

Contract Procedure Rules

Carmarthenshire County Council

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1. Introduction

- 1.1.** The purpose of these Contract Procedure Rules is to set clear rules for the procurement of goods, services and works for the Authority so we obtain best value for money. This will ensure a system of openness, transparency and non-discrimination where the accountability and probity of the procurement process will be beyond reproach.
- 1.2.** Officers responsible for purchasing must comply with these Rules.
- 1.3.** These Contract Procedure Rules apply for the procurement of all goods, services and works for the Council.
- 1.4.** The Corporate Procurement Unit (CPU) must be contacted before any formal action is taken in respect of a goods or service activity exceeding £30,000 in total Contract value, including where action is taken to modify or extend an existing contract.
- 1.5.** The requirements for confidentiality in relation to information during the tender process are set out in the Officers Code of Conduct.
- 1.6.** Tenders over £30,000 in value must be advertised on www.Sell2Wales.gov.wales. In exceptional circumstances this requirement may be waived following prior approval from the Head of Revenues and Financial Compliance and the relevant Department's Head of Service. (See section 8.1.3.1 for further details). Where such tenders are Regulated Below-Threshold Contracts they must comply with requirements of the Procurement Act 2023 relating to Regulated Below-Threshold Contracts.
- 1.7.** Schools are required to follow the procedures outlined in the Financial Procedure Rules for Schools.
- 1.8.** Evaluation criteria of all Authority led exercises over £30,000 must consist of at least 60% based on Price. Where this is inappropriate the agreement of the Director of Corporate Services must be sought. (See CPR 9.3.1 for further details)
- 1.9.** Every contract made by or on behalf of the Authority shall comply with all relevant legislation, these Contract Procedure Rules and the Authority's Financial Procedure Rules. In the event of any apparent conflict arising in respect of the above requirements the matter is to be referred to the Monitoring Officer or their representative. Every procurement which is a Covered Procurement, as defined in the Procurement Act 2023, shall comply with the Procurement Act 2023 and the Procurement (Wales) Regulations 2024/782.

Contracts Register

- 1.10.** Where the Council procures health care services as described and provided for in the Health Services (Provider Selection Regime) (Wales) Regulations 2025] (“PSR”)], such procurements shall be carried out in accordance with the PSR and not the Act or Regulations.
- 1.11.** The CPU shall retain and update the Authority’s Contracts Register and must be advised of all contracts entered into, including those resulting from framework call-offs.
- 1.12.** All exceptions to these Rules must be reported to CPU for consideration prior to submission for approval via the online Exception Reporting System and a transparency notice must be placed by CPU in Sell 2 Wales of all single supplier awards (Direct Awards via exceptions in CPR 13) 8 working days prior to entering into a contract with the supplier - Please see the procurement pages on the Intranet, and approved exceptions will be recorded on the Contracts Register. (See section 13 for further detail).
- 1.13.** For support on how to apply these Rules see “The Procurement Guidance” on the Intranet which sets out specific guidance on procurement procedures or contact the Corporate Procurement Unit (CPU) for advice and support in the interpretation and application of these Rules.
- 1.14.** A pipeline notice must be published, which will set out specified information about any public contract with an estimated value of more than £2 million in respect of which a tender notice or transparency notice will be published during the reporting period. The ‘reporting period’ is 18 months, commencing on the first day of the financial year in which the notice is published. All Heads of Service must provide the CPU with their procurement workplan and update the CPU on any changes to such workplan as soon as reasonably practicable.

Pipeline Notice

2. Definitions and Interpretations

- 2.1.** For the purposes of these Contract Procedure Rules, please see Appendix 1 for the definitions that shall apply.
- 2.2.** All values set out within these Contract Procedure Rules are to be interpreted as inclusive of VAT.

3. Openness and Transparency

- 3.1.** For all procurement exercises conducted, irrespective of value, the officers will ensure that they will:
 - 3.1.1.** deliver value for money;

- 3.1.2. procure to maximise the public benefit;
 - 3.1.3. share information for the purpose of allowing suppliers and others to understand the Council's procurement policies and decisions;
 - 3.1.4. act, and be seen to act, with integrity, transparency and proportionality; and
 - 3.1.5. treat suppliers the same, unless a difference between the suppliers justifies different treatment.
- 3.2.** It is recognised that procurement can be the target of fraudulent and corrupt activity. Officers with procurement responsibility should be aware of their obligations in this respect. Relevant Policies and Procedures are currently detailed in the following documents:-
- 3.2.1. Officers Code of Conduct
 - 3.2.2. Financial Procedure Rules
 - 3.2.3. The Chartered Institute of Procurement & Supply Corporate Code of Ethics
 - 3.2.4. Anti-Fraud and Anti-Corruption Strategy
 - 3.2.5. Whistleblowing Policy
- 3.3.** The Lead Officer (and Tender Evaluation Panel Members) must carry out appropriate measures to prevent, identify and remedy conflicts of interest to avoid any distortion of competition and unequal treatment of bidders. Such measures should address situations where officers or bidders who are involved in the procurement process have, directly or indirectly, any financial or personal interest which might be perceived to compromise their impartiality.
- 3.3.1. All officers involved in a Tender Evaluation Panel must complete a Conflicts Assessment (Provided by CPU). This Assessment must be kept under review and revised as necessary. Confirmation that a conflict assessment has been prepared and revised when publishing any relevant notice.

