



Purchasing Policy

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Shirley Heath Purchasing Policy

Introduction

The underlying principle with regard to purchasing is obtaining the best value for money. Consideration should be given to price, quality and fitness for purpose.

All staff are responsible for the efficient use and procurement of materials and resources. The Governors are responsible for ensuring that there is appropriate control and best practice is followed.

Aims of the Policy

- To ensure adequate steps are taken to secure the best value for money;
- To ensure clear, appropriate and efficient controls and processes are in place;
- To ensure that all Staff and Governors understand their responsibilities with respect to this policy.

Authority Levels

The framework for expenditure is controlled by the School Improvement Plan (SIP). This provides the basis for the annual budgets within which each individual spending decision is made.

Any staff ordering items must:

- Follow procedures to ensure value for money is obtained and record this information as required (*see next section on quotes and tenders for recording*);
- Advise the Business Manager in writing of items to be purchased **before** they are ordered so that an official order can be raised through the purchasing system Oracle Cloud. The evidence of how value for money has been obtained should be attached;
- All Oracle orders are to be authorised electronically by the **Headteacher** (*as approved by the Governors*).

Authority Limit	Authority to approve expenditure	Authority to sign order
Below £1,000	Budget holder (within limits of delegated budget, otherwise Headteacher)	Headteacher
Below £5,000	Headteacher (within limits of authorised budget, headings, otherwise Finance Committee)	Headteacher
£5,000 - £25,000	Finance Committee	Headteacher & Chair of Finance Committee
Over £25,000	Governing Body	Headteacher & Chair of Governing Body

Quotes and Tendering

Refer to SMBC Schools Rules for Contracts 2022

The people involved in these procedures will be:

The Chair of Governors
The Chair of the Finance Committee
The Headteacher

(If the Chair of Governors and the Chair of the Finance Committee is the same person, then the Vice Chair of Governors needs to be involved)

RULES FOR CONTRACTS	
Quick Reference Guide – Financial Thresholds	
£5.0m +	<i>Competitive tenders and compliance with the Public Contracts Regulations 2015. Contracts in the form of Deeds must be sealed by the Legal Department and signed by the Solicitor to the Council or an Authorised Signatory. Check whether bond required. Approval by full Council</i>
£5,336,937 inc vat + (£4,447,448 exc vat)	<i>Competitive tenders and compliance with the Public Contracts Regulations 2015 required for works, supplies and services contracts. Contracts in the form of Deeds must be sealed. Contracts under seal signed by the Solicitor to the Council or an Authorised Signatory. All other contracts signed by the Director and Head of Procurement Check whether bond required. Approval by Governing Body as a key decision</i>
£663,540 inc vat (£552,950 exc vat)	<i>Competitive tenders and compliance with the Public Contracts Regulations 2015 required for supplies and services contracts. Threshold relates to light touch regime for health and social care contracts. Contracts in the form of Deeds must be sealed. Contracts under seal signed by the Solicitor to the Council or an Authorised Signatory. All other contracts signed by the Director and Head of Procurement</i>
£213,477 inc vat (£177,898 exc vat)	<i>Competitive tenders and compliance with the Public Contracts Regulations 2015 required for supplies and services contracts(excluding light touch regime for health and social care). Contracts in the form of Deeds must be sealed. All other contracts signed by the Governing Body plus Head of Procurement.</i>
£60,000+	<i>Competitive tenders required. Contract on standard form of contract or bespoke form of contract. Contract must be signed by Head of Procurement or authorised deputy.</i>
£10,000 - £59,999	<i>Competitive quotations required. Contract on official order form or standard form of contract.</i>
Below £10,000	<i>Competitive quotations advisable however not mandated. Must either use corporate contracts where one exists or show value for money. Use official order form. See guidance in section 11.3</i>
NB Any requirement over £10,000	Use a corporate contract where one exists unless there is good reason not to; and refer the requirement to Corporate Procurement Service if over £60,000
NB PCR	PCR Thresholds are revised every 2 years in January.

Thresholds	Figures quoted above for Works and Concessions is (£5,336,937 inc vat) and Supplies and Services (£213,477 inc vat) are applicable 1st January 2022 – 31st December 2023 Please note from January 2022 these now include VAT
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Explanatory note for schools:

Where there is a conflict between these limits and the Scheme for the Financing of Schools, the Scheme for the Financing of Schools takes precedent.

Governing Bodies may wish to impose different limits to those described above, as part of their internal scheme of financial management delegation, but these limits must be lower than those in the Council's rules, they may not be higher. For example a Governing Body may wish to ensure that competitive quotations are required for expenditure below £10,000, and they may do this, but schools cannot agree that competitive quotations will only be sought for expenditure greater than, say, £60,000. A Governing Body may also wish, for example to use a competitive tendering procedure for contracts less than £60,000.

Where schools use an existing corporate contract, or use the Council to procure supplies and services, e.g. building works or IT equipment, schools can be assured of demonstrating best value, because the council will have followed best value principles on behalf of all schools.

Summary of Rules for Contracts – quick reference guide – see Appendix A – Page 31

1. Objectives

The Rules for Contracts exist to achieve the aims set out below and to assist and protect the interests of the Council, Governing Bodies and individual Officers.

They are designed as ***an aid to good management***. Followed properly they provide protection for Officers against criticism and support good procurement practice.

