

Dated

2010

- (1) NORTH EAST LINCOLNSHIRE COUNCIL
- (2) BALFOUR BEATTY WORKPLACE LIMITED

Delegation Protocol
Schedule 3

The attached Contract Procedure Rules contain the guidance on good procurement practice. For the avoidance of doubt, the Partner shall only be required to adhere to the North East Lincolnshire Policies referred to in this document and not those of North Lincolnshire Council.

Working Draft Only



Contract Procedure Rules

Version 3.0
9 February 2010

CONTENTS

	Introduction
1	Compliance
2	Procedural Thresholds
3	Technical Standards & Specifications
4	Procedure
4.1	Options Appraisal
4.2	Supplies/Services/Works Contracts below £10,000
4.3	Supplies/Services/Works Contracts £10,000 to £50,000
4.4	Supplies/Services Contracts £50,000 to EU Threshold
4.5	Works Contracts above EU Threshold for Supplies/Services and below EU Threshold for Works
4.6	Supplies/Services/Works Contracts above EU Thresholds
5	Corporate Contracts
6	Lead Services
7	In-House Providers
8	Approved Contractor Lists
9	Framework Agreements
10	Concession Contracts
11	Use of the Competitive Dialogue Procedure Governed by EU Directives
12	Transfer Of Undertaking (Protection Of Employment) Regulations 2006 - TUPE
13	Exceptions
14	Tender Submission Errors
14.2	Electronic Submission Errors
14.3	Clerical Errors (other than errors affecting the bid figure/s)
14.4	Errors affecting the bid figures
15	Financial Appraisal , Guarantees and Bonds
16	Prevention of Corruption
17	Reporting of Tenders
18	Disposal & Write-Off of Assets , Land and Property
19	Schools
20	Provision of Services to External Bodies
	Appendix I – Definitions & Glossary

Contract Procedure Rules

INTRODUCTION This Introduction does not form part of Contract Procedure Rules

Contract Procedure Rules (CPRs) are the framework of mandatory procedures that must be followed when the council spends money on the supplies, services and works it needs to deliver services to local people. They are an integral part of the council's Constitution.

Whether the driver is strategic policy delivery or support for ongoing operations, authorities must adhere to government procurement policy, which is to buy the goods and services that it needs to deliver world-class public services, through a fair and open procurement process, guarding against corruption and seeking to secure value for public funds with due regard to propriety and regularity.

ALL council employees, or any authorised person undertaking a procurement or disposal exercise on behalf of the council, must use the CPRs in conjunction with the Corporate Procurement Manual, which provides a source of practical advice and guidance, and the NLC Finance Manual, or the NELC Financial Procedure Rules.

All documents are available on the council's intranet (<http://intranet.nelincs.gov.uk> and NLC Intranet).

As a public authority, the council has a duty to ensure equality, transparency and fairness of treatment of the market to trade with it. If it fails in this duty, a potential supplier or contractor may have justifiable cause for complaint. The council may be required to pay compensation if such a complaint were upheld and, in addition, a contract may be rendered ineffective, and civil financial penalties imposed on the council. In addition, officers and members may also be exposed to personal liability.

CPRs have five main purposes:

- to protect council staff and members from undue criticism or allegation of wrong doing
- to comply with the law governing spending of public money
- to provide a legal and auditable framework for the councils' procurement activities
- to help councils obtain value for money so that, in turn, value for money services may be provided to the public
- to support the delivery of the joint Corporate Procurement Strategy

Contract Procedure Rules

1 **COMPLIANCE**

- 1.1 The procurement of every contract entered into by or on behalf of the council or its **schools**, regardless of value or origin of the funding, shall comply with all EU Directives and UK legislation, and with the council's Financial Regulations, Finance Standing Orders, CPRs and the Corporate Procurement Manual. **It is the responsibility of directorate and service heads to ensure compliance with these requirements.**

The CPRs apply to all the supplies, services and works we buy as detailed below:

CPRs APPLY	CPRs DO NOT APPLY
<ul style="list-style-type: none"> • Where we procure from external organisations (public, private or voluntary) • Where we nominate a sub-contractor or supplier • Where we procure on another body's behalf • Where payment is made to the council • Where a service or works concession contract is proposed 	<ul style="list-style-type: none"> • Where requirements are sourced and delivered internally • BSF Exclusivity Agreement¹ • Disposal of land and property² • Foundation Schools and Academies

Note 1 : The BSF Exclusivity Agreement covers secondary schools capital construction valued at £100,000 and above, and secondary schools ICT valued at £100,000 and above.

