA. The next change is due on 1 January 2024. Details of the full list of thresholds applying from 1 January 2022 are set out in Schedule 5.
- ff) “Written” or “in writing” means any expression consisting of words or figures which can be read, reproduced, and subsequently communicated. It may include information which is transmitted and stored by electronic means provided its provenance / authorisation can be proven.

gg) “2015 Regulations” means the Public Contracts (Scotland) Regulations 2015.

hh) “2016 Regulations” means the Procurement (Scotland) Regulations 2016.

- 2.2 Any reference in these standing orders to a statute, other legislation or Directive shall include reference to any statute, legislation or Directive amending or replacing it.
- 2.3 Any reference in these Standing Orders to a contract shall include, where the context allows, reference to a sub-contract.

3. Compliance

- 3.1 The procurement and award of all contracts, Framework Agreements or Dynamic Purchasing Systems by and on behalf of the Council shall comply with the Standing Orders and Financial Regulations and Financial Codes.
- 3.2 In the event of conflict between these Standing Orders and the requirements of legislation or directives, such legislation or directive overrides the Standing Orders.
- 3.3 The procurement and award of all contracts for goods, services and works by and on behalf of the Council shall also comply with the following duties:
- a) All tenderers, suppliers and contractors shall be treated equally and without discrimination. Tenderers shall be provided with an equal opportunity when tendering for contracts with the Council, based on the same information and criteria and tenders shall be evaluated in a non-discriminatory manner. The ongoing management of suppliers and contractors shall continue to be conducted in a non-discriminatory manner.
 - b) The Council shall act in a transparent and proportionate manner. Tenderers shall be informed in advance, of the evaluation criteria and the scoring methodology which will be used to assess tender responses and determine the successful tenderer. All evidence sought during the tender process shall be proportionate to the value, risk and nature of the requirement.

4. Variation, Revocation and Suspension of the Procurement Standing Orders

- 4.1 These Standing Orders may be varied or revoked by Full Council. Any variation to or revocation of the Standing Orders shall be effective on the first working day after the conclusion of the Full Council meeting at which it was approved.
- 4.2 The Director of Economy and Resources may approve variations to the Standing Orders in the following circumstances:
- a) To reflect changes in job titles, reorganisations of departments and vacancies in posts; or
 - b) To change references to legislation, where the legislation is repealed or amended, to insert updated references to the new legislation; or
 - c) To change the financial values of the Thresholds where referred to in the Standing Orders, to implement any changes in these Thresholds.
 - d) To amend the Schedules.

5. Exemptions

- 5.1 Subject to standing order 1.3, there shall be exempted from the provisions of these Standing Orders all contracts for the supply of goods or materials for the provision of services or for the execution of works where:-
- a) The total estimated value of the proposed contract is less than £50,000 for goods and services and less than £500,000 for works but the contract shall be granted in accordance with the Council's Procedure Note for Lower Value contracts as set out in Schedule 7.
 - b) In the opinion of the Chief Executive or any Director or Head of Service, urgent action is required to prevent danger to life, serious risk to health or damage to property. In such circumstances a report will be submitted to the appropriate committee at the first available subsequent meeting detailing both the circumstances justifying use of this exemption and the action taken. In such circumstances, any relevant requirements of the GPA and the Procurement Reform Rules shall be complied with. On all occasions where this exemption has been used, the Head of Finance and Procurement shall be notified and consulted as soon as is reasonably practicable.
 - c) The contract relates to any of the functions being exercised by Scotland Excel on behalf of the Council, in which case the procurement standing orders for Scotland Excel shall apply.
 - d) The contract is entered into by SWestrans to secure the provision of local transport services. All such contracts shall be subject to Swestrans Procurement Standing Orders.
 - e) The services required are the appointment of junior or senior legal counsel and Solicitor Advocates (for the avoidance of doubt the appointment of Solicitors is not exempt). However, any such contract must be granted in accordance with the relevant requirements of the Act.
 - f) Where in the Chief Executive's opinion it is essential that the contract is entered into for the settlement of any claim or litigation raised by or against the Council.
 - g) The contract is for the disposal by the Council of surplus or scrap materials and equipment previously used by the Council. Best Value shall still be obtained.
 - h) The contract is being funded by money provided by an external party (including funds from the National Lottery funding distributors, Scottish Government etc) and the award of that money to the Council is subject to such conditions that make it impractical for the Council to comply with these Standing Orders in procuring the contract. In such circumstances, this will be included within the next procurement update report to the Policy & Resources Committee to explain the procedure followed and justification for doing so. In advance of awarding a contract under this clause, agreement must be obtained from the Head of Finance and Procurement. In such circumstance, any relevant requirements of the Treaty Principles, the EU Procurement Rules and the Procurement Reform Rules shall be complied with. Otherwise externally funded contracts shall follow these Standing Orders.
 - i) The contract is co-funded by the Council, and the Council's contribution is less than 50% in cash terms (i.e. discounting in-kind values). However, the Council shall ensure Best Value is obtained. Advice may be sought from Legal Services,

who shall ensure these obligations shall be passed to the contracting authority.

- j) The contract relates to the performing arts. Where performing arts are commissioned by the Council, Best Value shall be obtained.
 - k) Subject to any relevant requirements under the Act and in the opinion of the Chief Social Work Officer in consultation with the Procurement & Commissioning Manager, who may consult with the Legal and Licensing Service Manager for advice, is satisfied the contract terms and conditions are acceptable, the contract is for social care and either:
 - I. A support person has selected his or her support pursuant to Option 2 and, so far as relating to that option, Option 4, of the Social Care (Self-directed Support) (Scotland) Act 2013; or
 - II. The nature of the care package being arranged for a person is unique and cannot be provided for under existing Council Framework Agreements or contracts.
 - l) It is for a contract of employment, unless the contract is with an employment agency for the supply of staff.
 - m) The contract relates solely to the transfer, acquisition or disposal of heritable property including a license to occupy or use heritable property.
 - n) The spend relates to the award of a Grant by the Council and not the procurement of a contract for the provision of goods, services or works to the Council but shall be awarded in accordance with the Guidance Note on Use of Grants at Schedule 8. Specific advice in relation to the award of Grants by the Council should be obtained from the Legal and Licensing Service Manager.
 - o) The award of works or services concessions which are subject to the application of the Concessions Contracts (Scotland) Regulations 2016.
 - p) The contract is for social care and either:
 - I. A supported person has selected his or her support pursuant to Option 2 and, so far as relating to that option, Option 4, of the Social Care (Self-Directed Support) (Scotland) Act 2013; or
 - II. The nature of the care package being arranged for a person is unique and cannot be provided for under existing Council Framework Agreements or contracts.
 - q) These Standing Orders apply to contracts for Social and other Specific Services for Health or Social Care Services unless varied by the special arrangement set out in Schedule 6.
- 5.2 Exemptions under Standing Order 5.1 are subject to any requirements applying under the Procurement Reform Rules and the Chief Social Work Officer in consultation with the Procurement and Commissioning Manager, being satisfied that the contract terms and conditions are acceptable.

6. Financial Provision

- 6.1 No tender shall be invited or accepted unless appropriate financial provisions have been made and approved in terms of the Council's Financial Regulations, or funding has been guaranteed to be provided by a third party.

- 6.2 Where tenders are required to be sought in circumstances where financial provision has not been secured, approval to do so is required from the Procurement and Commissioning Manager and tenderers shall be clearly advised of the basis that tenders are being invited.
- 6.3 The financial provision for the purposes of this Standing Order 6 must include for the full value of the contract, as calculated in accordance with Standing Order 7.

7 Valuing the Contract

- 7.1 For the purposes of these Standing Orders, the value of a contract shall be calculated over the whole life of the contract not the annual value. Where it is likely that a supply of goods, services or works shall be required on a continuing basis over a number of years, the anticipated duration of the continuing supply shall be taken into account when estimating the value of the contract for the purposes of these Standing Orders. When it is not possible to anticipate the length, the annual contract value shall be multiplied by 4 to reach an indicative contract value.
- 7.2 Where there is a requirement for the same goods, services or works across the Council, the total estimated value of the contract concerned shall consider the Council wide requirement and not merely those of each individual Service Department.
- 7.3 The contract value includes the amount payable as a result of the procurement exercise of any form and any extension period as explicitly set out in the Contract Documents.
- 7.4 Where the Council provides for prizes or payment to third parties, these shall be taken into account when calculating the estimated contract value.
- 7.5 It is not permissible to disaggregate a contract in order to circumvent the requirements of these Standing Orders or the Act.
- 7.6 For Regulated Procurements the estimated value must consider any applicable Value Added Tax that may be levied as set out within Schedule 5.
- 7.7 If the cost of a contract is only being met in part by the Council the total value of the contract including the funding from a third party shall be, for the purposes of these Procurement Standing Orders, calculated by totalling all the contributions to be made towards the contract cost.
- 7.8 Where a contract includes the provision of services or other funding in kind to the contractor / supplier by either the Council or a third party, the value of the contract shall be calculated by including the value of the services being provided and / or the funding in kind in addition to any monetary consideration.

- 7.9 The estimated value shall be the value estimated at the time at which the procurement is commenced, ensuring it is representative of the current market conditions and tender submissions that may be received.
- 7.10 On receipt of tenders, where the tenders returned are higher than the Threshold applied, advice on how to proceed must immediately be sought from the Procurement and Commissioning Manager. The responsible Head of Service and Head of Procurement & Finance may authorise the procedure to continue where the breach is not to a regulated Threshold, and where there is sufficient evidence to validate the pre-tender estimate as genuine, justification for the additional costs and the proposed contract value does not exceed the permissible financial delegations as set out within the Finance Scheme of Delegation.
- 7.11 In the case of the procurement of a Framework Agreement the estimated value shall be the total estimated value of all of the contracts envisaged thereunder pursuant to and for the total term of the Framework Agreement.
- 7.12 In the case of the procurement of a Dynamic Purchasing System the estimated value shall be the total estimated value of all of the contracts envisaged pursuant to and for the total term of the Dynamic Purchasing System.
- 7.13 In the case of an innovation partnership procurement, the estimated value shall be the total estimated value of the research and development activities to take place during all stages of the partnership together with the estimated value of works, supplies or services to be developed and delivered by the partner.
- 7.14 In the case of a public works contract the estimated value shall include the total estimated value of any supplies and services that are necessary for executing the works and that are to be provided by the Council to the contractor.
- 7.15 In the case of a procurement to be awarded in the form of separate lots, the estimated value shall be the total estimated value of all such lots.
- 7.16 In the case of a public supply contract relating to the leasing, rental, hire or hire purchase of products the estimated value shall be—
- I. in the case of a fixed term contract for a period of less than or equal to 12 months, the total estimated value of the contract;
 - II. in the case of a fixed term contract for a period of more than 12 months, the total value including the estimated residual value; and
 - III. in the case of a contract without a fixed term or the term of which cannot be defined, the monthly value multiplied by 48.
- 7.17 In the case of a public service contract for a service of a kind mentioned in this paragraph, the estimated value shall be calculated by reference to—
- I. for insurance services, the premium payable and any other form of remuneration;

- II. for banking and other financial services, the fees, commissions payable, interest and any other form of remuneration; and
- III. for design contracts, the fees, commissions payable and any other form of remuneration.

8. Best Value

- 8.1 All procurement of goods, works or services shall be based on “Best value”. “Best value”, in this context, is defined as the optimum combination of whole life cost and quality (or fitness for purpose) to meet the Council’s requirements. Additional guidance is provided within the guidance note for completion of the Contract Strategy Document.
- 8.2 No tender evaluations shall use price or cost as the sole contract award criteria, without prior approval from the Procurement and Commissioning Manager. No such approval shall be granted for Regulated Contracts.

9. Use of Existing Contracts

- 9.1 Where the Council has an existing contract for the provision of goods, services or works, which has been competitively tendered and awarded, this contract shall be used for all requirements falling within the scope of that contract.
- 9.2 Where the Council has an existing Framework Agreement or Dynamic Purchasing System in place, this should be used where the requirements fall within the scope of the Framework Agreement or Dynamic Purchasing System. However, where an existing Council Framework Agreement or Dynamic Purchasing System will not represent value for money, this shall be clearly documented within the Contract Strategy Document and an alternative route to market may be recommended.
- 9.3 Where another local authority or public sector body (including Scotland Excel) have an existing collaborative contract, Framework Agreement or Dynamic Purchasing System in place which can be utilised by the Council, this should be used. Advice from the Corporate Procurement Team shall be taken in conjunction with the Legal and Licensing Service Manager to ensure that the contract is one to which the Council can be party and that no further compliance procedures on the part of the Council are necessary. Where an existing Framework Agreement or Dynamic Purchasing System will not represent value for money to the Council, this shall be clearly documented within the Framework Utilisation Form provided at Schedule 2 and an alternative route to market may be recommended.
- 9.4 Where there is no suitable existing contract, Framework Agreement or Dynamic Purchasing System, the Council may consider the use of a Collaborative Procurement provided it is in the best interests of the Council so to do. However, prior to utilising a Collaborative Procurement, the Procurement and Commissioning Manager shall enter into a Collaboration Agreement, the terms of which shall require to be approved by the Legal and Licensing Services Manager.

10 Extensions to Existing Contracts and Contract Variations

- 10.1 Where an existing contract includes the option to extend within the terms of the contract, the Procurement and Commissioning Manager and the relevant Service Manager or Head of Procuring Service shall consider and may authorise the exercise of the extension option on behalf of the Council. Such an extension may only be authorised, without wider contract authorisations where the value stated within the Contract Authorisation Report and contract award notice has not been reached, including the value of spend that may be spent on the contract during the extension period. The Legal and Licensing Services Manager shall be consulted as necessary on the scope of the extension option and any necessary notices or documents to be issued / entered into.
- 10.2 For the purpose of clause 10.1, an extension of a contract includes the option to increase the amount of supplies, services or works acquired under the contract as well as the option to increase the duration of the contract.
- 10.3 Changes (variations) to contracts can occur throughout the lifetime of a contract, subject to the terms and conditions of the contract. Such changes may relate to:
- Service Delivery;
 - Scope of Work;
 - Performance;
 - Costs;
 - Product Availability/ Specification Change/ Revision of Rates;
 - Legislative changes;
 - Whether the contract represents Best Value.