4. Lead Officers Responsibilities

- 4.1.** The Lead Officer for the purposes of these Contract Procedure Rules shall be any person designated as such in respect of:-
 - 4.1.1. Any specified contract
 - 4.1.2. Any category or categories of contracts, or
 - 4.1.3. Any specified values or amounts in respect of that category or those categories
- 4.2.** The Lead Officer shall be the primary link between the Authority and the relevant supplier, and shall be responsible for the management of that contractual arrangement and ensuring that the price(s) paid is/are in accordance with the terms of the contract.
- 4.3.** The Corporate Procurement Unit must be advised of any proposed procurement exercise over £30,000 by the Lead Officer before the tender exercise is commenced.
- 4.4.** Prior to undertaking any tendering exercise the Lead Officer shall ensure that:-
 - 4.4.1. The requirement cannot be obtained from existing corporate contracts, frameworks or other arrangements. Where corporate contracts, frameworks or other established procurement arrangements (e.g Dynamic Market) are in place, these should be used. However, in exceptional circumstances when an alternative arrangement is to be used robust rationale must be justified and prior approval must be sought from the department's Director and Director of Corporate Services. The Procurement section of the Intranet contains details of such arrangements. Further advice and guidance is available from CPU and;
 - 4.4.2. All necessary Authority approvals have been obtained in accordance with the Authority's Constitution together with budgetary provision, any necessary consents, permissions or other approvals (including loans or other financial approvals) and;
 - 4.4.3. All other relevant corporate policies (including the Project Management Policy and Methodology, the Handling Personal Information Policy & Procedure, Data Protection Guide, Welsh Language Standards and Strategic Equality Plan, the Council's well-being objectives under the Well-Being Future Generations Act) have been complied with.
 - 4.4.4. Before commencing a Covered Procurement the Lead Officer must ensure that the Council:

4.4.4.1. Has regard to the objectives set out in the Procurement Act 2023 and 3.1 of these Contract Procedure Rules.

4.4.4.2. Has regard to any barriers that small and medium-sized enterprises may face and considers how any such barriers may be removed or reduced.

4.4.4.3. Has regard to the Wales Procurement Policy Statement.

4.4.5. The Council will need to confirm certain aspects of a supplier's suitability to deliver a Contract.

Lots

4.5. The Lead Officer must give consideration to split any proposed contract into separate Lots, with a clear and documented rationale as to how the Lots will be awarded, and must clearly define the size and subject matter of the Lots. For Covered Procurement, where the use of Lots is deemed inappropriate this must be recorded in the Tender documents, together with the reasons for this.

External Funding

4.6. Where part or full funding for any proposed contract is to be provided by external under, the Lead Officer shall procure the contract in accordance with these Contract Procedure Rules.

Where there is a condition in the funder's terms that are in conflict with these CPR's this issue must be referred to the Monitoring Officer and Section 151 Officer for determination, unless this has been previously agreed in the funding agreement.

Risk

4.7. The Lead Officer must assess the risks associated with the purchase and how to manage any risks identified prior to the tender exercise commencing.

Second Hand Purchasing

4.8. For the supply of used or second-hand goods or materials the Lead Officer needs to be satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second-hand item. Prior approval from the lead officer's Head of Service must be sought to ensure the value of the used/second hand goods to be supplied is at an appropriate level and does not contravene procurement processes. Any procurement valued over £10,000 needs to be referred to the Section 151 Officer and the Monitoring Officer.

Tendering Procedures

4.9. The Lead Officer can access guidance on the different tendering procedures available (e.g. open procedure or competitive flexible procedure) in the Authority's Procurement Guidance. The Guidance is available on the Intranet or contact the Corporate Procurement Unit (CPU) for advice

Dynamic Market

4.10. The Lead Officer may undertake the Procurement exercise by using a Dynamic Market. The Lead Officer must contact CPU for further advice and guidance.

Welsh Language Standards

4.11. The Lead officer is required to comply with the Welsh Language (Wales) Measure 2011 which means that Welsh should be treated no less favourably than the English language in Wales.

4.11.1. The Welsh Language Measure and Welsh Language Standards also apply to any activity or service carried out on the Council's behalf by a third party under arrangements made between the third party and the Councils.

General Data Protection Regulation (GDPR)

4.12. The Lead Officer must consider whether the supplier(s) will be provided with Personal Data by the Council, collect personal data on our behalf and/or process Personal Data in any other way, as defined by the Data Protection Act 2018/UK General Data Protection Regulation. If this is the case the Information Governance Manager must be consulted for further guidance.

4.12.1. If the product/service being procured requires the use of innovative new technologies in the processing of Personal Data and/or may otherwise be likely to result in a high risk to the rights and freedoms of the individuals, a Data Protection Impact Assessment must be undertaken to identify and reduce any privacy risks. The Information Governance Manager must be contacted for further guidance.

Safeguarding

4.13. Where the goods or services being procured could impact vulnerable groups, such as children or vulnerable adults. Safeguarding measures must be included in the contract to ensure suppliers adhere to policies that protect these groups from harm, abuse, or exploitation.

Finance & Health and Safety Assessments

4.14. The Authority's Finance and Health and Safety team must be consulted prior to commencing a procurement exercise to determine the appropriate level of financial and health and safety assessments are required, both at the evaluation stage and throughout the duration of the subsequently awarded framework/contract (where appropriate). Suitably qualified officers within the finance and health and safety team must undertake all appropriate assessments as part of the Procurement Process.

Bond

4.15. The Lead Officer shall consider whether a Bond is appropriate for any contract.

Insurance

4.16. The Authority's Risk Management team shall be consulted to determine the appropriate type and level of Insurance Protection (e.g. Employers' Liability, Public Liability, Professional Indemnity etc) to cover the Authority's potential liability which must be maintained for the duration of the Contract / Framework.

- 4.17.** The Lead Officer shall include suitable provisions in the tender documentation as to how they can reduce the carbon impact of goods/services or works as appropriate. In any tender/quotation valued over £30,000 the Lead Officer must consider taking social, economic and environmental issues into account using a Sustainable Risk Assessment Template (SRA). CPU shall be consulted prior to any tender/quotation/call-off to agree the approach.
- 4.18.** The Lead Officer must apply a Community Benefits approach to all appropriate procurements and take into account the Social Partnership and Public Procurement (Wales) Act 2023. In any tender valued over £1million the Lead Officer must, as a minimum, apply, capture and record Community Benefits utilising the Welsh Government’s Community Benefits Measurement Tool. The Lead Officer must have regard to the Authority’s duty to seek to improve the economic, social and environmental well-being of its area by carrying out procurement in a socially responsible way and shall identify how each procurement will comply with that duty.
- 4.18.1. Where the Authority intends to award a major construction contract the Lead Officer shall ensure that the contract includes social public works clauses in accordance with model clauses published by the Welsh Ministers under the Social Partnership and Public Procurement (Wales) Act 2023. CPU shall be consulted prior to any tender/quotation/call-off to agree the approach
- 4.19.** Any Contracts where the Contractor provides the works/services on behalf of the Authority and exploits those works or services for its own benefit may be covered by a Concession Contract. Concessions contracts have a higher threshold for its application (Please see procurement pages on the Intranet for the latest threshold). The Lead Officer must contact the Corporate Procurement Unit for guidance.
- 4.20.** For any works relating to Council owned facilities, property or land the Property Design, Asset or Maintenance team(s) must be contacted in advance of any tender or award of contract.