Note 2 : **Where the disposal of land and/or property potentially establishes a works concession contract, the advice of Pannel must be sought.**

- 1.2 Where the value of the requirement exceeds the relevant EU threshold for services, there must not be a distinction between Part A and Part B Services. The procedure followed shall be that applicable to Part A Services in all instances regardless of the nature of the service. Departure from the Part A Services procedure must have the prior approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC).
- 1.3 All procurement of services shall comply with the North and North East Lincolnshire [COMPACT](#) Code of Good Practice for Funding and Procurement
- 1.4 No member of the council or officer acting alone without proper authority shall enter, either orally or in writing, into any contract in the council's name.

2 **PROCEDURAL THRESHOLDS**

- 2.1 Where the value of any quotation or tender received, and recommended for acceptance, exceeds the upper threshold of the original procedure by more than 5%, then the procurement must be aborted and re-started in compliance with the CPRs which apply to the new procedural threshold. Any exception must have the approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC).
- 2.2 The EU thresholds that apply will be those advised by the Office of Government Commerce as detailed below. These thresholds are valid until 31 December 2012.

	Supplies	Services	Works
Public Sector Contracting Authorities	£156,442	£156,442	£3,927,260

Contract Procedure Rules

- 2.3 In determining which threshold applies, the whole-life costing (excluding VAT) of the proposed contract should be considered. Service Areas and Directorates must not disaggregate their purchase to avoid the requirements of the CPRs. Where the duration of the contract is unknown, or uncertain, its cost over a **four year** period should be calculated.

3 TECHNICAL STANDARDS & SPECIFICATIONS

- 3.1 Where an appropriate International, European or British Standard Specification or British Standard Code of Practice is in force at the date of the procurement, every specification and contract shall require that all goods and materials used or supplied and all the workmanship shall be at least of the standard required by such Standard or Code of Practice or its equivalent.