The need for contract variations should be minimised. Approval of any contract variation must be obtained through the contract variation process as set out within the Council's Contract and Supplier Management Policy and be agreed by the Procurement and Commissioning Manager who shall ensure compliance with the 2015 Regulations. Where a substantial change is required, it may require a new procurement of a new contract.

- 10.4 For works contracts, it is recognised that a degree of flexibility is required to allow the responsible contract manager on site to respond to unforeseen circumstances necessary to allow completion of the planned works. To accommodate this, a tolerance of £50,000 or 20% of the contract value shall be allowed prior to the need to commence the contract variation process outlined within the Council's Contract and Supplier Management Policy. For the avoidance of doubt, all variations out with this tolerance must have approval from the relevant Service Manager and Procurement and Commissioning Manager prior to being instructed and where necessary additional committee approvals may also be required.
- 10.5 Where a contract has been advertised in accordance with the Thresholds and it becomes apparent that the indicative total value of the contract as previously reported within the Contract Authorisation Report is likely to be exceeded, the Service Manager or Head of Procuring Service shall consult with the Procurement &

Commissioning Manager for advice on what action requires to be taken.

- 10.6 Where a contract has not been advertised under the Thresholds and the increase in the value of the contract is such that the Threshold is likely to be exceeded, no further orders shall be made under the contract.

11. Indicative Total Values of Contracts

- 11.1 Where a contract has been advertised in accordance with the Thresholds and associated rules and it becomes apparent to the procuring service department that the indicative total value of the contract as previously reported to the appropriate Committee or relevant officers is likely to be exceeded, the Service Manager or Head of Procuring Service shall consult with the Procurement and Commissioning Manager for advice on what action requires to be taken. The Procurement and Commissioning Manager shall determine, in particular, whether there are any implications under Standing Orders 9 or 10.
- 11.2 Where a contract has not been advertised under the relevant Thresholds and the increase in the value of the contract is such that the Threshold is likely to be exceeded, no further orders shall be made under the contract. The Service Manager or Head of the Procuring Service shall obtain advice from the Procurement and Commissioning Manager on what action requires to be taken.
- 11.3 In all cases the Procurement and Commissioning Manager shall determine what procedures require to be followed where the value of the contract exceeds the Threshold and / or the estimated net cumulative additional cost is more than 25% of the approved contract value. The Procurement and Commissioning Manager shall ensure that a summary on the matter is submitted as part of the next procurement update report to the relevant Committee with responsibility for procurement.
- 11.4 Where any contract is awarded based on an indicative value, a condition must be inserted to the effect that the indicative total value of the contract cannot be exceeded without the approval of the Head of the Procuring Service and the Procurement and Commissioning Manager.
- 11.5 Contract variations for building/civil engineering works which exceed the provision for contingencies included within the approved Contract Authorisation Report, may not be instructed without prior approval by the Head of the Procuring Service and the Head of Finance and Procurement.
- 11.6 In every contract which is priced on a schedule of rates, prior to invitations to tender being issued, indicative quantities shall be provided. The indicative quantities shall be used to provide an indicative total value for the contract used for the tender evaluation. The relevant indicative total value shall also be set out in all reports and relevant Contract Notices.

12. Framework Agreements and Dynamic Purchasing System

- 12.1 Where there is likely to be a repeated need for a particular supply of goods, services or works to the Council, this can be procured by way of a Framework Agreement or Dynamic Purchasing System. Appropriate assistance and guidance shall be obtained from the Corporate Procurement Team before proceeding by way of setting up or

utilising a Framework Agreement or Dynamic Purchasing System.

- 12.2 No Framework Agreement or Dynamic Purchasing System shall last longer than 4 years except in exceptional circumstances or for the provision of Social and Other Specific Services, as justified under the 2015 Regulations and approved by the Procurement and Commissioning Manager and fully documented within the Contract Strategy Document.

13. Form of Contract

- 13.1 Except in circumstances where the Procurement & Commissioning Manager and the Legal and Licensing Services Manager agree otherwise, every contract shall be:
- In the name of Dumfries and Galloway Council;
 - In writing;
 - Signed by an officer authorised by the Council to sign contracts; and
 - Subject to the Laws of Scotland.
- The Contract Documents in respect of all contracts over the Thresholds shall be prepared by the Corporate Procurement Team and all Regulated Contracts shall be prepared by or reviewed by the Corporate Procurement Team. The Corporate Procurement Team shall use template terms and conditions provided by Legal Services or shall request drafting of fit for purpose terms and conditions from Legal Services where suitable templates are not available.
- 13.2 The Corporate Procurement Team and procuring service departments may also make use of Contract Documents prepared by the Scottish Government, the Crown Commercial Services, Scotland Excel, or any other agency of the UK government, other Scottish Centres of Procurement Expertise; local authorities; and other collaborative bodies where the Council are eligible to use the Contract Documents and that these are suitable for the contract.
- 13.3 Other than the technical specification of the procurement requirements, which shall be decided by the Head of the Procuring Service, any dispute between officers in the Council regarding the proper form or content of the Contract Documents or any part of them may be referred to the Procurement & Commissioning Manager whose decision on the matter shall be final. Any disputes or queries regarding legal issues, including the extent to which the GPA Principles, the Procurement Reform Rules, and/or these Standing Orders apply to any contract shall be referred to the Legal and Licensing Services Manager, whose decision on such issues shall be final.
- 13.4 All tender documents shall clearly state that the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 apply to all contracts arranged by or on behalf of the Council. This is to ensure that contractors / suppliers / service providers are aware that the Council may be required, as a matter of law, to release information to third parties which may include information that the contractor / supplier / service provider may wish to be treated as confidential.
- 13.5 The following rules shall apply when determining how to treat a mixed procurement of

any contract for the supply of goods, provision of services and the carrying out of works:-

(i) Services/Supplies

Determining factor is the main subject matter identified by reference to the element which has the highest estimated value i.e. if the value attributed to services exceeds that attributable to supplies then it will be treated as a services contract.

(ii) Services/Social and Specific Services

Determining factor is the main subject matter identified by reference to the element which has the highest estimated value i.e. if the value attributed to services exceeds that attributable to the Social and Specific Services then it will be treated as a services contract

(iii) Concession/ Works, Services and/or Supplies

If the estimated value of the works/services/supplies element exceeds the Thresholds it will be treated as a public contract for works/services/supplies and not a concession contract

(iv) Works/ Services or Supplies

Determining factor is the main subject of the contract in question regardless of the relative values of the elements and then the relevant Threshold applies to determine the applicable rules.

14. Nomination of Sub-Contractor

- 14.1 Where a contract provides for the nomination of a sub-contractor, the appointment of a nominated sub-contractor shall comply with these Standing Orders.

15. Specification of Standards

- 15.1 Where there is a recognised British, European or International Standard applicable to any contract which is current at the date of tender, the Contract Documents shall require that the goods, materials or services to be used or supplied and all workmanship shall at least meet the requirement of that standard.

16. Procedures

- 16.1 All contracts shall be awarded in accordance with one of the procedures set out in these Standing Orders and shall comply with any guidance and templates issued by the Procurement & Commissioning Manager. Generally, the Open Procedure or call offs under existing contracts or Framework Agreements will be used, however due to complexity of the requirements use of another procedure may be recommended and approved within the Contract Strategy Document.
- 16.2 The procedure to be used, along with the reasons for using that procedure, shall be recorded within the Contract Strategy Document provided at Schedule 1.
- 16.3 No tender shall be invited or offer made or accepted for any contract for the supply of goods, or the carrying out of works or the provision of services (including a call off from an internal or external Framework Agreement) without a contract reference number

having been obtained from the Corporate Procurement Team.

- 16.4 A Contract Strategy Document in the form provided at Schedule 1 or a Framework Utilisation Form set out at Schedule 2, shall be prepared for all requirements where the estimated aggregated value exceeds £50,000 for goods and services or £500,000 for works. The Contract Strategy Document shall record the procedure to be used and the reasons for the recommended use of that procedure. Where using an existing Framework Agreement, typically those provided by Crown Commercial Services, Scotland Excel or Scottish Government, then the Framework Utilisation Form provided at Schedule 2 may be used to record this information and the market information provided within the framework owner's contract strategy can be relied upon to inform the decision making on the suitability of its use.
- 16.5 Where the estimated value of any contract is likely to equal or exceed the higher Threshold, advice shall be obtained from the Corporate Procurement Team on the appropriate threshold to be applied. Where tenders return over the threshold for the procedure utilised, approval to proceed must be obtained from the Procurement and Commissioning Manager. The Procurement and Commissioning Manager shall not authorise the award of the contract where the recommended contract value is greater than the relevant Threshold plus 10%. This applies to contracts governed by the Procedure Note for Lower Value Contracts provided at Schedule 7 of these Standing Orders.
- 16.6 Where it is established that the Regulated Procurement Rules apply to any contract, the Corporate Procurement Team shall be consulted, which should ensure the appropriate procedure is followed in terms of those Rules.
- 16.7 Any contract that is not required to follow a procedure set out in the Regulated Procurement Rules shall be let in accordance with one of the procedures set out in these standing orders and shall comply with any guidance issued by the Head of Finance and Procurement or the Procurement and Commissioning Manager.
- 16.8 The SPD shall be used in all procedures, unless otherwise agreed with the Procurement and Commissioning Manager.
- 16.9 All prior information notices, Contract Notices and contract award notices must be published via the Public Contracts Scotland website and Find a Tender and OJEU (if applicable) in accordance with applicable provisions of the Act, the 2015 Regulations, any other regulations made by the Scottish Government under the Act and any guidance issued by the Scottish Government under the Reform Act.

17. Open Procedure

- 17.1 The Contract Strategy Document approval may authorise the use of the open procedure which shall be conducted in accordance with this Standing Order.
- 17.2 Where using the open procedure a Contract Notice shall be published on the Public Contracts Scotland Portal and where the estimated contract value is above

the Threshold, the notice shall also be published on Find a Tender. Additional publicising of the contract opportunity may be placed, for example in local newspapers.

- 17.3 The Open Procedure may be used to procure a public contract, Framework Agreement, Dynamic Purchasing System, alliance contract or public social partnership with one or multiple providers.
- 17.4 The date and time stated in the notice by which tenders must be received, shall be no sooner than 5 working days from the date the notice is published, however, to encourage competition longer tender times should be allowed. For Regulated Procurement the relevant 2015 Regulations prescribed timescales must be observed, this is generally a minimum of 30 calendar days from publishing the tender until the tender deadline, taking into account reductions available for use of electronic tender systems.
- 17.5 The Invitation to Tender template document provided by the Corporate Procurement Team shall be used.
- 17.6 Any queries received during the tender process shall be submitted and responded to utilising the question-and-answer facility of the e-tender platform, providing the response to all interested parties.
- 17.7 Clarifications and queries should be minor. Where there are a substantial number of queries or fundamental clarifications or changes are required to the tender document, the Procurement and Commissioning Manager shall consider if this requires a new procurement procedure to be followed.
- 17.8 At the same time as a notice is published, the relevant contract documents shall also be available electronically. The Contract Notice shall not be published where a final set of tender documents are not available for publication.

18. Restricted Procedure

- 18.1 The Contract Strategy Document approval may authorise the use of the restricted procedure which shall be conducted in accordance with this Standing Order.
- 18.2 Where using the restricted procedure, a notice shall be published on the Public Contracts Scotland Portal and where the estimated contract value is above the Threshold, the notice must also be published on Find a Tender. Additional publicising of the contract opportunity may be placed, for example in local newspapers.
- 18.3 All applicants responding to the notice issued in terms of Standing Order 18.2 shall be required to provide a completed SPD by the date and time specified in the notice. This date and time shall take cognisance of the complexity of the subject matter of the contract and the time needed to prepare the SPD.

- 18.4 No organisation shall be invited to tender unless they have successfully complied with the technical and financial checks in standing order 33 and have met the criteria to be invited to tender set out in the Contract Notice.
- 18.5 A sufficient number of organisations shall be selected to be invited to tender to ensure genuine competition; this in any event shall not be fewer than five for each contract / lot. Where fewer than five applicants express an interest, all those applicants meeting the minimum evaluation criteria, shall be invited to tender.
- 18.6 Invitations to tender shall be sent simultaneously to each applicant selected to tender for a contract and the invitation to tender shall be accompanied by a link to the Contract Documents which shall have been made available electronically.
- 18.7 The invitation to tender shall also include the final date and time for the receipt of tenders by the Council and the criteria to be used in evaluating the tenders.
- 18.8 The Invitation to Tender template document provided by the Corporate Procurement Team shall be used.

19. Negotiated Procedure without Prior Publication of a Notice

- 19.1 The negotiated procedure without prior publication of a notice is only available in very limited circumstances and shall only be used where it is identified as the appropriate procedure in the Contract Strategy Document, following consultation with the Corporate Procurement Team.
- 19.2 The negotiated procedure without prior publication of a notice shall only be used with the prior written approval of the Head of Finance and Procurement. The Contract Strategy Document shall include a full explanation as to why the Head of Finance and Procurement considered it to be appropriate to use that procedure.
- 19.3 Where the 2015 Regulations do not apply, the negotiated procedure without prior publication of a notice shall only be used in the circumstances stated in the Procurement Reform Rules (Regulation 6 of the 2016 Regulations).
- 19.4 Where the 2015 Regulations apply, the negotiated procedure without prior publication of a notice shall only be used on any grounds specified in those Rules.
- 19.5 For the purposes of these Standing Orders the negotiated procedure without prior publication of a notice means the direct negotiations with a single contractor or supplier or service provider without competition, with a view to awarding the contract to that contractor or supplier or service provider or to extend an existing contract.
- 19.6 Where the negotiated procedure without prior publication of a notice has been used the contract shall be awarded on behalf of the Council by the Corporate Procurement Team, with the prior approval of the Head of Finance and Procurement.
- 19.7 In all cases where the negotiated procedure without prior publication of a notice is used, a full written record of all contacts, discussions and communications with prospective contractor(s), supplier(s) or service provider(s) shall be kept by the Corporate Procurement Team.