Officers must be able to demonstrate that they followed procedure or had obtained the necessary authority for not doing so, in order to:-

- ✓ *ensure value for money is obtained;*
- ✓ *ensure probity in the award of Council contracts;*
- ✓ *ensure fairness and equity in the treatment of contractors/suppliers;*
- ✓ *ensure that procedures for placing contracts/orders comply with legislation;*
- ✓ *ensure records are kept which demonstrate compliance with Rules for Contracts.*

2. Scope of Rules for Contracts

All purchases and contracts made in the name of and binding the Council (including contracts let by schools including where schools are using grant money

or money other than from their delegated budgets) must comply with these Rules for Contracts, and also any contract that involves income to the Council. This includes contracts where the expenditure is grant aided by a third party. These rules also apply to a company which is controlled by the Council for the purposes of the Local Government and Housing Act 1989. Any arrangement where the Council pays or receives money or equivalent value, other than a contract to employ staff, must comply with these Rules. This includes contracts for:

- a) buying and selling supplies;
- b) any work being carried out;
- c) services (including financial and Consultancy services);
- d) hire, rental or lease (of supplies); and
- e) concession agreements

3. Compliance

- 3.1 Every contract entered into on behalf of the Council, including schools maintained by the Council must comply with these Rules for Contracts and all relevant legislation.
- 3.2 The only areas excluded from these rules are:
 - a) Internally recharged services;
 - b) Schemes where the Council has delegated a function to a third party to perform and where a contract makes separate provision for procurement rules;
 - c) Land transactions
- 3.3 All contracts must be in writing. Whenever possible, contracts under £60,000 in value must be made on an official Council order form, approved by a designated Authorising Officer, with the Council's standard terms of trading endorsed or referred to. For works contracts, one of the standard forms of contract, such as the JCT, ICC or NEC forms may be appropriate. Legal Services will advise on other forms of contract.
- 3.4 Responsibility for compliance with Rules for Contracts remains at all times with Council Officers. Governing Bodies and the Head of Procurement will be responsible for monitoring compliance against these rules, aided by internal or external audits or inspections which will be carried out as appropriate.

4. Justification of Need and Definition of Requirements

- 4.1 Before any purchase is made consideration must be given to:

- a) whether the expenditure is really necessary and
- b) whether it can be met from within existing resources or whether it is being funded through grants or other approved income sources
- c) the revenue consequences of any capital investment.

4.2 If the purchase is justified then the exact requirements must be defined and an appropriate specification drawn up by the school. In doing this schools are encouraged to seek appropriate technical advice from the Council.

5. Exceptions to Rules for Contracts

5.1 An exception to the Rules for Contracts is a permission to let a contract without complying with one or more of the Rules. An exception to Rules for Contracts may be granted subject to conditions. An exception cannot be granted where a breach of any relevant legislation would be incurred.

5.2 Only the Section 151 Officer or his authorised deputy (Head of Procurement) may grant an exception to these Rules for Contracts. Applications for exceptions must be made in writing to the Section 151 Officer including the exception that is requested and the justification for the exception.

5.3 The Section 151 Officer will keep a register of all exceptions to Rules for Contracts, which shall be available by appointment for inspection by members of the Council and the public.

5.4 An application for an exception to Rules for Contracts to allow a contract to be let without genuine competition may be granted where there is a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exception to Rules for Contracts. If an application is granted, the School in conjunction with the Head of Procurement responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value for money.

5.5 An exception to Rules for Contracts **may** be granted in the following circumstances:

- a) an unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, supplies or services are required more urgently than would be possible if the tender or quotation procedure were followed;
- b) for justifiable technical reasons, the works, supplies or services can be obtained from only one supplier;

- c) acquiring supplies or services from a different supplier would result in incompatibility with existing supplies or service or disproportionate technical difficulties;
- d) the proposed contract is an extension to or variation of the scope of an existing contract, if permitted by the public procurement legislation ie below the required Public Contracts Regulations 2015 limit, *unless* the existing contract provides for an extension and the extension or variation also complies with the Public Contract Regulations 2015;
- e) the purchase of works of art, museum artefacts, manuscripts or archive collection items;
- f) there is a need to develop and influence the market by extending the range and provision of services, provided the contract is for a fixed term of no more than three years;
- g) it is necessary to enable the continuation of a new service, development of which was initially grant-aided, provided the contract is for a fixed term of no more than three years;
- h) value for money can be achieved by the purchase of used vehicles, plant or materials;
- i) when a grant from a public body includes a recommendation as to the supplier or is time limited;
- j) in furtherance of the Council's social enterprise policy, or other economic development aims, subject to the prevailing financial support limits for this type of activity and without breaching public procurement rules;
- k) if there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure or another Rule for Contract;

5.6 An exception to Rules for Contracts is granted and separate authorisation is not required in the following circumstances:

- placing an order with a single supplier under an existing corporate contract or framework agreement;
- placing an order against a contract/framework let by another Public Buying Organisation where contracts have been let to allow collaboration e.g. Yorkshire Purchasing Organisation, Eastern Shires Purchasing Organisation etc.
- as part of a partnering contract that contemplates a series of contracts with a single supplier;

- legislation requires the Council to let a contract differently from these Rules for Contracts;
- All utilities contracts will be let through the Corporate Procurement Service and in line with the procedures dictated by the Head of Procurement.