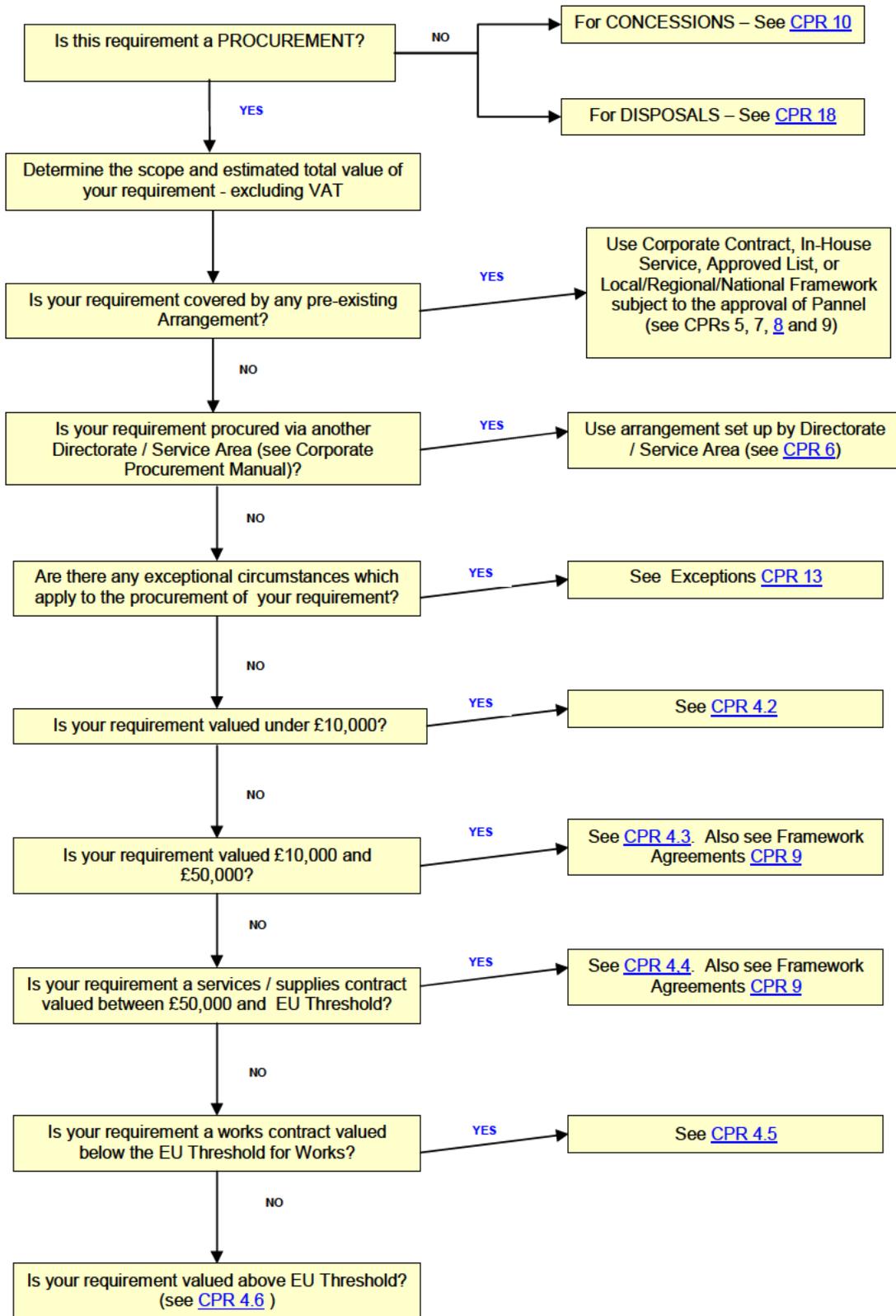
4 PROCEDURE

- 4.1 The options for satisfying the defined requirement must be fully assessed by conducting an “options appraisal”. This formal, evidence-based analysis will apply equally to supplies, services or works. Where an option to proceed with a competitive procurement exercise has been chosen, having obtained approval budget from the budget holder and, where applicable, relevant Deputy Director (NELC) or Service Director (NLC) for the business case and budget, the following flow chart will determine the appropriate procedure to be used:

NB Where the level of risk is high for a low value contract, a higher value procedure may be adopted.