- 19.8 A minimum of two Council officers, at least one of whom shall be from the Corporate Procurement Team, shall be present at all times during any discussions with prospective contractors.
- 19.9 The Corporate Procurement Team shall ensure that records of all discussions with prospective contractors are signed as such by all participants.
- 19.10 The principles of fairness, equal treatment, and transparency shall be observed at all times during the negotiations.

20. Competitive Procedure with Negotiation

- 20.1 The Contract Strategy Document may recommend, and authorisation of the Contract Strategy Document may elect to use the competitive procedure with negotiation where the restricted and open procedures in these Standing Orders are not appropriate for a requirement.
- 20.2 The competitive procedure with negotiation may only be used on one of the following grounds:
- a. Where the needs of the Council cannot be met without adaptation of readily available solutions;
 - b. Where the contract includes design or innovative solutions;
 - c. Where the requirement is complex in nature, in its legal and financial make-up or because of its risks;
 - d. Where the technical specifications cannot be established with sufficient precision; or
 - e. Where unacceptable or irregular tenders have been received following a restricted or open procedure.
- 20.3 The justification for use of the competitive procedure with negotiation shall be recorded in the Contract Strategy Document.
- 20.4 Where the competitive procedure with negotiation is used, the rules for such a procedure as set out in the 2015 Regulations shall be followed. However, where the 2015 Regulations would not otherwise apply to the contract, timescales that are applied to the procedure shall take into account factors such as the complexity of the subject matter of the contract.
- 20.5 In all cases where the competitive procedure with negotiation is used, a full written record of all contacts, discussions and communications with tenderers shall be kept by the Corporate Procurement Team.
- 20.6 A minimum of two Council officers, at least one of whom shall be from the Corporate Procurement Team, shall be present at all times during any discussions with tenderers.
- 20.7 The Corporate Procurement Team shall ensure that records of all discussions with tenderers are signed as such by all participants.
- 20.8 The principles of fair, equal treatment and transparency shall be observed at all times during the negotiations.

21. Competitive Dialogue Procedure

- 21.1 The Contract Strategy Document may recommend, and authorisation of the Contract Strategy Document may elect to use the competitive dialogue procedure where the restricted and open procedures in these Standing Orders are not appropriate for a contract.
- 21.2 The competitive dialogue procedure shall only be used on one of the grounds set out in standing order 20.2.
- 21.3 The justification for the use of the competitive dialogue procedure shall be recorded within the Contract Strategy Document.
- 21.4 Where the competitive dialogue procedure is used, the rules for such a procedure set out in the 2015 Regulations shall be followed. However, where the 2015 Regulations would not otherwise apply to the contract, timescales that are applied to the procedure shall take into account factors such as the complexity of the subject matter of the contract.
- 21.5 In all cases where the competitive procedure is used, a full written record of all contacts, discussions and communications with tenderers shall be kept by the Corporate Procurement Team.
- 21.6 A minimum of two Council officers, at least one of whom shall be from the Corporate Procurement Team, shall be present at all times during any discussions with tenderers.
- 21.7 The Corporate Procurement Team shall ensure that records of all discussions with tenderers are signed as such by all participants.
- 21.8 The principles of fair, equal treatment and transparency shall be observed at all times during the negotiations.

22. Innovation Partnership

- 22.1 The Contract Strategy Document may recommend, and authorisation of the Contract Strategy Document may elect to use the innovation partnership procedure as defined within the 2015 Regulations, where there is a need for innovative works, products or service which cannot be met by solutions already available on the market.
- 22.2 The aim of the innovation partnership will be the development of the required innovative works, products, or services and the subsequent purchase of the resulting works, supplies, or services.
- 22.3 The estimated value of the works supplies, or services shall not be disproportionate in relation to the investment required for their development.
- 22.4 Where the innovation partnership procedure is used, the rules for such a procedure set out in the 2015 Regulations shall be followed. However, where the 2015 Regulations would not otherwise apply to the contract, the timescales that are to apply to the procedure shall take into account factors such as the complexity of the subject matter of the contract.

23. Quick Quote

- 23.1 Where a contract is above the Thresholds for the Procedure Note for Lower Value Contracts provided at Schedule 7 but below the regulated Threshold, the Contract Strategy Document may elect to use the quick quote procedure.
- 23.2 The Quick Quote procedures to be followed shall be the same as those set out in Schedule 7 to these Standing Orders, notwithstanding that the value of the contract will be greater than the procedure note thresholds.

24. Electronic Auctions

- 24.1 For the purpose of these Standing Orders, the expression “electronic auction” means:- A repetitive process involving an electronic device for the presentation of new prices, revised downwards, and/or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods or utilising an existing framework agreement where the use of electronic auctions as a call off mechanism is permitted.
- 24.2 The Contract Strategy Document may recommend, and authorisation of the Contract Strategy Document may elect to use an electronic auction where the possibility of the use of an electronic auction has been stated in the approved Contract Strategy Document and subsequent Contract Documents issued to suppliers and, where the 2015 Regulations apply, in the Contract Notice published in the appropriate portal and journals.
- 24.3 Electronic auctions shall be considered for IT purchases.
- 24.4 For the avoidance of doubt, an electronic auction may be used where previous stages of a tendering procedure have not been undertaken using electronic means.
- 24.5 Before proceeding with an electronic auction, a full initial evaluation of the tenders shall have been made in accordance with the award criteria. All tenderers who have submitted admissible tenders shall be invited simultaneously by electronic means to submit new prices and/or new values.
- 24.6 Throughout each phase of an electronic auction the Council shall instantaneously communicate to all tenderers involved at least sufficient information to enable them to ascertain their relative rankings at any moment. The Council may also, at any time, announce the number of participants in that electronic auction. In no case, however, shall the Council disclose the identities of the tenderers during any phase of an electronic auction.
- 24.7 Prior to the commencement of any electronic auction, the Council shall intimate to all tenderers involved the date and time fixed for the carrying out of the electronic auction and the proposed duration of the electronic auction together with any proposals for the extension of the duration of the electronic auction.
- 24.8 Any electronic auction shall be subject to such additional procedural requirements as the Procurement and Commissioning Manager considers necessary.

25. Framework Agreements

25.1 Where the Council wishes to establish a framework agreement (“Framework”) to provide for agreement on the terms for future contracts for the purchase by the Council of goods, services and works, the following requirements shall be complied with: -

(a) Where the 2015 Regulations apply, the Corporate Procurement Team shall establish the Framework in accordance with those Regulations.

(b) In all other circumstances: -

i. The suppliers to be invited to tender shall be selected from those who have responded to a notice.

ii. The notice shall be published in accordance with the relevant procedure being followed.

iii. The notice shall mention: -

a. that the Council wishes to establish a Framework;

b. a description of the goods, service or works which are to be purchased under the Framework;

c. The conditions and call off procedure of the Framework and the applicable contract conditions that shall apply to contracts called off under the Framework.

25.2 Where a Framework has been established the Council may award a contract under the Framework without being required to seek further competition amongst the contractors on the Framework, where the call off procedure of the Framework permits them to do so, doing so presents value for money and where the direct award Framework call off procedure has been approved as the procurement route in the Contract Strategy Document.

25.3 Where a Framework has been established but it does not lay down all of the terms of a proposed contract including, for example, where a new item can legitimately be added to the Framework, a mini competition procedure under the Framework in accordance with Standing Order 25.4 below shall be conducted, where use of the Framework has been approved as the procurement route within the Contract Strategy Document.

25.4 Any mini-competition procedure shall be conducted in accordance with the procedures laid down in the Framework and the following:-

a) every contractor on the Framework capable of performing the contract shall be issued with an invitation to take part in the mini competition. All invitations shall be issued at the same time;

b) the invitations shall specify the closing date and time for submission of tenders under the mini competition procedure. The time limit fixed for the return of tenders shall take into account factors such as the complexity of the subject matter of the contract and the time needed to prepare a tender, but, in any event, shall be not less than 4 working days from the date the invitations are issued;

c) each tender shall be kept confidential until the expiry of the time limit for the receipt of tenders;

d) any award of contract shall be made to the contractor or contractors who submitted the best tender or tenders on the basis of the award criteria specified in the Contract Documents based on the Framework documents; and

e) any award of contract following a mini competition procedure shall comply with Standing Orders 33 and 36.

25.5 Where a Regulated Contract is awarded, following a direct award or further competition, under a Framework, an award notice must be published on the Public Contracts Scotland Portal.

25.6 Where, in order to participate in an existing Framework, the Council is required to enter into a participation agreement or other similar agreement regulating the use of the Framework by the Council, the Procurement and Commissioning Manager shall have the authority to enter into the agreement on behalf of the Council.

26. Dynamic Purchasing Systems

26.1 The Procurement and Commissioning Manager may elect to establish and use a Dynamic Purchasing System ("DPS") if satisfied that:

- a) it is in the interests of the Council to do so;
- b) the DPS will only be used for commonly used purchases the characteristics of which, as generally available on the open market, meet the Council's requirements; and
- c) the costs of the DPS will not outweigh the likely benefits of using the DPS.

26.2 Any DPS established under this Standing Order shall be operated as a completely electronic process and, throughout its period of validity, shall be open for the admission of any suppliers who meet the selection criteria set.

26.3 Where the Contract Strategy Document elects to establish and use a DPS, the rules for such a procedure set out in the 2015 Regulations shall be followed.

27. Concessions

27.1 Where the Council intends to grant a services concession contract or a works concession contract ("concession"), the Head of the Procuring Service and the Head of Finance and Procurement shall be responsible for determining a best estimate of the financial value of the concession which shall be in accordance with the Concession Contracts (Scotland) Regulations 2016, if applicable.

27.2 Based on the best estimate of the financial value of the concession, the Procurement and Commissioning Manager shall determine the procedures that require to be followed in terms of these Standing Orders and, where applicable, the Concession Contracts (Scotland) Regulations 2016. This shall ensure the principles fair, equal, transparent treatment of interested parties continue to be observed and is likely to recommend an advertised opportunity irrespective of if the Concessions Contracts (Scotland) Regulations 2016 threshold applies.

28. Design Contests

28.1 Where the Head of Finance and Procurement and the Head of the Procuring Service considers it appropriate to do so, a design contest may be held, which shall be a competitive procedure whereby plans and designs are invited under predetermined rules in terms of which the successful entry selected is awarded a contract.

- 28.2 Where a design contest is to be held, a notice shall be placed on the Public Contracts Scotland Portal and in addition may also be placed in one or more national newspapers circulating in the Dumfries and Galloway area and also in such trade journals as may be considered necessary. The notice shall state:-
- a) that a design contest is being held;
 - b) a description of the project;
 - c) the place where a prospective competitor may obtain a copy of the rules; and
 - d) the date not less than 14 days from the date of the publication of the notice by which the prospective competitor must intimate, in writing, their interest in being involved in the contest.
- 28.3 After the expiry of the period specified in the notice, invitations to tender shall be sent to at least three persons selected. If fewer than three persons have applied and are considered suitable, then invitations to tender shall be sent to all suitable persons.
- 28.4 Where only one suitable applicant has applied, the Head of Finance and Procurement shall decide either to abandon the contest or to negotiate with the sole suitable applicant for the award of the contract using the Negotiated Procedure without Prior Publication of a Notice in Standing Order 19.
- 28.5 For the purposes of these Standing Orders a design contest means a competition in which the Council:-
- a) invites the entry of plans and designs;
 - b) establishes rules for the competition under which the plans or designs will be judged by a jury;
 - c) may award prizes; and
 - d) is enabled to acquire the use or ownership of plans or designs selected by the jury.

29. E-Procurement

- 29.1 This Standing Order shall apply to any tendering procedure (including for the avoidance of doubt a mini competition under a Framework) or contract entered into using electronic means.
- 29.2 Unless in exceptional circumstances with approval from the Procurement and Commissioning Manager, all procurement exercises or negotiated procedures shall be conducted by electronic means ("e-procurement"), using a system approved by the Corporate Procurement Team.
- 29.3 The Procurement and Commissioning Manager shall consider whether it is appropriate to impose any specific requirements regarding verification and authentication of the tender submission and the signature of the person making that submission. Any such requirements must be stated in the Contract Documents.
- 29.4 No tender submitted using electronic means shall be considered unless it is received in the format requested and prior to the deadline for the receipt of tenders as stated in the Contract Documents and is submitted via the Council approved electronic tender system.
- 29.5 All tenders received shall be kept unopened in a single secure electronic mailbox that cannot be opened before the deadline for the receipt of tenders.

- 29.6 The Corporate Procurement Team shall ensure that insofar as is reasonably practicable the electronic tender system used does not allow the identity of the organisation(s) submitting the tender to be revealed prior to the tender being opened after the deadline for the receipt of tenders.
- 29.7 The Corporate Procurement Team shall ensure that for each procurement exercise the electronic tender system used shall keep and, if required, produce a record showing the time and date of receipt of all tenders received.
- 29.8 Late tenders shall be clearly identified as such by the system and shall be recorded as rejected on the system with the tenderer being notified to this effect.
- 29.9 Late tenders shall be rejected except in special circumstances where a late tender is required to be received, approval to do so shall be granted from the Procurement and Commissioning Manager. This approval shall only be granted in circumstances where for example only one other offer has been received by the deadline, provided the other offer has not yet been opened.
- 29.10 The Procurement and Commissioning Manager shall extend the deadline for the submission of tenders:
- i) where additional relevant information, although requested by a potential tenderer in good time, is not supplied at least six days before the deadline; or
 - ii) where significant changes are made to the Contract Documents.
- 29.11 The Procurement and Commissioning Manager may also elect to extend the deadline for submission of tenders where it is considered appropriate to do so.
- 29.12 Where the deadline for submission of tenders is extended by the Procurement and Commissioning Manager, the officer responsible for the administration of the tender process shall notify all potential tenderers of the extension and any tenderers who have already submitted tenders shall be given the opportunity to re-submit their tenders.
- 29.13 This Standing Order shall also apply to the receipt and custody of tenders for sub-contracts let using electronic means to be performed by nominated sub-contractors.