6. Valuation of contracts and Aggregation of Requirements

- 6.1 The Governing Body responsible for each contract must record an estimated value for the contract before any offers are sought.
- 6.2 The value of a contract is the total amount that the Council or school expects to pay for the contract, either in a single sum or periodically over time.
- 6.3 Contracts for the same works, supplies or services must not be split into smaller, separate contracts to avoid compliance with these Rules for Contracts or the Public Contract Regulations 2015. If it will achieve best value for money, contracts for the same or similar works, supplies or services must be aggregated into a single contract of greater value subdivided into lots if appropriate, or be let as a series of contracts based on the appropriate process for the total value.

7. Duties of Directors, Governing Bodies and the Head of Procurement

- 7.1 The Director or Governing Body is responsible for ensuring that all expenditure involving procurement activity complies with the Rules for Contracts, in conjunction with the Head of Procurement. He or She are also responsible for ensuring that contracts within his or her directorate or school are managed and operated within the terms of the contracts themselves.
- 7.2 The Head of Procurement is responsible for maintaining an up to date register of contracts. Schools however are responsible for publishing their own contracts. Contracts for less than £10,000, or one-off contracts need not be recorded in the register.
- 7.3 As soon as practicable after the Council's budget has been set and in any event before the end of March in each financial year, the Director or Governing body must notify the Head of Procurement of all contracts (including their values) that his/her division plans to enter into during the following financial year. This will enable the Head of Procurement to publish the Council's Prior Information Notice (PIN) in accordance with the UK regulations. This has the benefit of reducing tendering timescales
- 7.4 The Governing Body are strongly advised to use corporate contracts, where they are in place. (**The Corporate Contracts Register can be found here – [hyperlink Contracts Register](#)**) To do otherwise would be unlikely to give value for money.

If no corporate contract is found then the compliant procurement process must be followed. – [Hyperlink Compliant procurement process Step by Step Guide](#)

7.5 Where a Governing Body consider using a Council trading unit then they can be assured that this demonstrates value for money without further market testing.

8. Selection of Procurement Route

8.1 When selecting the most appropriate procurement route to secure best value, the School, in consultation with the Head of Procurement, shall adhere to the following principles:

- All practical options for contract packages and methods of procurement should be analysed and evaluated, with the object of selecting the option that most effectively ensures value for money is achieved. The preferred option must provide full, fair, transparent and open competition and be identified as the most economically advantageous route to market.
- The scope of contract packages should take into account similar themes and outcomes across services and Directorates identified by strategic, policy and service reviews. Stakeholders within and outside the School should be consulted about service standards and specifications and investigation of the market undertaken. Performance under any current contract should be appraised and prospective performance considered in the light of consultations and investigations.
- The contract package should seek to stimulate diversity and innovation, enhance choice for service users and attract new suppliers.
- Collaboration with, and partnerships between, the public, private and voluntary sectors should be sought, which demonstrate a shared commitment to objectives that benefit users of the Council's services.

8.2 The Council has a *Compliant Procurement Process Step by Step Guide* that sets out minimum requirements for reporting and decision-making with regard to contracts and the key stages and actions the Council requires major procurements to follow, including market assessment and analysis, user consultation, risk analysis and project planning and management. The Compliant Procurement Process details how contracts should be let and minimum requirements for ongoing contract monitoring and management. Embedded in the Compliant Procurement Process are links to intranet pages which describe the mandatory processes to be followed for:

- (a) The Corporate Approach to Contract Management
- (b) The Appointment of Consultants

Officers must comply with these processes before expenditure is committed through telephone calls, negotiations, purchase orders or contracts.

9. Authority to enter into a contract

- 9.1 School employees have no authority in their own right to enter into any contract on behalf of the council. School employees may only enter into a contract if authority is delegated to them under a scheme of delegation approved by the Governing Body or by specific decision of the Council, the Cabinet or a Committee or Sub-Committee.
- 9.2 Unless an employee has been given authority to enter into a contract, all contracts involving capital expenditure must be authorised by a specific decision of the Governing Body, Cabinet or a Cabinet member.
- 9.3 Unless an employee has been given authority to enter into a contract, all contracts involving revenue expenditure must be authorised by a specific item in the approved revenue budget for the relevant year or by a specific decision of the Governing Body, Cabinet or a Cabinet member. A specific item in the approved revenue budget is deemed to be an authority for the relevant Headteacher to enter into a contract up to the value estimated.
- 9.4 All contracts, other than those entered into by Governing Bodies where permissible by these Rules will be let in accordance with these Rules with the involvement of the Corporate Procurement Service in consultation with service users and technical experts. For expenditure under £60,000 advice can be sought from the Corporate Procurement Service.

10. Specifications

- 10.1 The Governing Body, in conjunction with the Head of Procurement, must ensure that an appropriate technical specification is prepared for every contract, which sets out clearly the requirements with regard to the works, supplies or services to be provided.
- 10.2 All works, supplies and services must be specified by reference to relevant standards as appropriate.
- 10.3 Specifications should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the contract to be monitored and should build in a capacity for flexibility and innovation, to secure sustained improvements and the ability to meet changing local and national circumstances.
- 10.4 Where appropriate, specifications should identify and allocate the risks inherent in the contract.