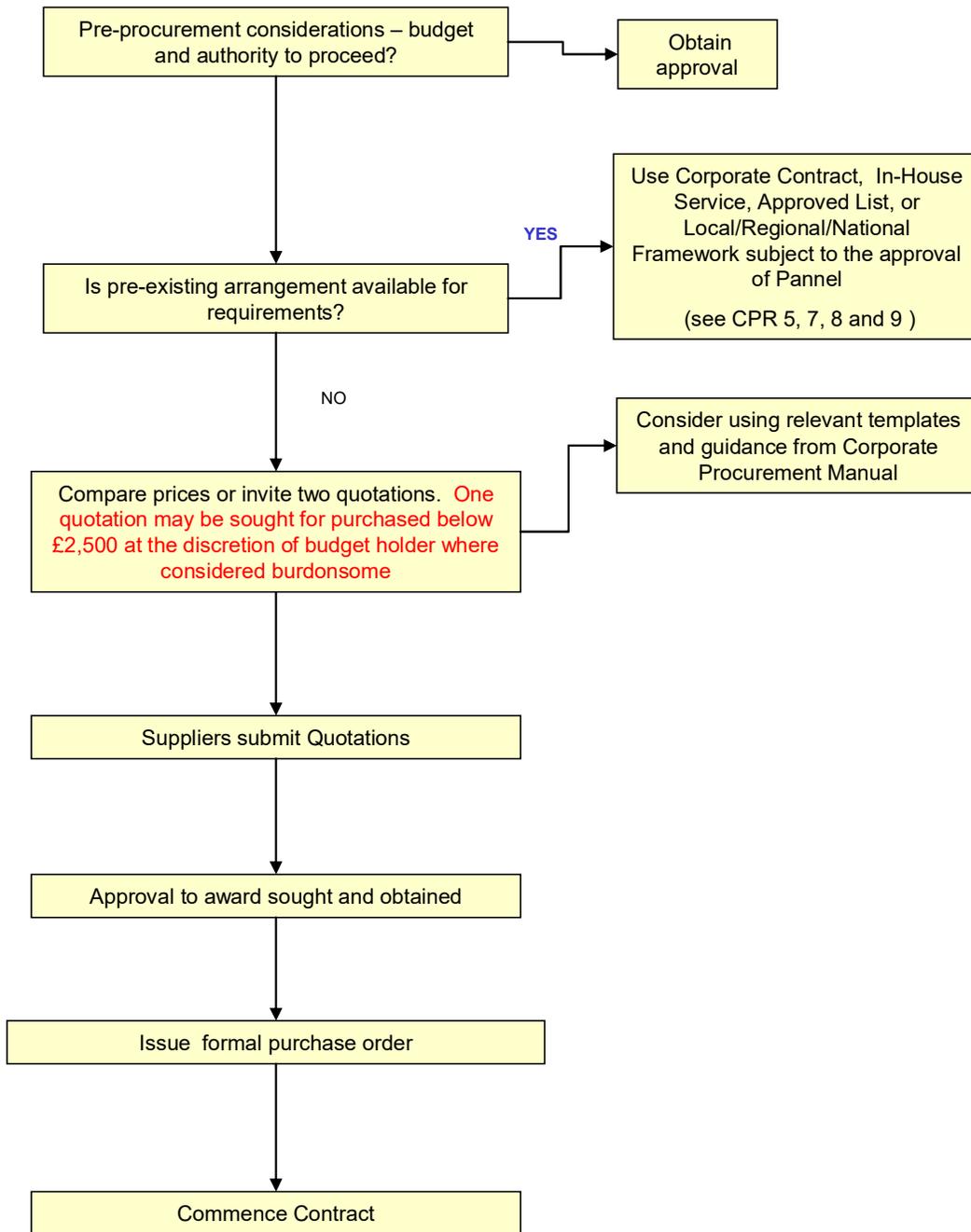
Contract Procedure Rules

Contract Procedure Rules



Contract Procedure Rules

4.2 Supplies/Services/Works Contracts below £10,000



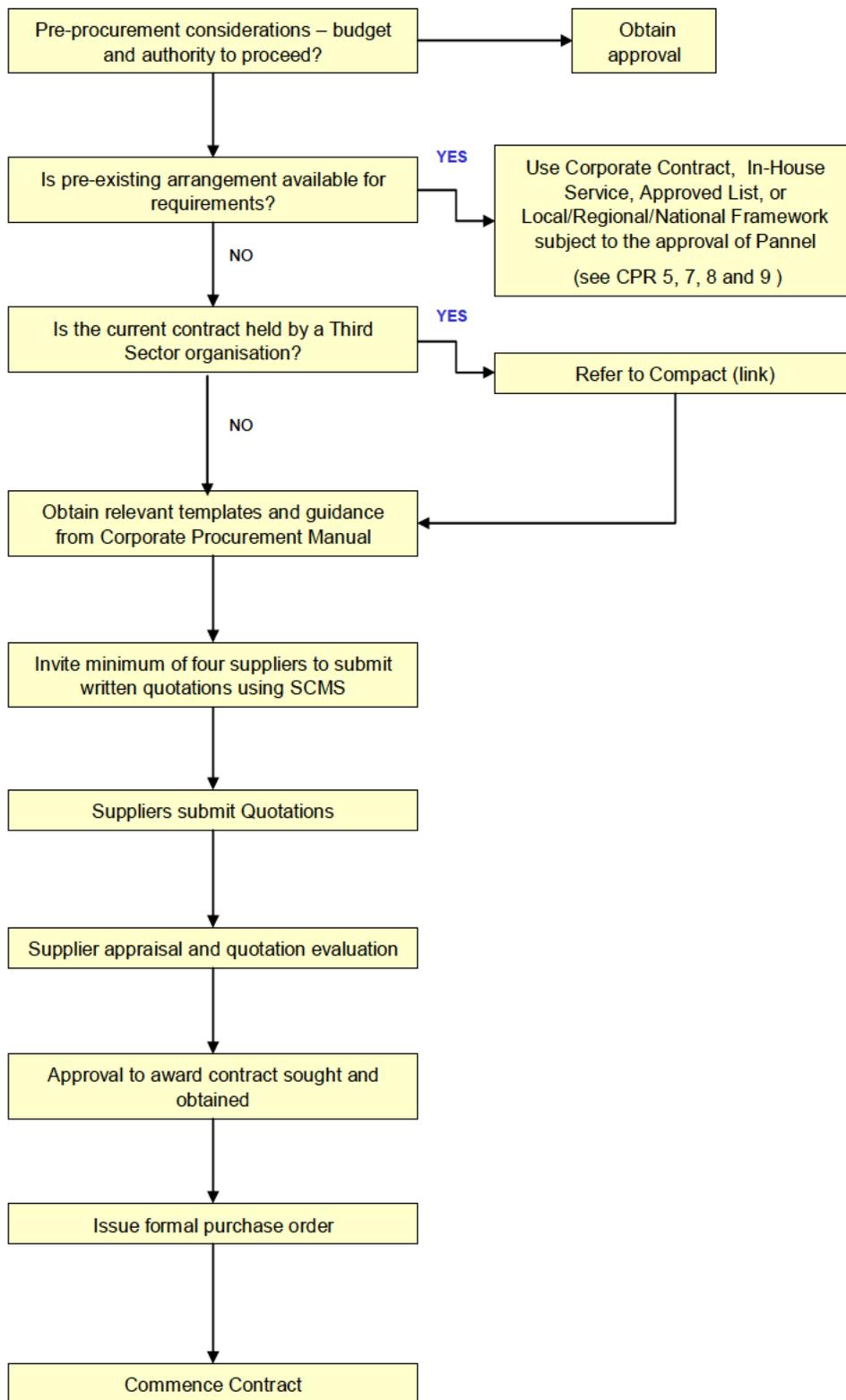
Contract Procedure Rules

Supplies/Services/Works Contracts below £10,000

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget and obtain budget holder approval.	
Competitive Process	
Consider, in consultation with Pannel, whether the requirement needs to be procured in accordance with the council's Sustainable Procurement Policy.	
Compare prices or seek two comparable quotations.	
For purchases below £2,500 where this is not considered advantageous or administratively efficient, one quotation may be sought at the discretion of the budget holder, otherwise seek approval from Pannel.	
Written formats may include fax, e-mail, catalogue and website pages or copies, advertisements or marketing material, price lists, letters, etc.	
Advertisement	
No obligation to advertise.	
Optional – Greater Grimsby Business Directory and SCMS	Optional – SCMS
Any advertisement shall specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution and state the last date and time when expressions of interest or tenders will be acceptable, and shall comply in all respects with the requirements of the relevant UK legislation.	
Receiving & Opening of Quotations	
Within Directorate or Service Area, addressed to the procuring officer or nominee at the address specified by that person for its return.	
Retain copies of quotations for audit trail.	
Evaluation	
Evaluate on the basis of :	
The lowest compliant quotation where payment is made by the council; or	
The highest compliant quotation where payment is made to the council, eg a concession contract	
Compliant means the bid should be fully capable of meeting all fitness for purpose requirements in terms of specification, price, quality, delivery, etc.	
Authorisation to Award	
Obtain budget holder approval.	
Execution	
A formal purchase order shall be issued specifying the supplies, services or works and setting out prices and terms of payment.	
Records & Documentation	
The Service Area or Directorate shall retain records of the procurement exercise in accordance with the council's approved record management or document retention policy.	