5. Collaborative Arrangements

- 5.1.** All Collaborative Arrangements shall be deemed to be contracts for the purpose of these Contract Procedure Rules and Lead Officers shall have regard to the Procurement Act 2023, the Procurement (Wales) Regulations 2024/782 and the Authority’s Procurement Guidance when developing such arrangements/agreements.

6. Frameworks

6.1. Framework (Carmarthenshire only)

Except in the case of Open Frameworks, the term of a Framework Agreement must not exceed four years, unless the Section 151 Officer and the Monitoring Officer have given prior approval for the term of a Framework Agreement to exceed four years because they are satisfied that the nature of the goods, services or works to be supplied under contracts awarded in accordance with the relevant Framework Agreement means that a longer term is required.

6.1.1. Contracts based on Framework Agreements may be awarded by either:-

6.1.1.1. Applying the terms laid down in the framework agreement (where such terms are sufficiently precise to cover the particular call-off and the framework sets out an objective mechanism for supplier selection) without reopening competition or;

6.1.1.2. Where the terms laid down in the framework agreement are not specific enough or complete for the particular call-off, by holding a mini-competition in accordance with the following:-

- Inviting all the suppliers within the Framework Agreement that are capable of executing the subject of the contract to submit written tenders;
- Fixing a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account the complexity of the subject of the contract.
- Awarding each contract to the tenderer on the basis of the Award Criteria set out in the specification of the Framework Agreement.

6.1.2. For contracts above the Threshold the Lead Officer must contact CPU prior to any mini-competition undertaken to agree the approach.

6.1.3. A Contract Award Notice must be published following the award of all Call-Off contracts from frameworks covered by the Procurement Act 2023 (See CPR 17 for further detail).

6.1.4. Contract Payment Notices must be published for any Call-Off contracts over £30,000 in value. (See CPR 17 for further detail).

6.2. Open Frameworks (Carmarthenshire only)

- 6.2.1. An Open Framework pursuant to the Procurement Act 2023 is a scheme of frameworks that provides for the award of successive frameworks on substantially the same terms. The Open Framework must provide for the award of a framework at least once during the first three-year period and each period of five years beginning with the day of award of the next.
- 6.2.2. In the case of a framework awarded under an Open Framework, the value of the Framework is to be treated as including the value of all of the frameworks awarded, or to be awarded under the Open Framework.
- 6.2.3. The maximum duration of an Open Framework is 8 years.

6.3. Joint Procurement / Centralised Procurement Authority – Authority Lead arrangements / frameworks

- 6.3.1. When undertaking a joint procurement arrangement on behalf of the Authority and other public bodies, the lead officer must determine whether the Authority is carrying out an Joint Procurement OR procurement as a centralised procurement authority in line with the Procurement Act 2023. CPU must be contacted to advise and agree the approach.
- 6.3.2. When undertaking a joint procurement arrangement on behalf of the Authority and other public bodies, the Lead officer must ensure the other public bodies that are to be included in that arrangement are listed in the advertisement and contract documents.
- 6.3.3. The estimated value given must include the potential usage of that joint arrangement by those public bodies listed.
- 6.3.4. The requirements of these Contract Procedure Rules are deemed to have been satisfied when the framework is established, and for subsequent call-offs.

6.4. Centralised Purchasing Activities / Bodies – Use of other public bodies arrangements / frameworks

6.4.1. Any contract/framework entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed, that comply with the contract procedure rules of the leading organisation, and all relevant legislation, will be deemed to comply with these Contract Procedure Rules. Before entering into any such arrangement the Lead Officer must consult and seek approval from CPU.

6.4.2. Welsh authorities may utilise frameworks established by UK central government bodies (referred to as "reserved procurement arrangements"). When awarding contracts under such frameworks, Welsh authorities must adhere to the terms and conditions set by the framework, ensuring compliance with both the Procurement Act 2023 and the Procurement (Wales) Regulations 2024.

6.4.3. Where a reserved procurement arrangement has been utilised, devolved Welsh authorities that enter into a public contract with an estimated value of more than £5 million must publish a copy of the contract.

6.5. Membership of other Procurement Arrangements

6.5.1. Any new formal membership of any organisation whose purpose is to facilitate joint procurement arrangements with other local Authorities and/or public sector bodies, including membership or initial use of any Consortia or public sector trading organisation must be approved by the Monitoring Officer and Section 151 Officer.

7. Pre-Procurement Requirements

7.1. Estimating the Value

7.1.1. The contract value must be estimated as the maximum amount it could expect to pay under the contract including, where applicable, amounts already paid. (In accordance with Schedule 3 of the Procurement Act 2023).

Aggregation

- 7.1.2. Where the Lead Officer is unable to determine the value of a proposed services the Lead Officer is to be treated as having estimated the value of the contract as an amount of more than the threshold amount for the type of contract. If the Lead Officer is uncertain about how to estimate the value of a contract and/or is uncertain as to whether the contract is above the threshold for the relevant type of contract, the Lead Officer should seek advice from the CPU.
- 7.1.3. In estimating relevant contract values, officers shall have regard to the principle of aggregation. Repeat purchases of similar goods/services/works over a sustained period may amount to an aggregate requirement which exceeds the Procurement Threshold or any lower threshold of the Authority set out in these CPR's. The appropriate Procurement process must therefore be adhered to.

Quotations

8. Thresholds

8.1. Quotations

8.1.1. Up to £10,000

The Lead Officer should be satisfied that best value for money has been obtained, and that reasonable care has been taken to obtain goods, works or services of adequate quality at a competitive price. Confirmation of value for money should be retained on file by the Lead Officer. At least one quotation should be sought from a Carmarthenshire supplier.

8.1.2. £10,000 - £30,000

A minimum of 3 quotations should be sought from competitive sources and confirmed in writing, by letter, or e-mail. A documented record of the evaluation and decision to award must be recorded. At least one quotation should be sought from a Carmarthenshire supplier.