- 10.5 If a contract may involve the transfer of employees (from the School to a contractor or from one contractor to another), the specification should if the contractor has assured confidentiality of personal information, include all relevant information relating to those employees.
- 10.6 The Governing Body, must obtain all necessary professional and technical advice and assistance in preparing a specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants or other third parties who assist in the preparation of a specification must not be invited to tender or quote for the contract. Take appropriate Technical advice from the Council

11. Contract procedures

- 11.1 The Headteacher in conjunction with the Head of Procurement must establish whether the UK public procurement legislation applies to a proposed contract. If in doubt, the Solicitor to the Council will advise whether the legislation applies. When public procurement legislation does apply, the Headteacher/Head of Procurement must use the most relevant procedure. Whenever possible, a competitive procedure must be adopted.
- 11.2 The Head of Procurement, will place all notices relating to contracts on Find a Tender.
- 11.3 It is strongly recommended that the Governing Body should obtain at least 3 written quotations for contracts of less than £10,000 in value. However, the Governing Body need not obtain competitive quotations, but must in any event demonstrate that the Council is receiving value for money (see the "*Quick Reference Guide*" Table on page 8).

Where three quotations are not obtained then value for money could be demonstrated by the following:

- Using a corporate contract
- Direct award against an existing framework
- Benchmarking a single quotation against prices paid by colleagues in other schools
- Benchmarking a single quotation against published frameworks or Public Buying Organisations catalogues
- Ordering direct from a Public Buying Organisation catalogue
- Using a previous quotation exercise for similar goods/services within the last 3 months (checks should be made to ensure that the total expenditure does not

exceed thresholds for higher value purchases where different procurement processes should be followed

- Using internet price comparison sites once the quality of goods required has been established (screen shots to be saved)
- Using buyers indices for benchmarking quoted prices

Additionally all relevant documentation demonstrating value for money will need to be retained for audit or scrutiny purposes in line with Council policy.

- 11.4 The Council adopts an additional process that needs to be followed when procuring consultants which Governing Bodies may consider to be good practice and adopt. The guidance issued by the government for off payroll working through an intermediary (IR35) needs to be considered in any event. The authority's procedure for authorisation to appoint consultants can be found here [Using Consultants](#)

12. Invitation to Formal Tender

- 12.1 If the public procurement legislation applies to a contract, the selection of suppliers to be invited to tender for the contract must follow the requirements of that legislation.
- 12.2 If the public procurement legislation does not apply, and the estimated contract value is greater than £60,000 at least three potential contractors, who have expressed an interest against the contract notice placed on Contracts Finder, should be invited to tender. Where appropriate those invited to tender should include at least two local suppliers. The number of contractors invited to tender should ensure full competition is achieved. The placing of the contract notice should aim to achieve maximum interest amongst contractors. If less than three contractors express an interest, the decision making body must agree to proceed, and the steps taken to try and obtain the minimum number of tenderers documented.
- 12.3 Companies expressing an interest in being invited to tender in response to a contract notice must satisfy the Council as to their legal, financial and technical capacity (including their health & safety and equality and diversity policies) to undertake the contract by participating in a selection process in a process approved by the Head of Procurement.
- 12.4 The Head of Procurement shall be responsible for ensuring that an "Invitation to Tender" procedure – that demonstrates public sector best practice – is available and adhered to, at all times.

13. Opening Formal Tenders

- 13.1 Tenders must be received electronically. This can be facilitated through the Schools Procurement Partner located in the Corporate Procurement Service. If the Governing Body chooses not to use this route, the Governing Body or nominated body is responsible for ensuring that tenders are submitted to an inbox where tenders received will not be opened until the closing date and time for tender receipts. Tenders submitted after this date and time will NOT be accepted.
- 13.2 The Governing Body must ensure that a person other than the individual conducting the procurement process should receive and open electronic tenders submitted. If schools are not able to facilitate the appropriate separation of duties then the Schools Procurement Partner located in the Corporate Procurement Service would use the Council's e-tendering system CSWJETS to receive them.
- 13.3 Until the contract has been awarded, the information obtained at the opening of tenders is confidential to those involved in the opening process and those directly involved in evaluation of the tenders. Confidentiality must be maintained and any breach reported to the Monitoring Officer.
- 13.4 The Governing Body must record:
- the works, supplies or services to be supplied;
 - the name of each tenderer;
 - the amount of each tender or such other information as may be relevant to the procurement;
 - the date and time of opening of each tender;
 - the names of all persons present at the time of opening.

14. The Quotation Procedure

- 14.1 For contracts over £25,000, either the Governing Body or Headteacher may choose to advertise on the school's website. For contracts of under £60,000 in value where the Corporate Procurement Service are involved, suppliers should be invited to quote through Contracts Finder or CSW-Jets.
- 14.2 The Headteacher must satisfy him/herself as to the legal, financial and technical capacity of suppliers invited to quote to undertake the contract for the School and that they will provide value for money.

- 14.3 A sufficient number of suppliers must be invited to quote to ensure genuine competition. The minimum number is three. Where appropriate those invited to quote should include at least two local suppliers
- 14.4 The Head of Procurement shall be responsible for all procedural aspects of seeking quotations, ensuring that probity and proper public accountability standards are in operation. Monitoring shall be carried out periodically by either the internal or external auditor.