Contract Procedure Rules

4.3 Supplies/Services/Works Contracts £10,000 to £50,000



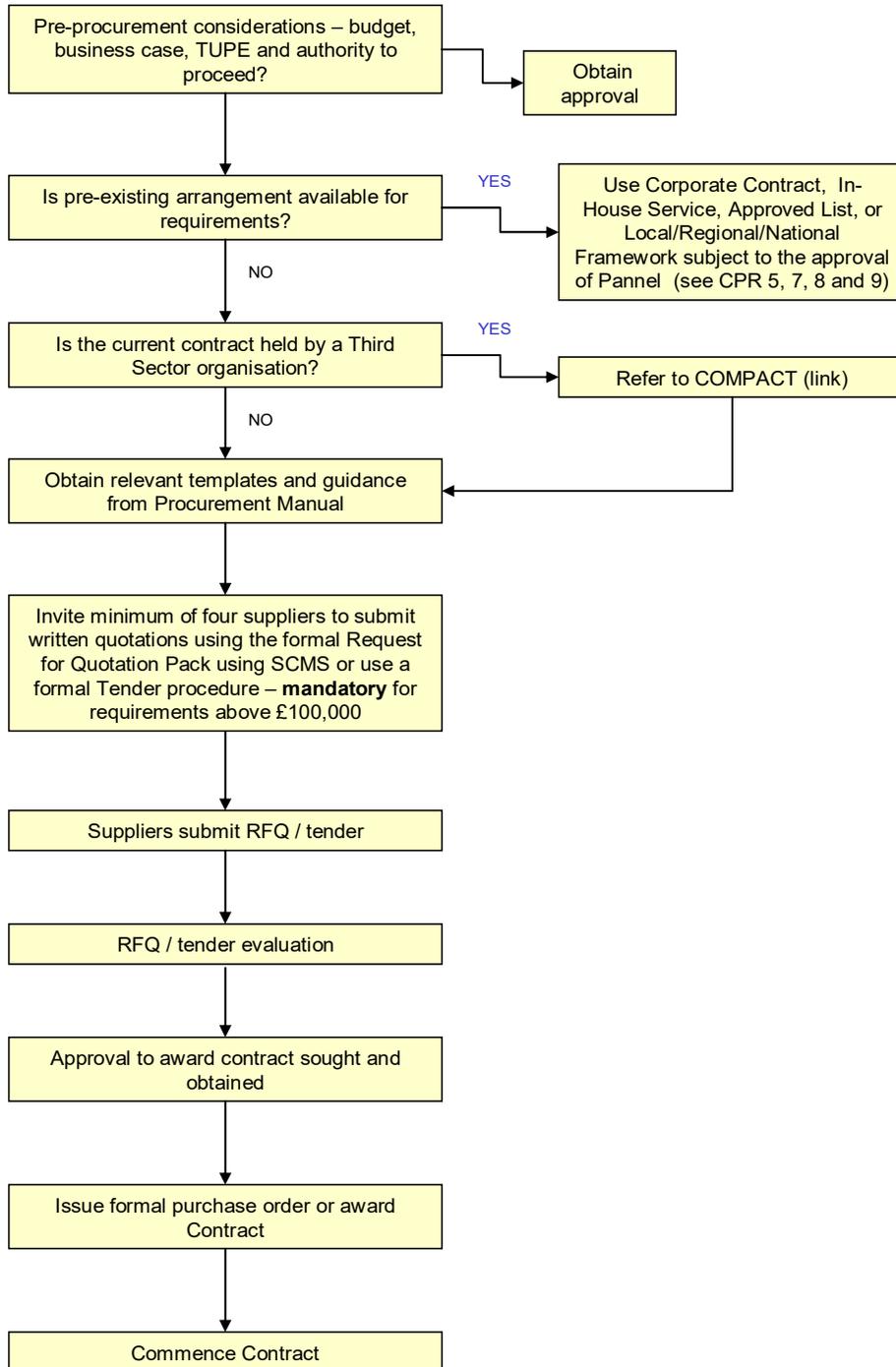
Contract Procedure Rules

Supplies/Services/Works Contracts £10,000 to £50,000

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget and obtain budget holder approval.	
Competitive Process	
Consider, in consultation with Pannel, whether the requirement needs to be procured in accordance with the council's Sustainable Procurement Policy.	
Seek a minimum of four written quotations using the basic Quotation template where considered helpful. The council's approved Terms & Conditions must be used and the process must be fully managed using SCMS.	
Advertisement	
Mandatory – Open advertisement on SCMS with indicative contract values published. A closed process with pre-determined tenderers may be used with the prior approval of Pannel if response levels to any advert are likely to be burdensome to manage.	
Optional – Greater Grimsby Business Directory	
Any advertisement shall specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution and state the last date and time when expressions of interest or tenders will be acceptable, and shall comply in all respects with the requirements of the relevant UK legislation.	
Notify VANEL and VANL if considered to be a TSO opportunity	
Receiving & Opening of Quotations	
Within the Service Area or Directorate using the SCMS system by an independent person, ie a person not associated with the purchase or project.	
Evaluation	
Evaluate on the basis of : The lowest compliant quotation where payment is made by the council; or The highest compliant quotation where payment is made to the council, eg a concession contract.	
Compliance means the bid should be fully capable of meeting all fitness for purpose requirements in terms of specification, price, quality, delivery, etc.	
Optionally evaluate using The Most Economically Advantageous Tender (MEAT) , and ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers.	
Negotiation	
No negotiation with the existing or potential contractors shall be carried out without the approval and guidance of Pannel.	
Authorisation to Award	
Obtain budget holder approval. If only one response is received, the approval of the Service Director Finance (NLC) or Executive Director Business Services (NELC) must be obtained prior to accepting the quotation.	
Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.	
Execution	
A formal purchase order shall be issued specifying the supplies, services or works and setting out prices and terms of payment.	
Records & Documentation	
The Service Area or Directorate shall retain records of the procurement exercise, including the original signed copy of the contract where applicable, in accordance with the council's approved record management or document retention policy.	