8.1.3. £30,000 - £75,000

8.1.3.1. All quotations above the value of £30,000 must be advertised on the Sell2wales website; (www.sell2wales.gov.wales) based on the same specification, evaluation criteria and closing date. CPU will place the advert, unless otherwise agreed. In exceptional circumstances this requirement may be waived following prior approval from the Head of Revenues and Financial Compliance and the relevant Department's Head of Service.

- 8.1.3.2. Quotations undertaken in accordance with 8.1.3.1 shall be submitted in line with the requirements set out in the Invitation to Quote, and returned electronically via a secure email facility or an appropriate e-tender solution.
- 8.1.3.3. The Lead Officer will be responsible for maintaining adequate documented records of all quotations undertaken (including the evaluation process) (See 10.7 for further details).
- 8.1.3.4. A quotation received in accordance with the procedures may be accepted by means of issuing either an official purchase order or letter signed by the appropriate officer, or by a contract or agreement signed in accordance with these Rules.
- 8.1.3.5. Where, following issue of Invitations to Quote only one quotation is received the decision to proceed to purchase must be approved by the relevant Department's Head of Service
- 8.1.3.6. For Procurement exercises above £30,000 a Tender Record Form must be completed and signed off by the Corporate Procurement Unit's Principal Procurement Officer - Category Lead (or delegated Officer) prior to tender advertisement which includes the requirement to confirm a compliant process.

Tenders

8.2. Tenders

8.2.1. Over £75,000

8.2.1.1. In addition to any requirements under Procurement Act 2023, a minimum 21 days public notice shall be given in www.Sell2Wales.gov.wales.

8.2.1.2. The public notice shall express the nature and purposes of the contract, invite tenders for its execution, state the latest date and time for delivery of tenders and the portal to be received via. The Invitation to Tender shall include all information necessary to ensure compliance with the provisions of these Contract Procedure Rules including the evaluation criteria.

Above Threshold Tenders

8.3. Above Threshold Tenders

8.3.1. Contracts above the Threshold are subject to The Procurement Act 2023.

Light Touch Regime

8.3.2. Where the estimated value of a contract exceeds the current Threshold and is a Covered Procurement, then the contract must be tendered in accordance with the Procurement Act 2023, and also in accordance with these CPR's. In all such circumstances appropriate advice must be sought from the Corporate Procurement Unit.

8.3.3. The Thresholds change every two years. The current Thresholds for goods, services and works can be found on the Procurement pages of the Intranet.

8.4. Social and Other Specific Services

8.4.1. For contracts for Social and other Specific Services Contracts (as set out in Schedule 1 of the Procurement (Wales) Regulations 2024) which exceed the relevant Threshold, the full extent of the Act will not apply and a "Light Touch" regime shall be adopted. The Lead Officer must contact CPU before proceeding with this type of tender.

9. Preparation for Quotations (£30,000-£75,000) and Tenders (over £75,000)

9.1. Before undertaking any Tendering Procedure (or Quotation above £30,000) a Lead Officer shall:-

9.1.1. ensure that a Specification, which will form the basis of the Contract, has been prepared,

9.1.2. establish the Evaluation Criteria to be used to select the successful bidder(s) from among those who tendered or submitted a quote.

9.1.3. establish an Evaluation Panel,

9.1.4. where appropriate seek approval from CPU to apply conditions of participation in a competitive tender process.

Evaluation Criteria

9.2. A statement setting out the Evaluation Criteria to be used shall be included in the tender/quotation documentation together with the relevant weightings. These criteria must at all times be open, transparent, non-discriminatory and proportionate.

9.3. Contracts must be awarded on the basis of "Most Advantageous Tender" (MAT) with the option of assessing the best price-quality ratio, or lowest price only. The Award criteria and Evaluation must be linked to the subject matter of the contract and may include life-cycle costing, qualitative, environmental and/or social aspects.

Evaluation Panel

9.3.1. Evaluation criteria of all Authority led exercises above £30,000 (inclusive of call-off exercises where the framework permits a price/quality change) needs to ensure that at least 60% is based on Price. Where this is inappropriate then the agreement of the Director of Corporate Services must be sought in writing.

9.3.2. Arrangements involving Specialist Education and Social Care commissioning will be at the discretion of the responsible Director.

9.4. The Lead Officer shall establish a group of Officers to undertake the evaluation exercise which shall normally remain constant throughout the process and shall possess the necessary qualifications and/or expertise to advise the Lead Officer on all appropriate issues.

9.4.1. For all Tenders above the Procurement Threshold a Principal Procurement Officer from CPU will lead the Tender Evaluation Panel.

Specification

9.5. Procurements should be based upon a definite specification; and the Lead Officer should ensure that any quotation or tender exercise is undertaken in accordance with all relevant corporate policies. Quality factors should as far as possible be built in to the specification, which must be proportionate and appropriate for the goods, works or services to be purchased and clearly sets out the minimum standards that the Authority will require.

Preliminary market engagement

9.6. In compliance with the Procurement Act 2023, The Lead Officer may conduct preliminary market engagement (e.g market consultation) before starting a procurement exercise with a view to preparing the procurement and informing prospective tenderers of the procurement plans and requirements. CPU must be notified prior to any pre-market consultations.

9.6.1. The Lead Officer may conduct preliminary market engagement in accordance with section 16 of the Procurement Act 2023. If preliminary market engagement is to be carried out, a preliminary market engagement notice must be published before publishing a tender notice, or reasons for not doing so must be provided in the tender notice. CPU must be notified prior to any market briefings.

Conditions of Participation

9.7. The Council has power under the Procurement Act 2023 to set conditions of participation in a competitive procurement if the Council is satisfied that the conditions are a proportionate means of ensuring that suppliers have the legal and financial capacity and the technical ability to perform the contract being procured. The Lead Officer must obtain prior approval from CPU in order to set conditions of participation in a procurement.

- 9.8.** In accordance with Section 87(3) of the Procurement Act, the contracting authority must publish a contract details notice as soon as reasonably practicable after entering into a 'notifiable below-threshold contract'.

10. The Procurement Process

10.1. Submission of Tenders (above £75,000)

(For Quotations below £75,000 please refer to 8.1).