15. Acceptance of Formal Tenders and Quotations

- 15.1 Where the expenditure has been approved through the budget setting process, the decision making body to whom powers have been delegated has given approval to proceed, and these Rules for Contracts have been followed, the responsible officer shall review the evaluation against the award criteria and agree determine which tender has been successful. It shall not be bound to accept the lowest tender if payment is to be made by the Council or the highest tender if payment is to be received. The responsible officer is described in the Summary of Rules for Contracts table on page 29 of this document.
- 15.2 Contracts over £60,000 are to be awarded under the “most economically advantageous” criterion (see para. 15.3) The Governing Body shall require a written report from the Headteacher requesting approval for acceptance and detailing the reasons for doing so. This shall be recorded in writing. In extreme urgency the Governing Body may agree a verbal report from the Headteacher, with a written report being signed off by the Governing Body within a fortnight of this meeting. All written reports will be stored in line with the records retention schedule.
- 15.3 Tenders or quotations must be evaluated on the basis of which is most economically advantageous to the Council. The basis of evaluation must be stated in the contract notice published on FTS and in any other public notice. The basis of evaluation must also be stated in the invitation to tender or quote. When using the Public Contracts Regulations 2015, the criteria for evaluation must be set out in the invitation to tender or equivalent document depending on which procedure is used, with the weightings to be given to them. The criteria may also be set out in the FTS and public notices. Inclusion of criteria such as whole life and environmental costs and social considerations is encouraged.

16. Electronic tendering and quotations

- 16.1 It is mandatory for Contracting Authorities including the Council to invite and receive tenders electronically. The Head of Procurement is responsible for the procedure for these processes
- Tenders and quotations will be invited electronically. Up to £60,000 they can come through the Schools Procurement Partner if required, where opportunities above £10,000 will be advertised on Contracts Finder. Those above £60,000 come through Corporate Procurement Service and supporting documentation uploaded through the e-tendering portal and the opportunity will be advertised on Contracts Finder.
 - Above £60,000 invitations to tender and quotes will be submitted electronically through the approved e-tendering system. Electronic submissions will not be made outside of the approved system. If the e-tendering portal is not available when tenders are due to be submitted, the tender date will be extended until the system is available. The procedure will also include arrangements for e-auctions.

17. Amendments and alterations to tenders and quotations

- 17.1 Amendments to invitation to tender or invitation to quote documents, made after the invitations have been sent out, must be sent through the Council e-tendering system (CSW-JETS) (Above £60,000) or through other electronic means below £60,000 to all suppliers who have been invited to tender or quote as clarifications. If there is more than one clarification, they will be numbered consecutively. Clarifications should be sent out in sufficient time. Amendments should be sent out in sufficient time to allow suppliers to adjust their tenders or quotations as appropriate and no later than six days before the tender submission date for tenders over the Public Contracts Regulations 2015 thresholds.
- 17.2 A supplier's tender or quotation is its offer to the Council or school, which the Council or school may accept as it stands. Once a tender or quotation has been submitted under the Public Contract Regulations 2015, alterations will only be accepted through formal clarifications under the open and restricted procedures. When conducting negotiations under the Competitive Procedure with Negotiations, Competitive Dialogue or Innovative partnership procedures, at all stages before the final tender submission, counter offers by bidders must be made in writing through CSWJETS.

- 17.3 A properly approved and compliant Competitive procedure with Negotiation, Competitive dialogue process or Innovative Partnership will normally result in one or more Best and Final Offers as a result of negotiation with selective bidders. No alteration to the Best and Final Offer, in terms of outcomes or contract price is permitted without the specific approval of the Monitoring Officer.
- 17.4 In all other situations, if a supplier attempts to alter his offer after the last date for receipt of tenders or quotations, he must be given the opportunity to stand by or withdraw his original offer. Correction of an obvious arithmetical error, which would reduce the price to be paid by the Council or increase the price to be paid to the Council, may be accepted.
- 17.5 Where performance specifications are used, a tender or quotation that is expressed to be conditional upon the School's acceptance of alterations to the specification or the terms and conditions of contract may be treated as non-compliant and rejected. This does not prevent the Council inviting variant bids (that is an invitation to submit an alternative bid that could then be considered as being to the Council's benefit provided that the condition applying to the mandatory reference bid is followed) If variant bids are invited, suppliers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender or invitation to quote, so that all bids may be compared fairly.
- 17.6 Where outcome based specifications are used it will be for the bidder to decide the method of service delivery. Tenders or quotations will be evaluated fairly against published evaluation criteria.

18. Contract extensions

- 18.1 Where extensions to contracts have been included in the advert, tender documentation and the original contract award, the extensions may be agreed; where performance is satisfactory and the original contract terms are to continue (including price variations in line with the original contract) through the issuing of a contract change note (templates to be issued by the Head of Procurement). The contract change note must be kept with the original contract in line with the document retention policy.
- 18.2 For contracts over £60,000 if an extension is proposed where the terms and conditions of the original contract will be changed; the Governing Body shall require a written report from the Head of Procurement requesting approval for acceptance and detailing the reasons for doing so. This shall be recorded in

writing. In extreme urgency the Governing Body may agree a verbal report from the Head of Procurement, with a written report being signed off by the Governing Body within a fortnight of this meeting. Once approval is received a contract change note will be issued and kept with the original contract documentation. All written reports will be stored in line with the document retention policy. If a contract is under seal a short supplemental deed may be required and this will be dealt with on request to Legal Services.

19. Contract variations

Where throughout the life of the contract there are changes to the contract either requested by the contractor or the Council which vary the contract value employees must be cognisant of the requirements of the PCR's 2015. The PCR's 2015 do not allow in most cases a material change to the contract to be more than 10% of the original contract value for services and supplies, 15% of the original contract value for works or 50% in exceptional circumstances, providing the modification does not alter the overall nature of the contract. In this instance a further tender exercise must be completed. If a contract is under seal a short supplemental deed may be required and this will be dealt with on request to Legal Services.