30. Opening of Tenders

- 30.1 All tenders shall be opened as soon as is reasonably practical following the tender deadline.
- 30.2 All tenders for a procurement exercise shall be opened immediately one after the other during one session.
- 30.3 A minimum of two officers from the Corporate Procurement Team shall be present when tenders are opened. The officers present shall complete and sign a record to show who opened the tenders, who witnessed the process and the responses received.

31. Validation, Clarification and Correction of Tenders

- 31.1 All tenders shall be subject to checking.
- 31.2 Between the last time and date for the receipt of tenders and the date on which a

decision is taken as to which, if any, tender is to be accepted a tenderer may be contacted where it is necessary to validate or clarify the terms of the tender, including the withdrawal of any qualification to the tender or to affect any necessary adjustments. A full written record shall be kept of all such contacts and shall be retained with the original tender.

- 31.3 An arithmetical check of all tenders will be carried out and recorded as having been completed. Where examination of the tenders reveals arithmetical errors, or obvious errors in the rates tendered or discrepancies, the tenderer will be given the opportunity of confirming, amending (in the case of arithmetical errors only) or withdrawing his tender. All correspondence relating to such matters shall be in writing or in email and shall be retained with the original tender.
- 31.4 For works contracts, reviews to ensure sustainable pricing of all tenders will also be carried out. Where this review provides areas for concern the clarification procedures as set out within the Scottish Government Construction Procurement Handbook for abnormally low tenders and sustainable pricing shall be conducted and as further set out within section 33.
- 31.5 Where during the commercial evaluation of tender submissions, the evaluators consider that a tender may be abnormally low, the procedures set out to clarify abnormally low tenders within the relevant procurement handbook or procurement journey provided by Scottish Government shall be followed to ascertain the sustainability of the offer.
- 31.6 The application of this procedure and the outcome must be documented within the Contract Authorisation Report.

32. Technical and Financial Checks

- 32.1 No organisation may be awarded a contract for the supply of goods, materials or services or the execution of works unless a satisfactory review of the proposed organisation has been carried out as to:-
- the technical capability of the tenderer; and
 - the financial standing of the tenderer.
- 32.2 It shall not be necessary to review the financial standing of proposed contractors where:
- the estimated value of the contract is £100,000 or below; or
 - the tenderer has been reviewed in the preceding 12 months from the date of the tender.
- 32.3 Assessment of a tenderer's technical capacity shall include a determination as to whether:
- a) the tenderer meets the selection criteria; and
 - b) any exclusion grounds under the Procurement Reform Rules apply to the

tenderer.

- 32.4 The assessment under Standing Order 32 shall be based initially on the SPD submitted by the tenderer but, at any moment during the procedure, the Council may require the tenderer to submit all or any of the supporting documents where the Procurement and Commissioning Manager considers this is necessary to ensure the proper conduct of the procedure.
- 32.5 Where a procedure requires a shortlist of participants to be prepared, before a participant may be included on the shortlist the procuring service department and the Corporate Procurement Team shall:-
- a. verify that the participant whom he/she intends to shortlist meets all relevant criteria; and
 - b. require the participant to submit such means of proof and supporting documents that is considered to be necessary.
- 32.6 Before preparing any report to seek approval to award a contract, except a contract which is a direct award under a Framework, the Corporate Procurement Team or the procuring service department shall:-
- a. verify that the participant who is the proposed contractor meets all relevant criteria; and
 - b. require the participant who is the proposed contractor to submit such means of proof and supporting documents that is considered to be necessary.
- 32.7 Where the Corporate Procurement Team or the procuring service department is unable to verify that an organisation meets all relevant criteria, or where an organisation fails to submit such means of proof and supporting documents as required, the organisation shall be excluded from the procedure.
- 32.8 A record showing the results of each check of the technical capacity and financial standing for each tenderer shall be retained on file by the Corporate Procurement Team. Procuring service departments shall provide copies of such records to Corporate Procurement Team where they were not directly involved in the evaluation.

33. Post -Tender Negotiations

- 33.1 Once the evaluation of tenders has been completed, with the prior written agreement of the Head of the Procuring Service Department, the Procurement and Commissioning Manager may instruct members of the Corporate Procurement Team or the procuring service department staff to enter into post tender negotiations. Post tender negotiations shall only be used in circumstances where the tender evaluation process has been conducted in accordance with the Standing Orders and has identified a tenderer who has submitted the most economically advantageous tender to the Council for a contract or part of a contract and is satisfied that there is scope for improvement in the offer received and that such negotiations will be in the best interests of securing value for money or improved terms and conditions for the Council. Post tender negotiations shall only be used with that tenderer so identified. The post tender negotiations shall not be used to put other tenderers at a disadvantage or to distort competition.
- 33.2 Where it is considered possible that post tender negotiations might apply, a clear indication will be given to prospective contractors in the instructions to tenderers that

post tender negotiations might be considered.

34. Notification of Award

- 34.1 Following the evaluation of all tenders received, the Contract Authorisation Report provided at Schedule 4 shall be prepared and submitted for approval in advance of notifying tenderers of the outcome or awarding a contract.
- 34.2 The successful tender shall only be accepted on behalf of the Council in accordance with the Council's Scheme of Delegation.
- 34.3 The Head of Finance and Procurement may terminate any procedure at any time up to the award of the contract where instructed to do so by the Director of the procuring department or in any other circumstances where the Head of Finance and Procurement believes that justification exists for that course of action. Where a procedure is terminated, all tenderers shall be informed of the decision in writing as soon as reasonably practicable.
- 34.4 In accordance with the Procurement Reform Rules, where a tenderer is excluded from a procedure at any stage before submitting a tender, the tenderer shall be notified in writing and provide reasons as soon as reasonably practicable.
- 34.5 All tenderers shall be informed in writing of the success or otherwise of their tender as soon as is reasonably practicable after the approval of the successful tender and shall be provided with reasons in accordance with the applicable Procurement Reform Rules.
- 34.6 Where e-tendering has been used, the communication with tenderers in terms of Standing Order 34.5 above shall be undertaken using the Council's e-tender system.
- 34.7 Advice may be sought from the Corporate Procurement Team on the wording of these letters, or templates to be used where available.

35. Mandatory Standstill Period

- 35.1 Where the 2015 Regulations apply and authority has been granted for the acceptance of the successful tenders, no tender shall be accepted until the date when the mandatory standstill period in terms of those Regulations has expired, and the Head of Finance and Procurement and the Head of Democratic Services are satisfied that no valid challenge has been received to the contract award decision.
- 35.2 The mandatory standstill period is a period of at least 10 calendar days between the date of dispatch of the letters issued in accordance with the 2015 Regulations and the date when it is proposed to enter into the contract.

36. Health and Safety

- 36.1 No contract shall be awarded to a contractor unless the contractor, supplier or service provider satisfies the Council that they are operating health and safety policies which conform to the current legislation.

37. Equality

- 37.1 No contract shall be awarded to a contractor unless the contractor, supplier or service

provider satisfies the Council that they are complying with the Equality Act 2010.

38. Contracts Register

38.1 Within 5 working days of the award of a contract, the officer who has responsibility for awarding or managing the contract shall ensure it is included on the Council's Contracts Register maintained by the Corporate Procurement Team.

38.2 The Corporate Procurement Team shall maintain a published contracts register with all Regulated Contracts awarded by the Council.

39. Extension of Contract Duration

39.1 Where appropriate and in conformity with the 2015 Regulations, provision can be made in a contract for a period of extension.

40. Assignment, Termination and Modification

40.1 In every contract, there shall be a provision whereby the contractor shall be prohibited from transferring or assigning to any person or persons whatever, any portion of the contract without the prior written consent of the Council. The Head of Finance and Procurement, in consultation with the Head of Democratic Services and the Director of the procuring service department shall have the power to consent on behalf of the Council to the assignation of a contract.

40.2 The Head of Finance and Procurement may exercise any power on behalf of the Council to terminate any contract or part of a contract or to terminate the Council's participation in a Framework Agreement or to agree to vary or amend the terms of any contract but only following consultation with the Director of the procuring service department and the Head of Democratic Services and subject to them all being satisfied that it is reasonable and in the interests of the Council to exercise that power.

40.3 Where it is proposed to modify a contract or Framework, the Head of Finance and Procurement, taking advice from the Head of Governance and Assurance where appropriate, shall determine whether the proposed modification would require a new procurement procedure. For the avoidance of doubt, modification includes any changes to the scope; terms and conditions; value; or parties to the contract or framework.

40.4 Where the Head of Finance and Procurement determines that a modification would not require a new procurement procedure, the procedures under Standing Order 11 shall be followed.

41. Pilot Projects

41.1 These Standing Orders shall apply to any procurement related to pilot projects for which the Council has responsibility whether or not fully or part funded by the Council, the Scottish Government or another third party.

42. Sustainable Development

- 42.1 The Council are committed to achieving sustainable procurement outcomes and must ensure the Council fulfils its Sustainable Procurement Duty. As such all contracts must be awarded in accordance with the Council's Sustainable Procurement Policy.
- 42.2 The Sustainable Procurement Duty will be considered in the development of every Contract Strategy Document for a Regulated Procurement, taking into account how the Regulated Procurement can:
- (a) improve the economic, social and environmental wellbeing of the Dumfries and Galloway area;
 - (b) facilitate the involvement of small and medium enterprises, third sector organization and supported businesses in the Regulated Procurement; and
 - (c) promote innovation.

43. Procurement Strategy and Annual Report

- 43.1 In accordance with the Procurement Reform Rules, the Procurement and Commissioning Manager shall prepare and publish a procurement strategy setting out how the Council intends to carry out Regulated Procurements in the next financial year.
- 43.2 Where the Council's procurement strategy for the current financial year requires to be reviewed, the Procurement and Commissioning Manager shall make such revisions as are considered appropriate and publish the revised strategy.
- 43.3 The Procurement and Commissioning Manager shall prepare and publish an annual procurement report on the Council's Regulated Procurement activities in relation any financial year as soon as reasonably practicable after the end of that financial year.

44. Commencement Date

- 44.1 These Standing Orders shall come into effect on the first working day after the Full Council meeting at which they are approved.

SCHEDULE 1 – CONTRACT STRATEGY DOCUMENT

1 SECTION ONE – CONTRACT OVERVIEW

1.1 CONTRACT DETAILS To be completed by: Procurement Team

Contract Title	
Contract Reference Number	
Proposed Contract Duration Period (including Optional Extension)	
Date Created	
Author	
Department	

1.2 EXECUTIVE SUMMARY To be completed by Procurement Team

GUIDANCE: Highlight the key points of your strategy considering:

DO's	DON'Ts
<ul style="list-style-type: none"> • Be clear and concise (max 5-8 sentences) • Focus on Why? What? How? • Note key findings on: <ul style="list-style-type: none"> ➤ benchmarking and opportunities ➤ options considered ➤ recommendations (incl. procurement route) and key actions ➤ contract benefits ➤ key risks and resource implications 	<ul style="list-style-type: none"> • Use jargon • Be inconsistent • Add new information (to what was detailed in the report) • Include additional tables • Write it before the report is completed

1.3. USER INTELLIGENCE GROUP To be completed jointly by: Service & Procurement Teams

GUIDANCE:

- User Intelligence Group (UIG) is created by both procurement and technical professionals to ensure a contract is developed to meet user requirements.
- You will need to identify the key stakeholders for this procurement exercise.
- More guidance can be found in the UIG Welcome Pack template attached

Important: All members of the User Intelligence Group need to complete the Procurement Conflict of Interest Declaration before the tender documents are developed.



1.1. UIG Welcome Pack including presentation
Procurement Conflict of Interest [

It will only be in very limited circumstances where a UIG will not be required to ensure a collective understanding

of the business requirements at the outset of any procurement process.

Yes – UIG will be required for this contract. Attach completed Procurement Conflict of Interest Declarations to this Contract Strategy.

No – UIG will not be required for this contract. Provide a brief justification below.

1.4 CONTRACT OBJECTIVE & SERVICE STRATEGY/FORWARD PLAN

To be completed by: Service Team

GUIDANCE:

- Highlight contract’s key objectives based on the prior analysis.
- Consider: **what does this contract need to do?** and **what will this contract achieve?**
- Detail any outcomes the contract is required to deliver.
- Explain how this contract will contribute to your service area’s plan (include hyperlinks to relevant Committee papers as appropriate at the end of the document).

1. AGREED BUDGET

To be completed by: Service Team

GUIDANCE: Information MUST be completed prior to the contract strategy sign off.

Authorised Budget Amount		Estimated Annual Contract Value	
Budget Year(s) in which expenditure will be incurred			
Cost Centre		Account Code	
Additional Comments:			

2 SECTION TWO – CURRENT CONTRACT INFORMATION

2.1 CURRENT SITUATION, CONTRACT STATUS & SPEND ANALYSIS


To be completed jointly by: Service & Procurement Teams

GUIDANCE:

- Provide information on how the requirements are currently being bought or have been bought (in the last 4 years) e.g., start and end dates, current supplier and contract spend.
- Provide a summary of the current contract scope with any TUPE implications (if applicable) and the agreed exit strategy.

New or Recurring Requirement?

New - if there is no current contract, please provide brief information on how the goods services or works are currently being bought or have been bought in the past.