10.1.1. Electronic Tendering (e-Tender)

Requests for invitations to tender should be transmitted by electronic means using the e-Tender portal. This will ensure that:

(a) the e-Tender portal will only be available for the submission of tenders up to the stated deadline time and date. The date and time of each Tender received within the e-Tender portal will be recorded electronically.

(b) e-Tenders submitted are kept secure in the portal which is not opened until the deadline has passed for receipt of Tenders or Quotations.

Any tender which is received after the date and time appointed for receipt of tenders shall not be considered but shall be retained unopened on the portal until after a tender has been accepted, however any such tender may be opened and considered:-

- if no other tender has been received, or
- where no other tender is acceptable, provided the late tender was received before the unacceptable tenders were opened.

However, if the contract value is above Threshold, you can only consider the late tender if every other tender received is 'unsuitable' (as defined in section 43(2) of the Procurement Act 2023) and provided you do not make any substantial alterations to the contract as advertised.

10.2. Opening of Tenders

All tenders submitted in pursuance of these Contract Procedure Rules shall be opened only after the expiration of the time limit for their delivery.

Tender submissions will be accessed once the tender deadline has passed by an officer of the Corporate Procurement Unit or an officer from within a department who has been granted access to the portal.

10.2.1. No adjustment or qualification to any tender(s) is permitted (save to the extent permitted when using a Competitive Flexible Procedure, or to the extent you have reserved the right to negotiate in the procurement of a concession contract). Errors found during the examination of tenders shall be dealt with in one of the following ways:-

10.2.1.1. If an arithmetical error is found the tenderer shall be given the opportunity to correct the error(s) save that, other than genuine arithmetic error(s), no other adjustment revision or qualification is permitted.

10.2.1.2. If the error is not arithmetical the tenderer shall be given details of the error(s) and shall be given the opportunity of confirming without amendment or withdrawing the tender.

10.3. Where in the opinion of the Lead Officer the tender appears to be abnormally low in value, in accordance with the Procurement Act 2023 the Lead Officer is required to request the tenderer(s) to explain the price or costs proposed in a tender where it appears to be abnormally low. CPU must be consulted for guidance.

10.4. Evaluation and Acceptance of Tenders

10.4.1. Where tenders have been received and opened in accordance with these Contract Procedure Rules the Lead Officer shall, in conjunction with the tender evaluation panel, examine the tenders received in accordance with the pre-determined evaluation criteria and shall identify the tender or tenders which represents best value for money, i.e. the most advantageous offer(s) (in terms of quality and price) to the Authority, except where lowest price was pre-determined to be the appropriate criteria.

10.4.2. The Lead Officer must give due regard to and abide by the principle of the Authority's Constitution which only allows officers employed by the Authority to score in Tender evaluations.

10.4.3. For Procurement Tender Exercises subject to / governed by / with a Joint Governance Committee, a cross-section of officers from other Public Sector bodies, subject to those bodies obtaining their own prior approvals, may sit on the Authority's Tender evaluation panel and score.

10.4.4. Provided that the appropriate budgetary provision is available the Lead Officer may accept a tender, more than one tender, or part(s) of a tender.

**Standstill &
Contract Award
Notice**

**Post Tender
Negotiations**

**Document
Retention**

Consultants

10.5. For Contracts above the Threshold and subject to the Procurement Act 2023 before entering into a public contract, a contracting authority must publish a Contract Award Notice, and any award must be subject to a minimum standstill period of 8 working days from the day the Contract Award Notice is published.

10.6. Except when using the Competitive Flexible Procedure, there is to be no negotiations on fundamental aspects of contracts which might materially affect the tender specification, and which are likely to distort competition shall be carried out.

Discussions can only be carried out with tenderers for the purpose of clarifying their bids and must not involve discrimination against any tenderer.

10.7. The Lead Officer shall retain all records and documents relating to a quotation or tender exercise in accordance with the Procurement Act 2023, the Authority's Document Retention Schedule (on the Intranet) and any other requirements imposed by or agreed with external funding bodies.

10.8. Use of Consultants

10.8.1. Where the Authority uses consultants to act on its behalf to conduct any procurement, the Lead Officer must contact CPU to agree the approach. The consultant(s) must carry out the tender exercise in accordance with these Contract Procedure Rules and the decision to award is the responsibility of the Lead Officer.

10.8.2. All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the Lead Officer, and lodge all such documents and records with the Lead Officer at the end of the contract.

10.8.3. The Lead Officer shall ensure that any consultant working for the Council has appropriate indemnity insurance for the duration of the contract.

11. Contract Award

11.1. The Authority must publish a contract details notice within 30 days after any standstill period has ended and the contract has been entered into. (120 days for a light touch contract).

**Contract Details
Notice**

- 11.2.** The Lead Officer must prepare a Tender Evaluation Report for every contract, framework agreement and mini-competition awarded above the Threshold. The written report must document all key decisions throughout the tendering process. A standard Evaluation Report template is available from CPU.
- 11.3.** CPU must be advised of all contracts entered into for inclusion onto the Contracts Register.
- 11.4.** Contract Terms and Conditions
- 11.4.1. Contracts shall be entered into on the Authority's terms and conditions which shall be included with each Invitation to Tender. Exceptions to this Rule must be approved in writing by the Monitoring Officer.
- 11.4.2. A contract on the contractor's own standard terms and conditions, or terms which are significantly different to those included or referred to at tender stage is not permitted under these rules unless approved in writing by the Monitoring Officer.
- 11.4.3. The rules relating to technical specifications mean that any reference to a technical standard, make or type shall be prefaced with the words "or equivalent".
- 11.4.4. Every contract the value or amount of which exceeds £50,000, shall be in writing and signed by at least two officers, or (at the discretion of the Monitoring Officer) have affixed the common seal of the Authority and shall detail:-
- the goods services or works to be supplied or carried out;
 - the price to be paid together with a statement as to the amount of any discount or other deduction;
 - the period within which the contract is to be completed and
 - such other conditions and terms as may be agreed between the parties.
- 11.4.5. The contract will contain a clause requiring the contractor to obtain the written permission of the Lead Officer before assigning or sub-letting the contract or any part of it, other than as specifically allowed under the terms of the contract.