Once approval is received from the Governing Body or the Headteacher a contract change note will be issued and kept with the original contract documentation. All written reports will be stored in line with the document retention policy.

20. Form of Contract

20.1 The Solicitor to the Council will decide whether a contract for over the Public Contracts Regulations 2015 threshold or more in value is to be executed as a deed under the seal of the Council or under hand as a simple contract. As a general rule, works contracts, and high value contracts (over £5 million in value) will be executed as deeds under the Council's seal.

20.2 All contracts made as deeds must be made under the Council's Common Seal, witnessed in accordance with Standing Order of the Council's Rules of Procedure (Standing Orders) by the Solicitor to the Council or such other person appointed by the Council.¹

¹ The Solicitor to the Council and the Strategic Directors are currently authorised under Standing Order 30.

- 20.3 Simple contracts over the Public Contracts Regulations 2015 threshold in value must be signed for and on behalf of the School by the Headteacher and the Head of Procurement.
- 20.4 Simple contracts of between £10,000 and Public Contracts Regulations 2015 Threshold in value must be signed for and on behalf of the Council by the Head of Procurement or an authorised deputy.

21. Contract administration and management

- 21.1 The Head of Procurement shall arrange for publication of a contract award notice, no later than 30 days after contract award if appropriate (contracts over the Public Contract Regulations 2015 threshold), and shall keep a register of the notified information, which shall be available for inspection by appointment by any member of the Council, internal and external auditors and any member of the public.
- 21.2 The Head of Procurement shall be responsible for ensuring that a procedure on “Contract Administration and Management” is made available to all officers and partners managing contracts on the Council’s behalf. The Corporate Approach to Contract Management is approved by Procurement Board for the Council and schools may choose to comply with that process – **Corporate Approach to Contract Management**

22. Social value

- 22.1 The Public Service (Social Value) Act 2012 requires public entities including schools to consider delivering Social Value through contracts for services. Schools should consider social value outcomes in all contracts above the Public Contracts Regulations 2015 threshold.
- 22.2. For those contracts that fall below the Public Contracts Regulations 2015 threshold, the approach should be to maximise these outcomes where possible. All contracts will include social value and any exceptions to this must be authorised by the Head of Procurement.
- 22.3. In order to ensure that Schools adhere to the Act and to the Public Contracts Regulations 2015, the social value sought from a contract must be relevant and proportionate.
- 22.4 All expenditure must be delivered in accordance with the authority’s Social Value Policy.
- 22.5 The table below is an extract from the Social Value Policy which describes the social value activity that should be undertaken for different level of spend.

Value	Process	Potential Outcomes
Under £60,000	Light touch social value guidance included on the Corporate Procurement Service intranet pages	Innovation around one or two issues such as community volunteering or linking up with a local school. This will help small local businesses understand the issues and reward those that are already involved in their communities. Expectations will not be specific to a project but take into account what the organisation does as a whole. A suggested 5% weighting to be used on project assessment
£60,000 – Public Contract Regulations (PCR) thresholds	Category Managers will guide specifications and tender documents to ensure that Themes, Outcomes and Measures (TOMs) are included within the procurement process. It is an expectation that Social Value will apply to procurement requirements that fall within this threshold and any exceptions to this rule must be authorised by the Head of Procurement.	Businesses will be expected to respond to the range of opportunities contained within the TOM matrix. They will be assessed on their project specific proposals A 5 – 10% weighting is likely to be used on evaluation
Public Contracts Regulations 2015 thresholds and above	Category Managers will guide specifications and tender documents to ensure that considerations are made at commissioning stage and that TOMs are included within the tender process, ensuring that the evaluation scores and weightings are clearly set out and that an action plan is implemented during the contract period. Social Value must be included in tenders. Any exceptions to this rule must be authorised by the Head Of Procurement	Businesses will be expected to respond fully to the TOMs matrix and commit to project specific deliverables that will be included in KPIs. Weightings are recommended to be set at 15 – 20% Weightings above 20% are used where contract price is set, or there is a specific opportunity around Social Value to solve a specific need. Category Managers will provide guidance on what is expected although this will not be prescribed.

23. Prevention of Fraud and Corruption

- 23.1 All purchases, contracts and income covered by these rules must be let in line with the Council's [Anti-fraud and Corruption Policy and Strategy](#)
- 23.2 If an officer of the Council, a School Governor, or an employee has a pecuniary interest in a contract or proposed contract, he/she must in accordance with Section 117 of the Local Government Act 1974 and as required by Standing Order 25 of the

Council's Rules of Procedure (Standing Orders) register the interest with the Chief Executive and declare it at any meeting at which the officer, or Governor, is present and the contract is discussed and thereafter leave the room and take no further part in the discussion.

23.3 If an employee of the School, or Governor, has a personal or non-pecuniary interest in a contract or proposed contract he/she must declare that interest to the Headteacher, or for the Headteacher to the Governing Body as required by the Council's Code of Conduct for Employees.

23.4 A contract must be terminated immediately, and any losses to the Council or School arising from the termination recovered from the contractor, if the contractor, or anyone acting on his behalf

- offers or gives or agrees to give any member, employee or School Governor any gift, benefit or consideration of any kind or value as an inducement or reward with regard to the contract;
- Commits any offence under the Bribery Act 2010 or section 117 of the Local Government Act 1972.