Recurring - complete the below fields regarding the current contract			
Contract Start Date		Contract End Date	
Contract Duration		Lead Authority For collaborative contracts e.g. Scotland Excel	
Contract Scope 1 - 2 sentence(s) summary, highlighting any key amendments to the planned new contract if applicable			
TUPE Implications			
<p>GUIDANCE: TUPE = The Transfer of Undertakings (Protection of Employment) Regulations 2006</p> <ul style="list-style-type: none"> • TUPE applies if there is either a business transfer or a service provision change. • It aims to protect employees' rights and ensure continuity of employment. • If you are not sure if TUPE applies, please review the guidance below and/or consult with Legal and HR teams & complete section 9.1. Contract Strategy Consultation. <p> Guide to TUPE Regulations 2006.pc</p>			
Do TUPE implications apply? (if no, please move to the next section)			
Details/Justification (include details if clauses to allow for TUPE information to be shared within tender documents from incumbent provider are in current contract and any known risks)			
Current Supplier(s)			
FINANCIAL SPEND			
Annual Spend (Year 1)			

Annual Spend (Year 2)	
Annual Spend (Year 3)	
Annual Spend (Year 4)	
Total Spend	

GUIDANCE: Check Spikes Cavell Hub to gain a detailed understanding of the current commodity spend.

New/Recurring Contract	New	Recurring
Spend by Commodity and any Sub-Commodity		
Spend by Department		
Off Contract Spend		

2.2 CURRENT EXIT STRATEGY

To be completed by: Service Team

GUIDANCE:

- Attach the current contract exit strategy if available
- Describe plans and timetable to be followed when the current contract is due to expire.
- Consider how to ensure smooth transition to a new contract: handover of files, exit period/implementation period, communication with new supplier, communication with clients about changes to the service provided etc.

2.3. KEY LESSONS LEARNED

To be completed jointly by: Service & Procurement Teams

GUIDANCE:

- What have you learned from previous experience?
- Are there any issues that should be considered in the development of this contract?
- The documents below can be used as a template to prompt lessons learned if they have not previously been tracked (Lessons Learned tracker should be used throughout the duration of your contract to record relevant notes).



Post Project
Review.doc



1.4. Lessons
Learned Log.xlsx

3 SECTION THREE – COMMODITY & SUPPLY MARKET ANALYSIS

3.1 COMMODITY ANALYSIS

To be completed jointly by: Service & Procurement Teams

GUIDANCE:

- Complete the table below with information which summarises the commodity characteristics.
- This information will help populate the tender specification.

- Consider the use of additional tools such a PESTLEE Analysis, Porters 5 Forces or SWOT Analysis (the guidance on how to use these tools is attached below)



1.5. Commodity and Supply Market Analy

Functionality

What are the key requirements of the contract?

End User Requirements

What does the end user need the contract to deliver?

Organisation Requirements

What are the requirements of the organisation?

Future Trends

Are there any future changes to be considered e.g. IT developments?

Constraints

Are there any barriers that could prevent requirements being met?

3.2 SUPPLY MARKET ANALYSIS

To be completed jointly by Service and Procurement Teams

GUIDANCE:

- Complete the table below with information which summarises the current market conditions.
- This information will be used to inform business engagement activities and will influence the development of the commodity strategy e.g. route to market, lotting strategy.

Market Description

E.g. construction, adult care, transport

Market Overview

Summary of market conditions e.g. size, cycle/stage, number of suppliers.

Trade Associations

Who we may need to consult to obtain information to develop specifications, e.g. regulatory bodies

Key suppliers

Who is likely to respond to this?

Market Trends

E.g. inflation			
Developments and Innovation Are there any new developments in technology?			
Has Market Consultation been carried out? If not, please provide justification for not doing this. If yes please provide key points and findings.			
3.3. POLICIES AND REGULATIONS To be completed jointly by: Service & Procurement Teams			
GUIDANCE: Consider which Policies / Regulations apply to the contract. If any policy applies, or you are unsure, please contact the relevant team for further information. If you seek consultation with other teams, please complete section 9.1. Contract Strategy Consultation.			
Policy/regulation	Consider	Outcome	Contact
GDPR/ Data Protection Act 2018 ("DPA")	Does GDPR / DPA apply? A Data Protection Impact Assessment may be required.		Data Protection Officer
IR35	Does IR35 apply?		HR
Transfer of Undertakings Protection of Employment	Does TUPE apply?		Legal & HR
Construction Design and Management Regulations	Do CDM regulations apply?		Health & Safety
Equalities and Fairness	Have the outcomes this contract is required in support of been assessed for Equality and Fairness? An EFIA may be required.		Equalities Officer
Payment Card Industry Data Security Standards (PCIDSS)	Does this contract include an income stream for which customers will make payments via a debit or credit card?		IT
3.4. ICT REQUIREMENTS To be completed by: Service Team			
GUIDANCE:			
<ul style="list-style-type: none"> Consider whether there any IT requirements to be included in the contract. If yes, please contact your IT Service for further guidance. 			

- This is critical where there will be a requirement to run software or connect devices to the Council's ICT infrastructure.

3.5. KEY RISKS

To be completed jointly by: Service & Procurement Teams

GUIDANCE:

- **What are the risks which will need to be managed for this procurement?**
- Information noted here will help to determine the content of the tender documentation.
- Complete the Risk Register (template below) and attach it with your response.



1.6. Appendix B - Risk Register.docx

Key Risks Overview	
---------------------------	--

Risk Register	
----------------------	--

Attach completed risk register

4 SECTION FOUR – OPPORTUNITY ASSESSMENT

4.1 BEST VALUE TRIANGLE

To be completed by: Procurement Team

GUIDANCE: Consideration should be given to the Best Value Triangle. An example Best Value Triangle can be found in the attachment below.



1.7. Initial Opportunity Assessr

Best Value Triangle – Opportunities		Considerations
Purchase Demand Management	Reduce Consumption	
	Consolidate Spend	
	Improve Specifications	
Supply Base Management	Restructure Relationships	
	Increase Competition	
	Restructure Supply Base	
Total Cost Management	Optimise Total Supply Chain Costs	
	Reduce Total Ownership Costs	
	Reduce Transactions	

4.2. ALTERNATIVE DELIVERY METHODS

To be completed by: Service Teams

GUIDANCE: Has an alternative resource to deliver the contract been considered? Is there in-house resource, partner organisation's or an arm's length organisation's existing agreement to be used to meet the requirements of this contract? If yes, a **summary of the In-House/Outsourcing Decision Making record should be provided.**



Inhouse
Outsourcing Decisic

	Yes/No	Additional Comments
Have you considered in-house resource?		
Have you considered partner's or an arm's length organisation resource?		

4.3. COLLABORATION

To be completed jointly by: Service & Procurement Teams

GUIDANCE:

- Complete the table below detailing potential collaboration opportunities.
- Consider if there are similarities in the scope of other public bodies' contracts.
- Consider if there are national/collaborative contracts and frameworks available (e.g. Scottish Government, Scotland Excel, CCS).
- Consider if these are appropriate to be used by the Council.
- Where a collaborative contract is available, the commodity strategy relating to this contract should be obtained for review.

Is there an opportunity for collaboration?	
Details / Justification	
Collaborative Contract Available	
Lead Authority	

5 SECTION FIVE – PROCUREMENT PROCESS**5.1 OPTIONS APPRAISAL**

To be completed by Procurement Team

GUIDANCE: Describe the strategic options which have been considered and the preferred option to be implemented. This may include several option appraisal to demonstrate consideration for route to Market (open or restricted) and lotting considerations.

	Option 1	Option 2	Option 3	Option 4
Procurement Route				
Pro's and Con's				

of each option				
Recommendation and justification				
	Option 1	Option 2	Option 3	Option 4
Procedure				
Pro's and Con's of each option				
Recommendation and justification				
Lots	Not Applicable	1 Lot	Geographical	Product/Service
Pro's and Con's of each option				
Recommendation and justification				
How many suppliers per lot?				
It is suitable as a reserved contract? Reserved contract – contract's participation is reserved to sheltered workshops, economic operators and programmes aimed at integration of disabled or disadvantaged people (Ref: Reg. 20 of Public Contract Regulations 2015)				
5.2. PROCUREMENT ROUTE & PROCESS TO BE FOLLOWED				
To be completed by Procurement Team				
Procurement Route				
Lots (if applicable)				
Form of contract				
Selection Criteria (Themes and minimum criteria)				
Insurance requirements values for Employer's Liability Public Liability Professional Indemnity Other				
Award Criteria (Price/Quality Ratio)				
Award Criteria (Themes)				
Award Criteria (Additional)				

Comments)	
6 SECTION SIX – PROPOSED CONTRACT’S BENEFITS	
6.1 SOCIAL VALUE	
To be completed jointly by: Service & Procurement Teams	
<p>GUIDANCE:</p> <ul style="list-style-type: none"> • The Sustainable Procurement Duty requires an organisation to consider how they can improve the Social, Environmental and Economic wellbeing of the area in which they operate in (with a particular focus on reducing inequality). • Sustainable procurement is concerned with identifying the potential environmental, social and economic aspects that could be incorporated within a procurement process and would contribute to delivering social value. • Sustainable procurement should align with the Council’s climate change priority to 'Urgently respond to climate change and transition to a carbon neutral region'. • Consider how sustainability areas relevant to the contract requirements might be specified within the procurement process. • Complete the Sustainability Test (as a min. for contracts falling into high ranked categories on the Prioritisation Tool) • Guidance documents and the Sustainability Test are available on: https://sustainableprocurementtools.scot/ 	
ECONOMIC BENEFITS	
<p>GUIDANCE: Consider the following</p> <ul style="list-style-type: none"> • Availability of suitable and high-quality jobs • Measures to encourage local small businesses • Efficient and effective transport links • Lifelong learning • Training and skills development • The provision of infrastructure, new information and communication technologies 	
SOCIAL BENEFITS	
<p>GUIDANCE: Consider the following</p> <ul style="list-style-type: none"> • The promotion of good quality and affordable housing • Safe communities • The encouragement of the voluntary sector including social enterprises and supported businesses • Looking after the needs of children and young people • Looking after the most vulnerable 	
ENVIRONMENTAL BENEFITS	
<p>GUIDANCE: Consider the following</p> <ul style="list-style-type: none"> • Availability of clean air, clean water and clean streets • The quality of the built environment • The removal of objects considered hazardous to health 	

- Removal of disfiguring or offensive graffiti
- Protecting communities against the threat of climate change
- Reducing the impact of climate change through the reduction of greenhouse gas emissions
- Adopt low carbon technologies
- Freedom from high-risk flooding
- Improving and promoting biodiversity and accessibility to nature

EQUALITY

GUIDANCE: If the contract award decision is likely to have a significant impact on people affected by the decision, those should be consulted beforehand. This can be done by producing an Equality Impact Assessment (EQIA):



1.8. EQIA Assessment.docx

Is EQIA Assessment Required?

If 'Yes', attach the completed document:

If 'No', provide justification:

FAIR WORK FIRST

GUIDANCE:

- As part of the Council's procurement duties, we must consider the effect fair work practices will have on the quality of the services and goods to be delivered.
- How will you evidence the successful supplier is taking responsibility for this?



Fair work commodity service s

COMMUNITY BENEFITS

GUIDANCE:


- Consider if this contract is suitable for the delivery of Community benefits.
- Community Benefits is the term used to refer to a range of 'social issues' including targeted recruitment and training, equal opportunities considerations, supply change initiatives, awareness raising programmes and community engagement activity which contribute more widely to sustainable procurement.

6.2 FORECAST SAVINGS

To be completed jointly by: Service & Procurement Teams

GUIDANCE: Contact the Finance Team if you seek further guidance.

Value	Percentage	Description	Financial Year
-------	------------	-------------	----------------

Additional Comments:			
6.3 NON – CASHABLE FINANCIAL BENEFITS To be completed jointly by: Service & Procurement Teams			
GUIDANCE: Detail the planned non-cashable financial contract benefits such as cost avoidance (e.g. fixed pricing), procurement efficiency (e.g. increased performance), added value elements.			
Description		Comment	
7 SECTION SEVEN – CONTRACT AND SUPPLIER MANAGEMENT			
7.1 CONTRACT MONITORING ASSESSMENT To be completed jointly by: Service & Procurement Teams			
GUIDANCE:			
<ul style="list-style-type: none"> The level of contract and supplier management required depends on the risk, value and complexity of the contract. Based on the Contract Segmentation Categories – Guidance document (attached below) determine the Contract Management level for your procurement. 			
 <p>Contract Segmentation Categ</p>			
Contract Management Level		Comment	
Low/Medium/High			
Frequency of Contract Management			
Monthly/Quarterly/Bi-Annually/Annually			
How will performance be monitored?			
E.g. Use of balanced scorecard			
What are the resource arrangements for contract management?			
Consider BAU contract management and escalation			
What will be the internal and external communication activities/plan?			
7.2 PLANNED CONTRACT PERFORMANCE MEASURES			
To be completed jointly by Service & Procurement Teams			
GUIDANCE:			

- Attached are examples of KPIs which can be used on all contracts.



DGC Standard KPIs
for Goods and Servi

KPI ID	KPI Title	KPI Description	Frequency

7.3 FUTURE EXIT STRATEGY

To be completed by: Service Team

GUIDANCE:

- Complete **Appendix A – Exit Strategy** to provide details of any requirements (to be included within the tender documentation) relating to the process to be followed when the contract is due to expire.
- Consider: handover of files, exit period/implementation period, communication with new supplier, communication with clients about changes to the service provided etc.



Appendix A - Exit
Strategy.docx

Exit Strategy Overview

Exit Strategy

Attach completed Exit Strategy
(Appendix A)

7.4 PAYMENT ARRANGEMENTS

To be completed by: Procurement and Service Team

What are the payment milestones / frequency of payments to be included within the contract?

What will be the payment method under the contract?

Important: Direct Debits are not the accepted method of payment by the Council at this time; and that these should only be used as an exception where there are clear operational or financial benefits to the Council. These exceptions should require to be approved by the relevant Director and Head of Finance & Procurement.