- 11.4.6. Where relevant International, European or British Standard specifications or standard codes of practice are available and current at the date of tender, the contract will require all goods, services or works used or supplied to be at least in accordance with that standard.
- 11.4.7. Every contract must state that if the contractor fails to comply with its contractual obligations (express or implied) in whole or in part, the Authority may:-
- cancel all or part of the contract;
 - complete the contract;
 - recover from the contractor any additional costs in completing the contract;
 - take other legal action against the contractor.
- and to this end the Lead Officer shall ensure that the obligations of the contract are monitored.
- 11.4.8. Every written contract must state that the contractor will comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.
- 11.4.9. The contractor shall be required to indemnify the Authority against:-
- 11.4.9.1.any claim in respect of employers' liability against the Authority or the contractor by any employees of the contractor or any sub-contractor; and
- 11.4.9.2.any claim for bodily injury to, or damage to property of, third parties, and
- 11.4.9.3.The contractor shall maintain appropriate insurance to a level to be agreed (see CPR 4.16) and when requested shall produce satisfactory evidence of the maintenance of such insurance.

12. Contract Management

- 12.1.** After the Contract has been awarded a Contract Manager (if different to the Lead Officer) must be identified who will manage the day to day aspects of the contract for its term. An appropriate contract management plan must be agreed upon award and advice sought from CPU. A Contract Management Guidance document is available on the Intranet.

12.2. For Contracts awarded pursuant to the Procurement Act 2023, it is a requirement for those Contracts to contain a minimum of 3 key performance indicators, unless it could be reasonably determined that the supplier's performance under the contract could not be appropriately assessed by reference to key performance indicators.

12.3. Contract Extensions

12.3.1. A contract may be extended subject to the following conditions;

- where the original tender document and subsequent contract included provision for an extension to the contract and;
- specified the duration or the maximum duration of the potential extension then the contract may be extended and;
- if the Lead Officer is satisfied that the current provider offers best value for money and a quality service/goods/works.

12.3.2. A Contract Extension form must be signed off by Head of Service prior to any extension being taken up. Contact CPU for the template.

12.4. Under the Procurement Act 2023 when a contract reaches its natural end or through early termination the Authority is required to publish a Contract Termination Notice within 30 days beginning with the day on which a public contract is terminated.

13. Exceptions and Waivers to Requirements of Competition

CPR 13 sets out the circumstances in which you are able to award a contract directly to a contractor without running a competition, also known as a Single Tender Action.

Please also see CPR 14 which sets out the circumstances in which you are permitted to modify or extend the term or scope of an existing contract without running a new competition.

The Section 151 Officer and Monitoring Officer have delegated authority to the Head of Revenues and Financial Compliance and the Legal Services Manager to consider, and approve as required, exceptions and waivers to competition (clause 13) and modification of contracts (clause 14) up to the value of £75,000 (Inclusive of VAT).

13.1. Lead Officer Decision (Up to the Threshold Value)

13.1.1. Provided that a proposed contract complies with all other relevant Contract Procedure Rules, Procurement Guidance or Financial Procedure Rules, the tendering procedures need not apply to the following:-

13.1.1.1. Any legal advice, service or representation provided by Counsel or a solicitor.

13.1.1.2. Purchases made by the Authority in conjunction with another public body in accordance with the terms of any Contracts or Framework Agreements entered into by or on behalf of any consortium association (including All Wales Public Sector arrangements) or similar body provided that the procedures followed are in accordance with a method prescribed or adopted by the consortium, association or similar body (see CPR 6.5.1).

13.1.1.3. Purchases, works and services required by the Lead Officer for the following purposes:-

- to prevent danger or injury to Authority staff or members of the public;
- to prevent damage or serious deterioration to land buildings or plant;
- to maintain essential services;
- to avoid enforcement action against the authority for non-compliance with some statutory provision;
- to make land or property secure against unauthorised access or use;
- for any other purpose where the Authority or the public will be seriously prejudiced if such purchases works or services are not arranged urgently;
- provided that the requirement for goods, works or services is strictly necessary for reasons of extreme urgency brought about by unforeseeable events where the time limits for a procurement exercise cannot be complied with. A procurement in accordance with these Contract Procedure Rules should be instigated at the earliest opportunity thereafter.

13.1.1.4. Works or services to statutory undertakers apparatus where affected by major works where legislation provides that such works must be carried out by the statutory undertaker.

For Quotations and
Tenders up to
£75,000

13.2. Head of Revenues and Financial Compliance & Legal Services Manager Decision (Up to £75,000)

13.2.1. The Lead Officer shall seek approval from the Head of Revenues and Financial Compliance and the Legal Services Manager for any exception proposed under this CPR 13.2 prior to embarking upon the alternative procedure or, if this is not possible, as soon as possible thereafter :-

13.2.1.1. the purchase of proprietary or patented goods, services or works are obtainable only from one firm and where no reasonably satisfactory alternative is available;

13.2.1.2. the purchase of named goods, services or works required to be compatible with an existing installation as authorised by the Lead Officer;

13.2.1.3. the execution of works or provision of goods, services or works of a specialised nature which in the opinion of the Lead Officer must be carried out by a particular provider because no reasonably satisfactory alternative is available;

13.2.1.4. the purchase of a work of art or museum specimen as authorised by the Lead Officer;

13.2.1.5. Contracts entered into by the Authority as agents for a Department of State, Welsh Government or any other local or public authority provided that the Authority follows the procedures of such department or authority;

13.2.1.6. any other exceptions and waivers to these Rules shall only be given in exceptional circumstances and will be authorised by the Head of Revenues and Financial Compliance and Legal Services Manager following submission of a written justification by the relevant Lead Officer;

13.2.1.7. For exceptions required from within the Head of Revenues and Financial Compliance's service area, approval will be required from the Head of Financial Services instead.