A declaration to this effect must be contained in all invitations to tender or quote.

23.5 The attention of employees and Governors is drawn to the Council's Code of Conduct, Whistleblowing policy, Disciplinary Rules and Procedures and the Code of Conduct for Employees. Non-compliance with these Rules for Contracts may constitute grounds for disciplinary action. Repeated or substantial breaches of these rules, may lead to the withdrawal of delegation, as outlined in the Scheme for the Financing of Schools.

23.6 All of the requirements in 25.1 to 25.4 above will apply to any third party acting on the Council's, or Governing body's behalf in a contractual situation e.g. consultants and community representative on evaluation panels

24. **Freedom of Information Act/Environmental Information Regulations**

24.1 When entering into contracts, the Council/School as a public authority, and any contractor it uses, must be aware of the importance of delivering services in a transparent way. The Freedom of Information Act (the Act) and the Governments Open Data agenda promote this approach and require both the proactive publication of contractual information such as the identity of contractors and contracts, values and durations. Also the reactive publication of information following requests made under the Act or Environmental Information Regulations (EIR).

- 24.2 For this reason the Council/School will refuse to include contractual terms that restrict the disclosure of information held by the Council/School and relating to the contract beyond the restrictions permitted by the Act and EIR. This means that unless an exemption provided for under the Act is applicable in relation to any particular information, the Council/School will be obliged to disclose that information in response to a request, regardless of the terms of any contract.
- 24.3 Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, the Council/School will investigate the option of agreeing with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. The Council/School will take care when drawing up any such schedule, and be aware that any restrictions on disclosure provided for could potentially be overridden by obligations under the Act or EIR as described in the paragraph above. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner. When entering into the above contracts the Council/School will make it clear that these restrictions apply to sub-contractors also and that the Secretary of State has the powers to designate them as 'public bodies' for the purpose of making them comply with the Act or EIR.
- 24.4 The Council/School will not agree to hold information 'in confidence' which is not in fact confidential in nature. Advice from the Lord Chancellors Department indicates that the exemption provided for only applies if information has been obtained by a public authority from another person and the disclosure of the information to the public, otherwise than under the Act and EIR, would constitute a breach of confidence actionable by that, or any other person.
- 24.5 It is for the Council/School to disclose information pursuant to the Act and EIR, and not the non-public authority contractor. The Council will take steps to protect from disclosure by the contractor information that the authority has provided to the contractor (which would clearly be exempt from disclosure under the Act or EIR) by appropriate contractual terms. In order to avoid unnecessary secrecy, any such constraints will be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the Council/Schools will not impose terms of secrecy on contractors.

24.6 The Head of Procurement will be responsible for advising on the application of the Freedom of Information Act and Environmental Information Regulations and contracts, in conjunction with the Council's Corporate Information Governance Manager, where circumstances arise that are not specifically covered by Council/School policy. He/she will also be responsible for updating procedure following any case law that materially amends or augments Council/School policy in this area.

25 **Data Protection Legislation [Data Protection Act 2018 and General Data Protection Regulations (GDPR)]**

25.1 'Privacy by Design' is a legal requirement when processing personal and/or 'special category' data ("personal data"). The General Data Protection Regulations (GDPR) makes it mandatory that the Council obtains contractual guarantees from all third parties that process personal data on its behalf. It also requires that the Council ensures third parties have measures in place to prevent unauthorised or unlawful processing of personal data and to prevent accidental loss, destruction or damage to any personal data they are processing on behalf of the Council. Where the Contractor is processing Personal Data (as defined by Data Protection legislation) on behalf of the Council, the Contractor shall only use the Personal Data in accordance with express instructions from and for purposes defined by the Council. Third parties must also be able to provide all relevant details that would enable the Council to respond to Data Protection legislation requests, received from a data subject in respect of the processing of their personal data.

26 Management of Risk in Contracts

Risks should be identified, assessed and managed throughout the life of the contract in line with the Council's Risk Management Policy and Procedure [Risk Management Policy](#). Significant risks should be recorded as appropriate, on our Corporate Risk Management system (JCAD Core).

27 Safeguarding Children and Vulnerable Adults

When spending public money, officers have a duty under the Care Act 2014 to safeguard children and vulnerable adults. Officers must satisfy themselves that they have duly considered safeguarding issues when awarding contracts or placing orders and that where necessary, DBS checks have been put in place by the contractor/provider. Further support and information can be accessed through the [Solihull Safeguarding Adults Board](#) and the [Local Safeguarding Children's Partnership](#).

28 Impact of other legislation on contracts and quotations

In addition to what has already been mentioned in these Rules, there is other legislation that may impact on the supplies, services or works required when following a contract or quotation procedure e.g. health and safety, modern slavery etc. the Corporate Procurement Service will be able to give you advice on the impact of this legislation and the considerations you will need when drawing up specifications or identifying appropriate suppliers/providers. The authority produces an annual Modern Slavery statement which describes how this issue is being tackled by Solihull.

Schools -Summary of Rules for Contracts – Quick reference guide including approval levels.