What fixed pricing period will apply and what mechanism will be used to support any price variations? Please include reasons why.			
8 SECTION EIGHT – GOVERNANCE			
8.1 RESOURCES (CROSS-FUNCTIONAL TEAM) To be completed jointly by: Service & Procurement Teams			
GUIDANCE: Identify all members of project team; this should include everyone who will have an involvement in the project.			
Project Role	Name	Department	
Project Lead			
Project Sponsor			
Procurement Lead			
Insurance Advisor			
Health & Safety			
Finance			
Technical Specialists			
Contract Manager			
Tender Evaluation Panel			
8.2 PROJECT PLAN & KEY ACTIVITIES To be completed jointly by: Service & Procurement Teams			
GUIDANCE: This will be your procurement timeline. Depending on the procedure you have selected it may not be necessary to follow all steps set out below. Please note there are set timescales for carrying out an above threshold tender process.			
Key Milestone	Duration (In days)	Planned Start Date	Anticipated End Date
Specification Development			
Stakeholder Consultation (e.g. Insurance, H&S Levels, Legal)			
Tender Published			
Tender Return Date			
Tender Evaluation & Clarification			
CAR/PSC Papers due for			

Approval by Stakeholders			
Approval Obtained			
Notification of Outcome Letters			
Obtain supporting documents Request for documentation			
Standstill Period			
Contract Award			
Contract Mobilisation & Implementation			
Contract Start Date			
Supplier on Site Date (if applicable)			
Review Tasks Complete Lessons Learned Log			

9 SECTION NINE – STRATEGY APPROVAL**9.1 Contract Strategy Consultation**

GUIDANCE: Complete when other departments have been consulted on the Contract Strategy e.g., in relation to TUPE, IR35, GDPR, DPA, Approved Budget, Forecasted Savings.

Department	Name and Title	Date	Signature
Legal Team			
Finance Team			
HR Team			
H&S			
IT			
Other			

9.2 Contract Strategy APPROVAL

To be completed jointly by: Procurement Teams

GUIDANCE: This section of the strategy requires sign off. The relevant levels are detailed below:**Goods and Services:**

- Contract Value less than GPA Threshold – Service Manager and Procurement and Commissioning Manager
- Contract Value between GPA Threshold - £499,999 – Head of Procuring Service and Procurement and Head of Finance and Procurement
- Contract value over £500,000 – Director of Procuring Service and Director of Economy and Resources

Works:

- Contract Value less £499,999 – Service Manager and Procurement and Commissioning Manager (no mandatory requirement to include)
- Contract Value £499,999 and GPA Threshold – Head of Procuring Service(s) and Procurement and Head of Finance and Procurement
- Contract value over GPA Threshold – Director of Procuring Service(s) and Director of Economy and Resources

GUIDANCE: Where this strategy recommends the use of the Negotiated Procedure with or without Prior Publication (as described at paragraph 19), Competitive Procedure with Negotiation (as described at paragraph 20) Competitive Dialogue (as described at paragraph 21), Innovation Partnership (as described at paragraph 22), consultation and involvement of legal services is required with approval by the Head of Governance and Assurance.

When seeking Head of Service approval, the strategy must be supported by Service Manager and Procurement & Commissioning Manager first, where seeking Director approval, this must be supported by Service Managers and Heads of Service prior to submitting to Directors for approval.

Procuring Service

Name	
Title	
Signature	
Date	

Finance and Procurement

Name	
Title	
Signature	
Date	

Supported By:

Procuring Service	
Name	

Title	
Signature	
Date	
Finance & Procurement	
Name	
Title	
Signature	
Date	

Links to relevant Committee Papers:


SCHEDULE 2 – FRAMEWORK UTILISATION FORM

This form is for use where the Council have been considered and influenced the development of a wider contract strategy where the framework is set up, typically frameworks owned and managed by Scotland Excel, Scottish Government and Crown Commercial Services.

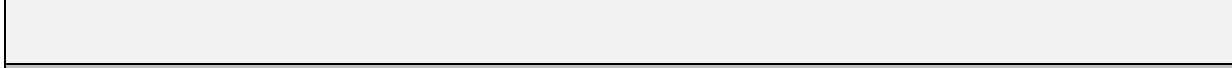
1 SECTION ONE – CONTRACT OVERVIEW					
1.1 CONTRACT DETAILS	To be completed by: Procurement Team				
Contract Title					
Contract Reference Number					
Proposed Contract Duration Period (including Optional Extension)					
Framework to be utilised (including Framework Owner and Lot)					
Framework Reference Number					
Date Created					
Author					
Department					
1.2 EXECUTIVE SUMMARY	To be completed by Procurement Team				
GUIDANCE: Highlight the key points of your report considering:					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">DO's</th> <th style="text-align: center; padding: 5px;">DON'Ts</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px; vertical-align: top;"> <ul style="list-style-type: none"> • Be clear and concise (max 5-8 sentences) • Focus on Why? What? How? • Note key findings on: <ul style="list-style-type: none"> ➤ Contract requirements ➤ Financial information ➤ Details of the framework to be used and call off mechanism </td> <td style="padding: 5px; vertical-align: top;"> <ul style="list-style-type: none"> • Use jargon • Be inconsistent • Add new information (to what was detailed in the report) • Include additional tables • Write it before the report is completed </td> </tr> </tbody> </table>	DO's	DON'Ts	<ul style="list-style-type: none"> • Be clear and concise (max 5-8 sentences) • Focus on Why? What? How? • Note key findings on: <ul style="list-style-type: none"> ➤ Contract requirements ➤ Financial information ➤ Details of the framework to be used and call off mechanism 	<ul style="list-style-type: none"> • Use jargon • Be inconsistent • Add new information (to what was detailed in the report) • Include additional tables • Write it before the report is completed 	
DO's	DON'Ts				
<ul style="list-style-type: none"> • Be clear and concise (max 5-8 sentences) • Focus on Why? What? How? • Note key findings on: <ul style="list-style-type: none"> ➤ Contract requirements ➤ Financial information ➤ Details of the framework to be used and call off mechanism 	<ul style="list-style-type: none"> • Use jargon • Be inconsistent • Add new information (to what was detailed in the report) • Include additional tables • Write it before the report is completed 				
1.3. CONFLICT OF INTERST FORM	To be completed jointly by: Service & Procurement Teams				

GUIDANCE:

- You will need to identify the key stakeholders for this procurement exercise.
- All key stakeholders listed must complete the Procurement Conflict of Interest Declaration.



Procurement
Conflict of Interest [



1.4 CONTRACT OBJECTIVE & SERVICE STRATEGY/FORWARD PLAN
To be completed by: Service Team

GUIDANCE:

- Highlight contract's key objectives based on the prior analysis.
- Consider: **what does this contract need to do?** and **what will this contract achieve?**
- Detail any outcomes the contract is required to deliver.
- Explain how this contract will contribute to your service area's plan (include hyperlinks to relevant Committee papers as appropriate at the end of the document).



1.5 AGREED BUDGET
To be completed by: Service Team

GUIDANCE: Information MUST be completed prior to the contract strategy sign off.

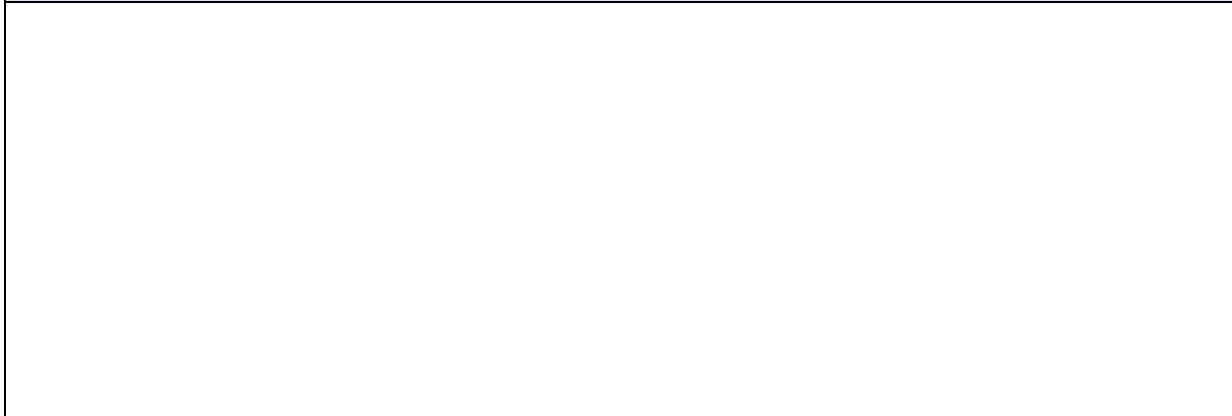
Authorised Budget Amount (including annual breakdown where relevant)			
Cost Centre		Account Code	

2 SECTION TWO – CURRENT CONTRACT INFORMATION


2.1 CURRENT SITUATION, CONTRACT STATUS & SPEND ANALYSIS
To be completed jointly by: Service & Procurement Teams


GUIDANCE:


- Provide a summary of current contract arrangements where necessary, including last 4 years expenditure from Spikes / Integra, any exit strategy agreed, TUPE implications, notice periods etc..*



2.2 POLICIES AND REGULATIONS			
To be completed jointly by: Service & Procurement Teams			
GUIDANCE: Consider which Policies / Regulations apply to the contract. If any policy applies, or you are unsure, please contact the relevant team for further information. If you seek consultation with other teams, please complete section 9.1. Contract Strategy Consultation.			
Policy/regulation	Consider	Outcome	Contact
GDPR / Data Protection Act 2018 (“DPA”)	Does GDPR / DPA apply? A Data Protection Impact Assessment may be required.		Data Protection Officer
IR35	Does IR35 apply?		HR
Transfer of Undertakings Protection of Employment	Does TUPE apply?		Legal & HR
Construction Design and Management Regulations	Do CDM regulations apply?		Health & Safety
Equalities and Fairness	Have the outcomes this contract is required in support of been assessed for Equality and Fairness? An EFIA may be required.		Equalities Officer
Payment Card Industry Data Security Standards (PCIDSS)	Does this contract include an income stream for which customers will make payments via a debit or credit card?		BTS
ICT Requirements	Consider whether there any IT requirements to be included in the contract. If yes, please contact your IT Service for further guidance. This is critical where there will be a requirement to run software or connect devices to the Council's ICT infrastructure.		BTS
3 SECTION THREE – OPPORTUNITY ASSESSMENT			
3.1 ALTERNATIVE DELIVERY METHODS			
To be completed by: Service Teams			
GUIDANCE: Has an alternative resource to deliver the contract been considered? Is there in-house resource, partner organisation's or an arm's length organisation's existing agreement to be used to meet the requirements of this contract? If yes, a summary of the In-House/Outsourcing Decision Making record should be provided.			

 <p>Inhouse Outsourcing Decisic</p>				
	Yes/No		Additional Comments	
Have you considered in-house resource?				
Have you considered partner's or an arm's length organisation resource?				
Can the service be delivered differently (e.g. stopped, reduced frequency, reduced specification)				
4 SECTION FOUR – PROCUREMENT PROCESS				
4.1 OPTIONS APPRAISAL				
To be completed by Procurement Team				
<p>GUIDANCE: Describe the frameworks and call off procedures available and the pro's and cons of each before making a recommendation.</p> <p>You must provide a statement to confirm the recommendation is permissible within the framework agreement.</p> <p>The options should include details of minimum criteria to be met by framwerok providers (to be placed on framework and contract specific) and the award criteria to be applied to result in a recommended supplier or contractor for award.</p>				
	Option 1	Option 2	Option 3	Option 4
Procurement Route				
Suitability / compliance checks on the Council's ability to use the framework (highlighting any risk – e.g. speculative frameworks)				
Pro's and Con's of each option				
Recommendation and justification				
Award Criteria (Additional				

Comments)		
5 SECTION FIVE – PROPOSED CONTRACT’S BENEFITS		
5.1 FAIR WORK FIRST		
Describe how fair work first criteria will be considered as part of the contract award process (where relevant)		
5.2 COMMUNITY BENEFITS		
Describe the proposed approach to secure community benefits (where relevant).		
5.3 FORECAST SAVINGS		To be completed jointly by: Service & Procurement Teams
GUIDANCE: Contact the Finance Team if you seek further guidance.		
Value	Percentage	Description
Additional Comments:		
6 SECTION SIX – CONTRACT AND SUPPLIER MANAGEMENT		
To be completed jointly by: Service & Procurement Teams		
6.1 CONTRACT MONITORING ASSESSMENT		
To be completed jointly by: Service & Procurement Teams		
GUIDANCE:		
<ul style="list-style-type: none"> • The level of contract and supplier management required depends on the risk, value and complexity of the contract. • Based on the Contract Segmentation Categories – Guidance document (attached below) determine the Contract Management level for your procurement. 		
 Contract Segmentation Categ		
Contract Management Level	Comment	
Low/Medium/High		
Frequency of Contract Management		
Monthly/Quarterly/Bi-		

Annually/Annually	
How will performance be monitored? E.g. Use of balanced scorecard	
What are the resource arrangements for contract management? Consider BAU contract management and escalation	
What will be the internal and external communication activities/plan?	
6.2 FUTURE EXIT STRATEGY To be completed by: Service Team	
<p>GUIDANCE:</p> <ul style="list-style-type: none"> • Complete Appendix A – Exit Strategy to provide details of any requirements (to be included within the tender documentation) relating to the process to be followed when the contract is due to expire. • Consider: handover of files, exit period/implementation period, communication with new supplier, communication with clients about changes to the service provided etc. <p> Appendix A - Exit Strategy.docx</p>	
Exit Strategy Overview	
Exit Strategy Attach completed Exit Strategy (Appendix A)	
6.3 PAYMENT ARRANGEMENTS To be completed by: Procurement and Service Team	
What are the payment milestones / frequency of payments to be included within the contract?	
What will be the payment method under the contract? Important: Direct Debits are not the accepted method of payment by the Council at this time; and that these should only be used as an exception where there are clear operational or financial benefits to the Council. These exceptions should require to be approved by the relevant Director and Head of Finance & Procurement.	
What fixed pricing period will apply and what	

mechanism will be used to support any price variations? Please include reasons why.			
7 SECTION SEVEN – GOVERNANCE			
7.1 RESOURCES (CROSS-FUNCTIONAL TEAM) To be completed jointly by: Service & Procurement Teams			
GUIDANCE: Identify all members of project team; this should include everyone who will have an involvement in the project.			
Project Role	Name	Department	
Project Lead			
Project Sponsor			
Procurement Lead			
Insurance Advisor			
Health & Safety			
Finance			
Technical Specialists			
Contract Manager			
Tender Evaluation Panel			
7.2 PROJECT PLAN & KEY ACTIVITIES To be completed jointly by: Service & Procurement Teams			
GUIDANCE: This will be your procurement timeline. Depending on the procedure you have selected it may not be necessary to follow all steps set out below. Please note there are set timescales for carrying out an above threshold tender process.			
Key Milestone	Duration (In days)	Planned Start Date	Anticipated End Date
8 SECTION EIGHT – STRATEGY APPROVAL			
8.1 Contract Strategy Consultation			
GUIDANCE: Complete when other departments have been consulted on the Contract Strategy e.g., in relation to TUPE, IR35, GDPR, DPA, Approved Budget, Forecasted Savings.			
Department	Name and Title	Date	Signature