13.3. Monitoring Officer and Section 151 Officer Decision (Above £75,000 and up to Threshold Value)

For Quotations and
Tenders above
£75,000 and up to
the Threshold

13.3.1. The Lead Officer shall seek approval from the Monitoring Officer and Section 151 Officer for any exception proposed under this CPR 13.3 prior to embarking upon the alternative procedure or, if this is not possible, as soon as possible thereafter :-

13.3.1.1. the purchase of proprietary or patented goods, services or works are obtainable only from one firm and where no reasonably satisfactory alternative is available;

13.3.1.2. the purchase of named goods, services or works required to be compatible with an existing installation as authorised by the Lead Officer;

13.3.1.3. the execution of works or provision of goods, services or works of a specialised nature which in the opinion of the Lead Officer must be carried out by a particular provider because no reasonably satisfactory alternative is available;

13.3.1.4. the purchase of a work of art or museum specimen as authorised by the Lead Officer;

13.3.1.5. Contracts entered into by the Authority as agents for a Department of State, Welsh Government or any other local or public authority provided that the Authority follows the procedures of such department or authority;

13.3.1.6. any other exceptions and waivers to these Rules shall only be given in exceptional circumstances and will be authorised by the Monitoring Officer and Section 151 Officer following submission of a written justification by the relevant Lead Officer.

13.4. Monitoring Officer and Section 151 Officer Decision (Above Threshold value)

Exceptions and waivers over the Threshold value must be approved by department's DMT before the request is submitted via the online system.

13.4.1. Where justification for a direct award is in line with those outlined in Schedule 5 of the Procurement Act 2023 the Lead Officer will be required to seek approval from the Monitoring Officer and Section 151 Officer.

13.4.2. Any exceptions and waivers to these Rules above the Threshold (outside of 13.4.1) must be referred to the Monitoring Officer and Section 151 Officer via the online Exception Reporting System and these will then be referred to the Corporate Management Team (CMT).

13.5. Exception Reporting

13.5.1. All exceptions must be reported to CPU for consideration prior to submission for approval via the online Exception Reporting System, and will be recorded on the Contracts Register. Exception Reporting System

13.5.2. Where relevant CPU will arrange for publication of a Transparency Notice in respect of an approved exception (over £30,000). This is required 8 working days prior to entering into a contract with the supplier.

14. Modification or Extension of Existing Contracts

14.1. Prior to modifying any Contract, whether in terms of value, duration, scope or otherwise, advice must first be sought from CPU.

14.2. Contracts may only be modified, changed or amended in limited circumstances and any such modification should be compliant with:

14.2.1. Section 74 and Schedule 8 of the Procurement Act 2023, after 24 February 2025, in respect of contracts to which the Procurement Act 2023 applies;

14.2.2. Regulations 13 and 14 of the Provider Selection Regime Regulations in respect of contracts for Health Care Services.

14.3. The approvals you need to make changes in accordance with either CPR 14.1 or CPR 14.2 are as follows:

14.3.1. If the original value of the contract was £10,000 or less, provided the Lead Officer is satisfied that the modification represents value for money there is no requirement to obtain approval for modifications worth up to £10,000.

14.3.2. If the original value of the contract was above £10,000 and the contract was awarded using a competitive procedure which fully complied with these Contract Procedure Rules, the Lead Officer must obtain approval from:

(a) the Head of Revenues and Financial Compliance and Legal Services Manager if the value of the modification will not exceed £75,000; and

(b) the Monitoring Officer and Section 151 Officer if the value of the modification will exceed £75,000;

Where a series of modifications are made to a contract, for the purposes of working out which approval is required under CPR 14.3.2 the value of any previous modifications must be added to the original contract value.

14.3.3. If the original value of the contract was above £10,000 and not awarded using a competitive procedure which fully complied with these Contract Procedure Rules, the Lead Officer must comply with Clause 13 – Exceptions and Waivers to Requirements of Competition.

14.4. Modification Reporting Convertible Contracts

14.4.1. All Modifications must be reported to CPU for consideration prior to submission for approval via email to the respective approvers outlined above.

Where the modification of a contract awarded after 24 February 2025 results in that contract exceeding the UK Procurement Threshold (a "convertible contract"), consideration must be had to Section 74 and Schedule 8 of the Procurement Act 2023.

Review

15. Review

15.1. The Corporate Procurement Unit shall continually review these Contract Procedure Rules and shall undertake a formal review every three years. Any amendments shall be subject to approval by the Authority's Governance and Audit Committee.

16. Transitional Arrangements

16.1. There are a series of transitional and saving arrangements which determine which legislation applies to procurement activities.

16.2. For the purposes of these Procurement Rules, the following Procurement Legislation shall apply:

16.2.1. Health Care Services (Provider Selection Regime) (Wales) Regulations 2025

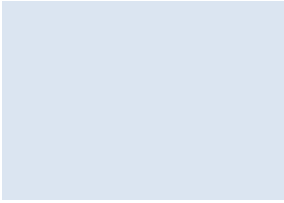
- Procurement of Health Care Services
- Modification of contracts relating to Health Care Services

16.2.2 Public Contracts Regulations 2015

- For contracts awarded, framework agreements concluded, or dynamic purchasing systems established before 24 February 2025.
- Modification of contracts awarded, framework agreements concluded, or dynamic purchasing systems established before 24 February 2025.
- Call-offs of framework agreements concluded, or dynamic purchasing systems established before 24 February 2025. (Note that with the exception of dynamic purchasing systems procured for Services under the Light Touch regime, any contracts let under a dynamic purchasing system will automatically expire 23 February 2029).
- Where a contract notice required by Regulation 26(8) or 75(1)(a) (publication of notices: public contracts for social and other specific services), has been submitted for publication in accordance with Regulation 51 before 24 February 2025.
- Modification of a contract where a contract notice required by Regulation 26(8) or 75(1)(a) (publication of notices: public contracts for social and other specific services), in relation to that contract had been submitted for publication in accordance with Regulation 51 before 24 February 2025.
- In respect of a below threshold contract, the publication of a contract opportunity on Sell2Wales in accordance with Regulation 110 before 24 February 2025.
- Modification of a below threshold contract, where the publication of the contract opportunity on Sell2Wales was made in accordance with Regulation 110 before 24 February 2025.

16.2.2. Procurement Act 2023 (as amended and/or any successor legislation) and the Procurement Regulations 2024 (as amended and/or any successor legislation)

- For contracts awarded, framework agreements concluded, or dynamic markets established after 24 February 2025.