Procurement Process	All expenditure over PCR 2015 threshold for (supplies/services > £213,477) compliance with Public Contract Regulations 2015	Over £60,000 > PCR 2015 threshold	£10,000 to £59,999	Below £10,000
Requirement to be referred to	Corporate Procurement Service	Corporate Procurement Service	N/A	N/A
Approval	Appropriate Director for the level of expenditure	Governing Body	Headteacher approval or delegated authority to budget holder.	budget holder

Invitation to tender / quote	<p>Minimum of 3 written competitive tenders. Must be advertised electronically via the Corporate Procurement Service through CSW-JETS and Contracts Finder</p> <p>> £5,336,937 inc vat Public Contracts Regulations 2015 Works Contracts</p> <p>>£663,540 inc vat Health, education and Social Care Light Touch Regime</p> <p>>£213,477 inc vat Public Contract Regulations 2015 Supplies and services</p>	<p>Minimum of 3 written competitive tenders. Must be advertised electronically via the Corporate Procurement Service through CSW-JETS and Contracts Finder</p>	<p>Minimum of 3 written competitive quotations, Where appropriate, a minimum of 2 should be local suppliers. To be received electronically. Contracts Finder can be used for advertising opportunities above £10k when using the Corporate Procurement Service. > £25k the Headteacher may also choose to advertise on the school's website</p>	<p>Use of corporate contract or demonstrate value for money(obtaining 3 written quotations is the most effective way of demonstrating value for money(See further guidance on how to demonstrate value for money in Section 11.3)</p>
<u>S</u> ocial Value	<p>Social Value to be considered at the commissioning stage of the procurement. TOMs to be used with a recommended weighting of 15% to 20% in the evaluation. Exceptions to this rule must be authorised by the Head of Procurement</p>	<p><u>I</u>nclude Social Value Themes Outcomes and Measures (TOMs) with a weighting of 5% to 10% in the evaluation</p>	<p><u>L</u>ight touch social value with a suggested weighting of 5% in the evaluation</p>	<p><u>N/A</u></p>
Opening of tenders	<p>Electronic opening ceremony on CSWJETS</p>	<p>Electronic opening ceremony on CSWJETS</p>	<p><u>S</u>chools' agreed procedure used in conjunction with receiving electronic quotations/tenders Electronic opening ceremony on CSWJETS when applied</p>	<p><u>N/A</u></p>
Form of Contract	<p>Standard or bespoke Form of Contract. Where contracts are in the form of Deeds they must be sealed.</p>	<p>Standard or bespoke Form of Contract.</p>	<p>Official order form or Standard Form of Contract.</p>	<p>Official order form</p>
Contract to be endorsed/signed by	<p>Director and Head of Procurement Contracts under seal to be signed by the Solicitor to the Council or Authorised Signatory</p>	<p>Head of Procurement or authorised deputy</p>	<p>Head of Procurement or authorised deputy.</p>	<p>Budget holder</p>

The Section 151 officer or his/her authorised deputy (Head of Procurement), subject to conditions, may grant an exception to the Rules for Contracts. An exception cannot be granted where a breach of any relevant legislation would be incurred.

Authority to Pay

- Delivery notes must be checked against orders to confirm all items have been received and prices are correct and then signed by the receiver as confirmation of their check. If a delivery note is not received, evidence of the check can be recorded. ***NB. The checker should be a different member of staff to the person authorising the invoice to ensure that separation of duties is maintained;***
- The Headteacher will authorise all orders to produce a purchase order number against which payments are made. In the absence of the Headteacher the Deputy assumes the Headteacher's authority limits.

Purchase cards

The school operates a purchasing card system. The authorised users and their limits are listed below.

The Headteacher	£1,000 any one item	£5,000 in any one month
The Business Manager	£1,000 any one item	£5,000 in any one month
Kids Club Manager	£300 any one item	£1000 in any one month
Site Manager	£200 any one item	£250 in any one month

- All cards are issued to individual members of staff who must sign the Bank's cardholder employee agreement as acceptance of the terms and conditions;
- Individual cardholders have sole responsibility for the use of and security of the card. This is not transferable;
- Cardholders should treat the card like their own and take the card home overnight in line with the Purchasing Cardholder Employee Agreement (and not keep it in the School's safe). Cardholders or the School may be liable for any losses incurred otherwise;
- Lost cards should be reported by the individual to the Bank immediately;
- Purchasing cards must only be used for School purchases;
- Each cardholder must keep a monthly log of transactions made. This will ensure a record of transactions made to date is held and enable a clear reconciliation of the totals with the monthly bank statements;
- A VAT receipt should be obtained at the point of sale for all transactions where available and a breakdown of the VAT recorded on the monthly log;
- Goods received should be checked to confirm that all items have been received where necessary. The card holder should evidence this on the monthly log;
- Each month, a bank statement will be issued to the cardholder who is responsible for verifying all entries made. Any anomalies should be followed up as necessary. The cardholder should sign the statement and log as evidence of the reconciliation;
- The Purchase Card holder should rule off the monthly log after reconciling to confirm that only orders actually placed by them have been entered.

- The reconciled statement must be submitted to the Headteacher via internet expenses, and a paper copy of the monthly log and relevant receipts given to the Headteacher, for authorisation. This will act as formal confirmation that all pending items are valid and that the reconciliation has been carried out.
- The Chair of Governors should authorise the Headteacher's transactions in their capacity as Line Manager. For practical purposes, the administrative part of processing the transactions can be carried out at the School and the Chair countersign the Headteacher's purchase card statement(s) on a termly basis to evidence their review.