Legal Team			
Finance Team			
HR Team			
H&S			
IT			
Other			

8.2 Contract Strategy APPROVAL

To be completed jointly by: Procurement Teams

GUIDANCE: This section of the strategy requires sign off. The relevant levels are detailed below:

Goods and Services:

- Contract Value less than GPA Threshold – Service Manager and Procurement and Commissioning Manager
- Contract Value between GPA Threshold - £499,999 – Head of Procuring Service and Procurement and Head of Finance and Procurement
- Contract value over £500,000 – Director of Procuring Service and Director of Economy and Resources

Works:

- Contract Value less £499,999 – Service Manager and Procurement and Commissioning Manager
- Contract Value £499,999 and GPA Threshold – Head of Procuring Service(s) and Procurement and Head of Finance and Procurement
- Contract value over GPA Threshold – Director of Procuring Service(s) and Director of Economy and Resources

When seeking Head of Service approval, the strategy must be supported by Service Manager and Procurement & Commissioning Manager first, where seeking Director approval, this must be supported by Service Managers and Heads of Service prior to submitting to Directors for approval.

Procuring Service (Approval / Supported by)

Name	
Title	
Signature	
Date	

Finance and Procurement (Approval / Supported by)

Name	
Title	
Signature	
Date	

SCHEDULE 3 – NON-COMPETITIVE ACTION REQUEST FORM

PROPOSAL FOR CONTRACT NEGOTIATION / CONTRACT EXTENSION	
Contract Title:	
Created By:	
Tender / Quotation Ref No:	
Date Created:	
Supplier:	
Procedure Recommended:	
Contract Value:	
Contract Term:	
Details of Current Contract Status:	
Previous Spend:	
Previous Contract Term:	
Summary of Contract Requirements:	
Justification for request:	
Procurement Standing Orders / Regs exemption relied upon for Negotiation / Extension:	
Synopsis of Longer Term Plan / Strategy for delivery of these requirements:	
Implications if extension or negotiation is not approved:	

SCHEDULE 4 – CONTRACT AUTHORISATION REPORT TEMPLATE

CONTRACT AUTHORISATION: [TITLE OF REPORT]

1. Purpose of Report

- 1.1 [**Guidance:** should include an outline of the purpose of the contract, state the reasons for tender, links to any National programmes and confirm when the Contract Strategy was approved and by whom.]

2. Recommendations

- 2.1 [**Guidance:** State the supplier(s) name and registered address that you recommend to award the contract, framework agreement or dynamic purchasing system to, the reference number attributed to the contract, the contract title, contract value and start / end dates and details of any extension timeframe applicable to the contract.]

3. Considerations

- 3.1 [Summary: What process was used (Open, Restricted, Negotiated, Framework Call Off, E-Auction etc.). State the number of companies to whom ITTs were issued/downloaded by but who failed to submit a bid and any reasons for this that have been recorded.]
- 3.2 [Market Engagement: Record actions and measures take for prior engagement with the market and record details where a supplier was excluded from tendering on this basis]

1.3 [Tender Information:

- i. Provide details of the qualitative selection criteria and reduction of number of tenderers where applicable. This must include the name of the selected tenderers and the reasons for their selection and the names of the tenderers rejected and the reasons for their rejection. Where a tender has been rejected as it was found to be abnormally low, reasons for this must be detailed. Where the minimum turnover threshold required was higher than two times the contract value, the reasons for this requirement must be provided.]
- ii. Provide details of the contract award criteria and the outcome of the evaluation. This should include a summary of the scoring for all tenderers considered at this stage using the table below:

	Price	Quality	Total
Supplier A			
Supplier B			
Supplier C			

- iii. The name of the successful tenderer and the reasons why its tender was selected.
- iv. Where it is known, details of sub-contracting arrangements must be recorded. This should include the share (if any) that the tenderer intends to subcontract to third parties and the names of the main contractor's subcontractors (if any).
- v. Where the competitive dialogue or competitive procedures with negotiation have been used, the circumstances justifying the use of the procedure should be recorded.
- vi. Where the negotiation procedure without prior publication procedure has been used, the circumstances justifying the use of the procedure should be recorded.

- vii. Where the recommendation includes the decision not to award a contract, framework or dynamic purchasing system following the tender procedure, the reasons for this must be provided.
- viii. Where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders must be provided.]

3.4 [Financial:

- Provide confirmation that sufficient budget is available to fund the contract.
- Where savings are generated through the procurement process, we need to set out where these savings will be attributed (eg. against Procurement savings targets or other).
- Where there is a funding shortfall we need to identify how this will be addressed.
- The relevant Procurement Officer and Finance Officer should agree the content of this section.
- This approach should not only apply to those contracts above the thresholds where a Contract Authorisation Report is required. Need to discuss how to achieve this.
- Where the contract funding includes revenue budget, include the table below to provide a breakdown of the costs and savings:

	Annual Budget	Recommended Annual Contract Value	Annual Revenue Saving / Cost Increase
Total			

- Where the contract funding includes capital or external sources of funding, include the table below to provide a breakdown of the costs and savings:

	Capital Budget for contract scope (excluding contingency)	Recommended Contract Value (excluding contingency)	Contingency Sum	Saving / Cost Increase
Total				

- The above reflects the 'standard content' to cover budgetary implications and treatment but this section should also contain other relevant information such as benchmark costs/comparisons etc where relevant.
- May also wish to refer to cost avoidance (or cost increase avoidance) where relevant (eg. where an anticipated increase in cost has been minimised as a result of the procurement process).
- May need to amend the above where there is a difference between budgets available and current annual costs, although this should be less of an issue provided that budgets have been realistically aligned.]]

3.5 [Programme reference, where appropriate. e.g. Is the tender part of a Capital programme that has required prior board approval or need to be reflected in the award letter?]

3.6 [Commercial Specifics: Give detail on any bonding arrangements. e.g. Bonds, parent company guarantees, retentions, Insurances.]

3.7 [Where applicable: Statutory approvals obtained. e.g. has appropriate Planning

permission been obtained. Are there any other permissions that should be considered or reflected in the award letter?]

3.8 [Where applicable: Council ownership or equivalent of site or buildings.]

3.9 [Sustainable considerations and committed outcomes: Provide details of sustainable outcomes that will be achieved. Where no commitments have been sought or provided explain reasons why. Also include details of if Fair Work First criteria were considered and provide justification why not if this was not considered].

4. Governance Assurance

4.1 [Regulatory Compliance: Confirm any EU legislative routes that were followed, if GPA rules applied, if falls under light touch regime or any other regulatory impact on the tender or contract and detail how this has been complied with]

4.2 [Procurement Standing Order Compliance: state the specific clauses that are being acted upon.]

4.3 [Where applicable, detail any conflicts of interest detected and subsequent measures taken].

5. Impact Assessment

5.1 [only to be used for reports which propose a change in policy/strategyplan/project]

Author(s)

NAME	DESIGNATION	CONTACT DETAILS

Approved by

[This section of the Contract Authorisation Report required sign off. The relevant levels are detailed below:

Goods and Services:

- Contract Value less than £GPA Threshold – Service Manager and Procurement and Commissioning Manager
- Contract Value between £GPA Threshold - £499,999 – Head of Procuring Service and Procurement and Head of Finance and Procurement
- Contract value over £500,000 – Director of Procuring Service and Director of Economy and Resources.

Works:

- Contract Value between £499,999 and GPA Threshold – Head of Procuring Service and Procurement and Head of Finance and Procurement
- Contract value over £500,000 – Director of Procuring Service and Director of Economy and Resources]

When seeking Head of Service approval, the strategy must be supported by Service Manager and Procurement & Commissioning Manager first, where seeking Director approval, this must be supported by Service Managers and Heads of Service prior to

submitting to Directors for approval.]

NAME	DESIGNATION	SERVICE
		Finance and Procurement
		Procuring Service(s)

Appendices

Background Papers

SCHEDULE 5 – PROCUREMENT THRESHOLDS

The thresholds within this Schedule are relevant to procurement exercises which commence on or after 1 January 2022 (all which have not been advertised).

The thresholds which apply from 1 January 2022 shall now need to consider VAT, where applicable, when calculating the estimated value of a procurement for the purpose of determining whether the contract meets or exceeds the threshold values. Unless purchasers can demonstrate that a lower or no rate of VAT applies to a contract, the method used to estimate the value of contract is to add the standard rate of VAT (currently 20%) to the net contract estimate. This is the highest rate of VAT, which is chargeable in the UK, therefore this will avoid underestimating the contract's value if this is used to determine which set of regulations apply (i.e. if the relevant notices will be published on the UK-wide Find a Tender Service website).

To establish if a contract falls under the Procurement Reform (Scotland) Act 2014, VAT should be excluded when calculating the estimated value of the contract.

When completing relevant forms on Public Contracts Scotland, procurement officers are required to quote the estimated contract value, excluding VAT from the value.

The table below lists the threshold values. The final column is indicative only and shows the value of the new thresholds including the standard rates of VAT.

The Public Contracts (Scotland) Regulations 2015

	GPA Threshold	GPA Threshold including indicative VAT
Supplies & Services (including subsidised services contracts)	£177,987	£213,477
Works (including subsidised works contracts)	£4,447,447	£5,336,937
Light touch regime for services	£552,950	£663,540
Small lots: supplies and services	£58,982	£70,778
Small lots: works	£737,267	£884,720

The Concession Contracts (Scotland) Regulations 2016

	Threshold	Threshold including indicative VAT
Concession contracts	£4,447,447	£5,336,937

The Procurement Reform (Scotland) Act 2014 Thresholds:

Public contract (other	£50,000	n/a
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than a public works contract		
Public works contract	£2,000,000	n/a

Thresholds will next be reviewed on 1 January 2024

SCHEDULE 6 – SPECIAL ARRANGEMENTS FOR SOCIAL AND OTHER SPECIFIC SERVICES AND FOR HEALTH OR SOCIAL CARE SERVICES

Unless varied by the special arrangements set out in this Schedule 6, the foregoing standing orders apply to contracts for Social and Other Specific Services and contracts for Health or Social Care Services. The special arrangements are as follows:

A. Procedures for the Award of Contracts for Social and Other Specific Services

A.1 Where a contract is for Social and Other Specific Services and the estimated value of the contract is equal to or greater than the threshold for Social and Other Specific Services, the Corporate Procurement Team shall follow the relevant procedures for such services set out in the Procurement Regulations and the Procurement Reform Rules.

B. Procedures for the Award of Contracts for Health or Social Care Services

B.1 Where a contract is for Health or Social Care Services and the estimated value of the contract is less than the threshold for Social and Other Specific Services, instead of using the procedures set out in the foregoing standing orders, the Corporate Procurement Team may elect to follow the procedures set out in the Procurement Reform Rules. In such circumstances, the Head of Finance & Procurement in conjunction with the Social Work Services Senior Operational Manager in relation to contracts for the provision of adult's health or social care or the Senior Manager for Children and Families for contracts relating to children services may decide, that offers shall not be sought for example where:

- (a) it can be demonstrated that the contract is of no interest to service providers in other EU member states; and/or
- (b) the total sum to be paid under the contract is so low that service providers located in other EU member states would not be interested in bidding for the contract; and/or
- (c) the service is of such a specialised nature that no cross-border market of suitable service providers exists; and/or
- (d) advertising the contract would result in the loss of a linked service; and/or
- (e) the services required by a service user can best be provided by the service user's existing service provider.

B.2 Where a decision is taken under paragraph B.1 above that offers shall not be sought, the Procurement and Commissioning Manager in conjunction with the Social Work Services Senior Operational Manager in relation to contracts for the provision of adult's health or social care or the Senior Manager for Children and Families for contracts relating to children services shall agree if and how the contract shall be advertised.

B.3 Where a decision is taken under paragraph B.2 above not to advertise the contract, the Negotiated Procedure without Prior Publication of a Notice set out in standing order 19 (Negotiated Procedure without Prior Publication of a Notice) shall be followed.

B.4 Where a decision is taken under B2 not to advertise the contract, consideration must be given to the following to inform the decision making:

- Finding of pre-market engagement with provider organisations and service users.
- Focus on quality-of-service provision.
- Ensure proportionality of the processes.
- Affordability.
- Delivery of the local authorities' duties and responsibilities.
- Provision of social care users' choice.
- Sustainable procurement.

C. Guidance from the Scottish Government

C.1 Subject to standing order 5.1(g) contracts for Health or Social Care Services shall be procured in accordance with the Scottish Government's Guidance on the Procurement Reform (Scotland) Act 2014 and Guidance on the Procurement of Care and Support Services 2016 (Best-Practice) issued under Scottish Procurement Policy Note SPPN 7/2016(as such may be amended or replaced).

C.2 In the event of any conflict between these standing orders and the Guidance referred to in paragraph C.1 above, the Guidance shall prevail.