- Modification of contracts awarded, framework agreements concluded, or dynamic markets established after 24 February 2025.
- Call-offs of framework agreements concluded, or dynamic markets established after 24 February 2025.

17. APPENDIX 1 - Definitions & Interpretations

Abnormally Low Tender	For the purposes of these rules abnormally low shall be taken to mean a Tender whose price is considered significantly lower than most of, or the average of all tenders in the same Tender exercise.
Above Threshold	A Contract with an estimated total contract value of not less than the threshold amount for the type of contract and is subject to the main rules in the Procurement Act 2023.
Aggregation	Adding together the value of separate contracts for the same supply, service and works.
Approved List	An approved/select list presents a significant risk to the Authority and is not recommended as an acceptable procurement practice. Prior approval from Monitoring Officer and Section 151 Officer must be sought prior to the set up or adoption of an approved/select tender list.
Authority	All references to the Authority in these Contract Procedure Rules shall include the Governing Body of each school falling under the jurisdiction of the Authority as the Local Education Authority if relevant.
Bond	A bond is intended to protect the Council against a level of cost arising from a contractor's failure.
Call-off / Competitive Section process	A call-off means a 'Competitive Section process' in the Procurement Act 2023. A process for the award of a public contract in accordance with a framework. See Section 46 of the Procurement Act 2023.
Community Benefits	Through the Tender exercise, seeking to promote additional opportunities which will benefit the wider community. This might include training and employment opportunities, improved supply-chain opportunities, increased educational contributions and/or community initiatives.
Contract	Any agreement (whether or not in writing) between the Authority and one or more other parties for:- <ul style="list-style-type: none"> • the sale of goods or materials; • the supply of goods or materials; • the execution of works • the provision of services (including accommodation and facilities).
Contract Management	Ensuring that the right contractual agreement for an organisation is established and managed in the most effective manner, enabling both parties to fully meet their obligations providing the right quality of service/product, on time, within budget and compliant with specification requirements.
Contract Modification	The Procurement Act 2023 provides clarity about the extent to which a contract can be amended after award without the need to re-advertise on Sell2Wales. See section 74 of the Procurement Act 2023 which outlines the detail and see CPR 14.
Contractor	see Supplier

Contract Register	A register of awarded contracts and frameworks within the Authority, held by CPU.
Corporate Contract	Contracts for Goods/Works or Services that are in place for use by all departments of the Council. These contracts enable Officers to acquire products/services efficiently and effectively.
Corporate Procurement Unit (CPU)	The Authority's Corporate Procurement Unit (CPU) provides advice, support and guidance on Procurement.
Covered Procurement	The award, entry into and management of a public contract as defined in the Procurement Act 2023.
Dynamic Market	A list of suppliers who have met the Council's conditions of membership and whom may be awarded an above UK Procurement Threshold contract via the competitive flexible procedure. New suppliers can join the Dynamic Market at any time during its operation. A Dynamic Market may only be established after 24 February 2025.
e-Auction	An e-Auction (electronic auction) is an electronic marketplace between buyers and bidders, utilised as part of the costing criteria of the tender evaluation.
Framework Agreement	An agreement between one or more authorities / public bodies and one or more economic operators, to establish the terms governing contracts to be awarded during a given period (call-offs).
Lead Body	Any Body which the Authority is legally allowed to procure with or through, including Central Government Departments, other Local Authorities and other public sector bodies e.g. NPS.
Lead Officer	The Lead Officer (LO) shall be responsible for the procurement process and following award will be the primary link between the Authority and the relevant supplier. The LO shall be responsible for the management of that contractual arrangement and ensuring that the price(s) paid is/are in accordance with the terms of the contract
Light Touch Regime	The new light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes as outlined in Schedule 1 of the Procurement Regulations 2024.
Mini Competition /Call-off	A mini competition is the process followed to place a call-off contract under a framework agreement where the best value supplier has not been specified in the original terms of the framework agreement. All suppliers within the original framework agreement are invited to submit bids against the original terms.

Monitoring Officer	The Monitoring Officer is the officer designated by the Authority in accordance with the provisions of Section 5 of the Local Government and Housing Act 1989. This role is currently undertaken by the Head of Administration and Law.
Most Advantageous Tender (MAT)	The tender that will bring the greatest benefit to the Authority having taken a number of factors into consideration, including quality and price.
Notifiable Below-Threshold Contract	A regulated below-threshold contract with an estimated value of not less than £30,000.
Open Frameworks	A scheme of frameworks that provides for the award of successive frameworks on substantially the same terms
Quotation	A quotation based on price and any other relevant matter, without the issue of a formal tender.
Regulated Below-Threshold Contract	A below-threshold contract that is not: <ul style="list-style-type: none"> • an exempted contract as defined in Schedule 2 of the Procurement Act 2023; • a concession contract; or • a utilities contract.
Reserved Procurement Arrangement	A procurement under a UK central government arrangement, for example the Crown Commercial Service.
Section 151 Officer	The officer designated by the Authority under Section 151 of the Local Government Act 1972. This role is currently undertaken by the Director of Corporate Services.
Single Tender Action	Single Tender Action is only to be used in rare and exceptional circumstances and is broadly defined as procurement for which no competition is sought or where competition is not available in the marketplace. This definition applies to all single tender actions above the tender Threshold.
Standstill	The minimum period which must elapse between notification of an award decision and the award of the contract. In the UK the standstill period is 10 days.
Supplier	A supplier of works, goods or services to the Council.

Tender	An economic operator’s proposal submitted in response to an invitation to Tender.
Tender Evaluation Panels	A group of Officers appointed by the Lead Officer to undertake the tender evaluation exercise for a contract or Framework. The group of officers in question shall normally remain constant throughout the process and shall possess the necessary qualifications and/or expertise to advise the Lead Officer on technical, procurement, legal, financial, policy and staffing issues.
Tender Procedures	Open Procedure - a single-stage tendering procedure without a restriction on who can submit tenders
	Competitive Flexible Procedure – such other competitive tendering procedure as the contracting authority considers appropriate for the purpose of awarding the public contract.
	Further detail on all the Procedures above is available in the Procurement Guidance (available on the Intranet) or by contacting CPU.
Thresholds	The contract value for the type of contract concerned at which the Procurement Act 2023 applies. These Thresholds are updated every two years.