C.3 Any legal issues arising from the Guidance referred to in paragraph C.1 above shall be referred to the Head of Governance and Assurance.

D. SCSWIS and other Mandatory Registration

D.1 All service providers providing Health or Social Care services to the Council must be registered with Social Care and Social Work Improvement Scotland (SCSWIS) commonly known as the Care Inspectorate) and/or any other regulatory bodies relevant to the service provided.

D.2 It is the responsibility of the Social Work Services Senior Operational Manager in relation to contracts for the provision of adult's health or social care or the Senior Manager for Children and Families for contracts relating to children services to ensure the mandatory registrations are in place prior to placing a contract with a provider.

E. Review of Decisions

E.1 Any decision taken under paragraph B.1 or B.2 shall be reviewed at regular intervals by the Procurement and Commissioning Manager and Social Work Services Senior Operational Manager in relation to contracts for the provision of adult's health or social care or the Senior Manager for Children and Families for contracts relating to children services.

SCHEDULE 7 – PROCEDURE NOTE FOR LOWER VALUE CONTRACTS



PROCEDURE NOTE FOR LOWER VALUE CONTRACTS:

Minimum Procedure for placing all contracts with a value of less than £50,000 for goods and services and £500,000 for works

Contents

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5.	Extension to Existing Contracts.....	75

1. Introduction

- 1.1 This guidance note details the Council's procedures for placing contracts with a total estimated value of less than £50,000 for goods and services and £500,000 for works, exclusive of VAT but only where no contract exists. Note that the use of existing contracts is mandatory.
- 1.2 Where the Council has a Framework Agreement or contract already in place covering the requirement, the instruction must be awarded in terms of that Framework Agreement or Contract. Advice may be obtained from the Corporate Procurement Team.
- 1.3 This defines the minimum requirement for any such procurement exercise. However, the Procurement and Commissioning Manager may decide to follow the Council's Standing Orders relating to contracts for any contract, regardless of its value.
- 1.4 Expressions used in this Guidance shall have the same meaning as that given to them in the Council's Standing Orders Relating to contracts, unless this guidance provides a different meaning.
- 1.5 Please refer to appropriate procurement delegations for clarity on officers with the relevant authority to seek and accept quotations.

2. Contracts between £0 and £1,999 (ex VAT) for goods and services and £0 to £4,999 (ex VAT) for works

- 2.1 The following procedures are to be adhered to, subject to the commodity and value of the procurement exercise being undertaken.
- 2.2 Values are not to be deliberately disaggregated to avoid the rules and to bring the expenditure under the thresholds. The Corporate Procurement Team will carry out random checks.
- 2.3 The procuring service must seek Best Value for the Council and where applicable, must be able to clearly demonstrate transparency, non-discrimination and equal treatment within the chosen tender process and in the award of a contract.

Supplies/Services/Works

Title	Threshold	Procedure
Best Value	£0 - £1,999.99 (ex VAT) for goods and services £0 - £4,999.99 (ex VAT) for works	Low value tenders can be undertaken at council officers' discretion. A written quotation is not required provided that Best Value principles are observed.

RFQ	£2,000 - £19,999.99 (ex VAT) for goods and services	Request for Quote (RFQ) carried out by council officers 1. 4 written quotations (including email) from competent suppliers to be sought; 2. Where only one supplier exists, see paragraph 4.2 below; 3. Where contracts are considered high risk and/or legally complex, consult with Corporate Procurement Team for advice; 4. Suppliers to be given
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		<p>at least five working days to respond;</p> <p>5. RFQ response to include details of the supplier and the price quoted;</p> <p>6. Responses to be opened following the deadline for responses;</p> <p>7. Written quotations to be retained in accordance with the Council's document retention policy.</p>
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3. Contracts between £20,000 and £49,999.99 (ex VAT) for goods and services and between £5,000 and £499,999.99 for works

- 3.1 Quick quote procedure must be carried out using the Public Contracts Scotland Portal (www.publiccontractsscotland.gov.uk) facility for quick quotes.
- 3.2 A completed New Work Request form must be completed and submitted to the Corporate Procurement Team. For requests to seek quotations out with an existing framework or contract, the Corporate Procurement Team shall further research to identify if there is a suitable framework available and confirm the suitability with the contract owner.
- 3.3 A minimum of six (6) suppliers will be invited to quote, (as many as possible but at least 50% of which should be local suppliers from the Dumfries and Galloway area where possible).
- 3.4 Suppliers shall be selected from those registered for that category on the PCS web portal and the selection shall not be restricted to existing suppliers.
- 3.5 Where there are less than six (6) suppliers registered, a proportionate level of research to encourage new suppliers to register on PCS must be undertaken. Failing that, all qualifying suppliers will be invited to submit quotations, with agreement from the Procurement and Commissioning Manager. In the event that there is only one qualifying supplier, the negotiated procedure shall be used in terms of paragraph 4 below.
- 3.6 Tenderers invited should be rotated where there is sufficient supply base. The Procurement and Commissioning Manager shall monitor responses and may give instruction to refresh tender lists or to expand alongside recommendations to increase the openness and access to tenderer lists where appropriate to encourage competition. This may result in a requirement to invite more than the minimum number of tenderers set out at 3.5.
- 3.7 Invitations to quote shall be prepared using the corporate templates provided by the Corporate Procurement Team.
- 3.8 A written specification shall be prepared by the service contract owner(s) and incorporated within the Invitation to Quote. Where the procedure is led by the Corporate Procurement Team, joint sign off is required between the Corporate Procurement Team and the service contract owner(s) of these documents prior to them being issued to invited suppliers.
- 3.9 As a minimum the specification will incorporate:-
- 3.9.1 a clear description of what the supplier will be expected to provide under the contract;
 - 3.9.2 information about how the Council will pay for what is to be provided under the contract;
 - 3.9.3 details of the level of service to be provided under the contract, including, but not restricted to, timescales for delivery or performance and any performance

- measures set by the Council;
- 3.9.4 the evaluation criteria to be used for the award of the contract;
- 3.9.5 the terms and conditions applicable to the contract;
- 3.9.6 the appropriate level of insurance.
- 3.10 The timescale permitted for the return of quotations must be sufficient to allow all of those invited the same and adequate opportunity to respond.
- 3.11 Any contract shall be awarded to the supplier/s who has submitted the Most Economically Advantageous Tender (MEAT), taking into account the price offered and the supplier's response to any quality or other criteria set by the Council.
- 3.12 The commercial evaluation shall be undertaken by an officer independent to the technical evaluation. Where the quotation procedure is led by the Corporate Procurement Team, this team shall undertake the commercial evaluation.
- 3.13 An evaluation of the quality responses shall be undertaken by a panel of technical or user experts from the relevant service(s).
- 3.14 The officer leading the quotation procedure shall then consolidate the commercial and quality evaluation scoring to provide an overall quotation score and recommendation to award the contract.
- 3.15 Where the complexity of the contract or the quick quote procedure deems it to be appropriate or where multiple services (including the Corporate Procurement Team) are involved in the quotation procedure, a tender report shall be prepared. The form of tender report at Schedule 4 of the Procurement Standing Orders may be used for this purpose.
- 3.16 All tenderers who submitted a quotation must be notified of the outcome in writing as soon as is practically possible. Feedback should also be provided.
- 3.17 The contract award is to be published on the Public Contracts Scotland web portal, quick quote facility.
- 3.18 Details of the contract awarded must be provided to the Corporate Procurement Team for inclusion within the contract register with confirmation of permission being granted from the appointed supplier for the details of the contract to be published on the Council contract register, for non-regulated contracts.

4. Negotiated Procedure

- 4.1 The Procurement and Commissioning Manager may authorise the use of the negotiated procedure, but only where the following limited grounds apply:
 - 4.1.1 where as a result of the invitation of competitive tenders, no valid offer or only one valid offer complying with specification has been received; provided always that no significant changes are made to the tender documents that were previously issued; or
 - 4.1.2 where the Procurement and Commissioning Manager is satisfied that the requirement of the contract is unique or, after research, only one suitable source of supply can be identified; or
 - 4.1.3 where the Procurement and Commissioning Manager is satisfied that for reasons of technical complexity or compatibility or for reasons connected to the protection of exclusive rights, subsequent deliveries of equipment or goods or the provision of services require to be purchased from the original supplier; or
 - 4.1.4 where in the case of a supply contract, the goods to be purchased or hired are to be manufactured purely for the purpose of research, experiment, study or development, but not when the goods are to be purchased or hired to establish their commercial viability or to recover their research and development costs; or
 - 4.1.5 when (but only if strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by and not attributable to the Council, it is not possible to comply with the procedures in paragraphs 2 and 3; or
 - 4.1.6 where in the case of a services or a supply contract, in the opinion of the Procurement and Commissioning Manager it is in the interests of the Council to take advantage of particularly advantageous bargain available for a very short period of time at a price considerably lower than normal market prices; or

4.1.7 where pending the letting of a contract (“the main contract”) it is necessary to award a short-term contract to cover the period up to the commencement of the main contract. However, the short-term contract shall generally be for a period of no more than six months but in exceptional circumstances may be up to a twelve months period and shall not exceed £50,000.

- 4.2 In all cases where negotiated procedures have been used in terms of this paragraph 4, a full written record of all contacts, discussions and communications with prospective suppliers shall be kept by Corporate Procurement Team or the Director, together with a full explanation as to why it was considered it to be appropriate to use the negotiated procedure.
- 4.3 All requests under clause 4.1 and 4.2 of this procedure note shall be prepared and recorded using the Non-Competitive Action Request Form provided at Schedule 3 of these Procurement Standing Orders.

5. Extension to Existing Contracts

- 5.1 Where the Director of the procuring department considers that an existing contract should be extended and the option to extend is given to the Council in terms of the contract, the Director may authorise the exercise of that option on behalf of the Council. For the avoidance of doubt, where the contract does not make provision for the extension of the contract, the Director shall not extend that contract unless the use of the negotiated procedure can be justified in terms of this Guidance and the procedure in paragraph 4 of this Guidance and, where appropriate, standing order 12 of the Council’s Contract Standing Orders have been followed.
- 5.2 For the purposes of paragraph 5.1 of the Council’s Contract Standing Orders an extension of a contract includes the option to increase the amount of supplies, services or works acquired under the contract as well as the option to increase the duration of the contact.

SCHEDULE 8 – GUIDANCE NOTE FOR USE OF GRANTS

What is a grant?

A “grant” is a donation paid by the Council to an organisation to be used for a specified purpose which the Council wishes to support to help meet the Council’s strategic objectives and benefit the community. In effect, a grant is a gift of financial assistance from the Council with conditions attached. The attached conditions must be either grant conditions approved by the Council or grant conditions required to be included by an organisation providing funding for the purpose of the grant. Whereas these conditions impose limits and instructions on how the grant may be used, they do not set out the precise details of any services to be provided nor do they prescribe how the specified purpose will be achieved. Grants are different from loans in that there is no expectation that any part of the grant will be repaid provided the conditions of grant are complied with. If the conditions are breached, the Council’s only remedy is to demand that the grant be repaid.

What procedures require to be followed when a grant is being provided?

The Council’s legal service shall provide appropriate grant conditions which must be used. No grant shall be paid unless these procedures are followed and a binding agreement is in place setting out conditions that apply to the grant. Any questions regarding these procedures and terms and conditions must be referred to legal services.

Do the Procurement Regulations apply to grants?

There are some circumstances in which a grant might be viewed as a public services contract for the purposes of the 2015 Regulations. The 2015 Regulations set out the detailed procedural rules that apply to the purchase of works, services and supplies by the Council. Under the rules, a “public services contract” is defined as “a contract, in writing, for consideration (whatever the nature of the consideration) under which a contracting authority engages a person to provide services”. Therefore, these rules do not apply to straightforward grants. However, distinguishing between contracts, to which the rules would apply, and grants, to which they do not, is often difficult, for example, where the Council directs what, or how, services are to be provided or derives any benefit from them. Where there is any doubt, advice must be obtained from legal services.

What about Subsidies?

Even where the Procurement Regulations do not apply, the rules on subsidies are an important consideration. These are a complex set of rules which prohibit subsidies being paid by public bodies, such as the Council, which could confer any unfair advantage on an organisation or distort competition. An example would be where the council gives a sum of money to only one of a number of local organisations who provide a service to the community, without there being any competition for that funding. The other organisations could claim that there has been an unfair subsidy paid to the organisation that was given the grant because they too could have provided the service if they had been given the opportunity.

There are some limited exceptions and financial limits below which funding is not considered to be a subsidy but, broadly, for a grant to be classed as a subsidy, the following criteria require to be met:-

- It is given by a public authority. This can be at any level – central, devolved, regional or local government or a public body;
- It makes a contribution (this could be a financial or an in-kind contribution) to an enterprise, conferring an economic advantage that is not available on market terms. Examples of a contribution are grants, loans at below market rate, or a loan guarantee at below market rate or allowing a company to use publicly owned office space rent free. An enterprise is anyone who puts goods or services on a market. An enterprise could be a government department or a charity if they are acting commercially; and
- It affects international trade. This can be trade with any World Trade Organisation member or, more specifically, between the UK and a country with whom it has a Free

Trade Agreement. For example, if the subsidy is going towards a good or a service which is traded between the UK and the EU this could affect trade between the EU and the UK. (Please note that you are not being asked whether the subsidy could harm trade but merely whether there could be some sort of effect.) Subsidies to truly local companies or a small tourist attraction are unlikely to be caught as this is unlikely to affect international trade.

A breach of the subsidy rules could have serious consequences for the Council. Therefore, any concerns about whether a grant could be considered a subsidy must be referred to legal services.

Is a competitive process needed where neither the Procurement Regulations nor the rules on Subsidies apply?

In some circumstances, such as where only limited funding is available or if applicants for grant funding have similar purposes, a competitive application process may be appropriate to determine how funding should be allocated whether or not the Procurement Regulations or the rules on subsidies apply. As it is a public body, the Council has certain duties when dealing with grants. It must act in a fair, transparent and consistent manner and all potential grant recipients must be treated equally.