Contract Procedure Rules

4.4 Supplies/Services/Works Contracts £50,000 to EU Threshold



Contract Procedure Rules

Supplies/Services/Works Contracts £50,000 to EU Threshold

NELC	NLC
Authorisation to Proceed with Procurement	
<p>Verify availability of budget. Approval must be obtained from the budget holder and the relevant Deputy Director (NELC) or Service Director (NLC).</p> <p>Where:</p> <ul style="list-style-type: none"> • there are possible council workforce and related TUPE implications; and/or • there are potentially significant economic development / sustainability implications; and/or • there are budget or policy implications (Full council approval may be necessary) <p>then the Deputy Director (NELC) or Service Director (NLC) will consult with the relevant Portfolio holder (NELC) or Cabinet Member (NLC).</p>	
Competitive Process	
<p>Consider, in consultation with Pannel, whether the requirement needs to be procured in accordance with:</p> <ul style="list-style-type: none"> • the SME Concordat • COMPACT • Council Skills Pledge • Sustainable Procurement Policy <p>Seek a minimum of four written competitive quotations using an openly advertised, formal RFQ (Request for Quotation) comprising:</p> <ul style="list-style-type: none"> • Clear instructions for the submission and pricing of quotations • A clear written specification of the request • A Quotation Reply Form • A Pricing Schedule • A Respondent's Questionnaire • The approved council Terms & Conditions. Where alternative Terms & Conditions are used, or amendments are made, seek guidance and approval from Legal and Democratic Services. <p>Alternatively, an open formal tender procedure may be used; a closed process may only be used with the prior approval of Pannel with tenders being invited from a minimum of four potential contractors. Note that a formal tender procedure is mandatory for project values above £100,000.</p> <p>Evaluate tenders on the basis of the Most Economically Advantageous Tender (MEAT) taking into account both quality and cost in the proportions appropriate to the particular contract. Ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers.</p> <p>The Invitation to Tender or RFQ must state that no tenders or quotes will be considered unless it is received by the date and time stipulated in the documentation. No tender or quote delivered in contravention of this rule shall be accepted without the approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p> <p>Where the cost element is less than 60%, referral should be made to Pannel who will seek prior approval from the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p> <p>The process must be fully managed using SCMS.</p>	
<p>Requests to use electronic auctions should be referred to Pannel who will seek authorisation from the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p>	

Contract Procedure Rules

Supplies/Services/Works Contracts £50,000 to EU Threshold continued

NELC	NLC
Advertisement	
<p>Mandatory – SCMS with indicative contract values published, Greater Grimsby Business Directory.</p> <p>Optional - One local newspaper, eg Grimsby Evening Telegraph</p>	<p>Mandatory – SCMS with indicative contract values published.</p> <p>Optional – One local newspaper, eg Scunthorpe Evening Telegraph</p>
<p>Any advertisement shall specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution and state the last date and time when expressions of interest or tenders will be acceptable, and shall comply in all respects with the requirements of the relevant UK legislation.</p> <p>Notify VANEL and VANL if considered to be a TSO opportunity.</p>	
Receiving & Opening of Quotations / Tenders	
<p>Managed using SCMS, kept confidential and opened by an independent tender opening officer who should be a representative of Legal & Democratic Services.</p> <p>Any arrangements shall be commensurate with the value of the contract in question.</p>	
Evaluation	
<p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) requirements previously disclosed, and the tenderer's ability to comply with any requisite standards or policy. Refer to CPR 14 for guidance on how to manage errors in tender submissions.</p>	
Post Tender Negotiation	
<p>No negotiation with the existing or potential contractors shall be carried out without the approval and guidance of Pannel.</p>	
Authorisation to Award	
<p>Must be obtained from the relevant Deputy Director (NELC) or Service Director (NLC) where consistent in all respects with council's Policy and Budget Framework.</p> <p>At least two tender responses must be received. If only one response is received, the approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC) must be obtained prior to accepting the quotation.</p> <p>Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.</p>	
Execution	
<p>The acceptance of the successful tenderer should be obtained in writing prior to sending the notification to the unsuccessful tenderer.</p> <p>All tenderers should be advised of the outcome of the tender exercise by means of writing. All unsuccessful tenderers should be given the opportunity to receive a debrief.</p>	

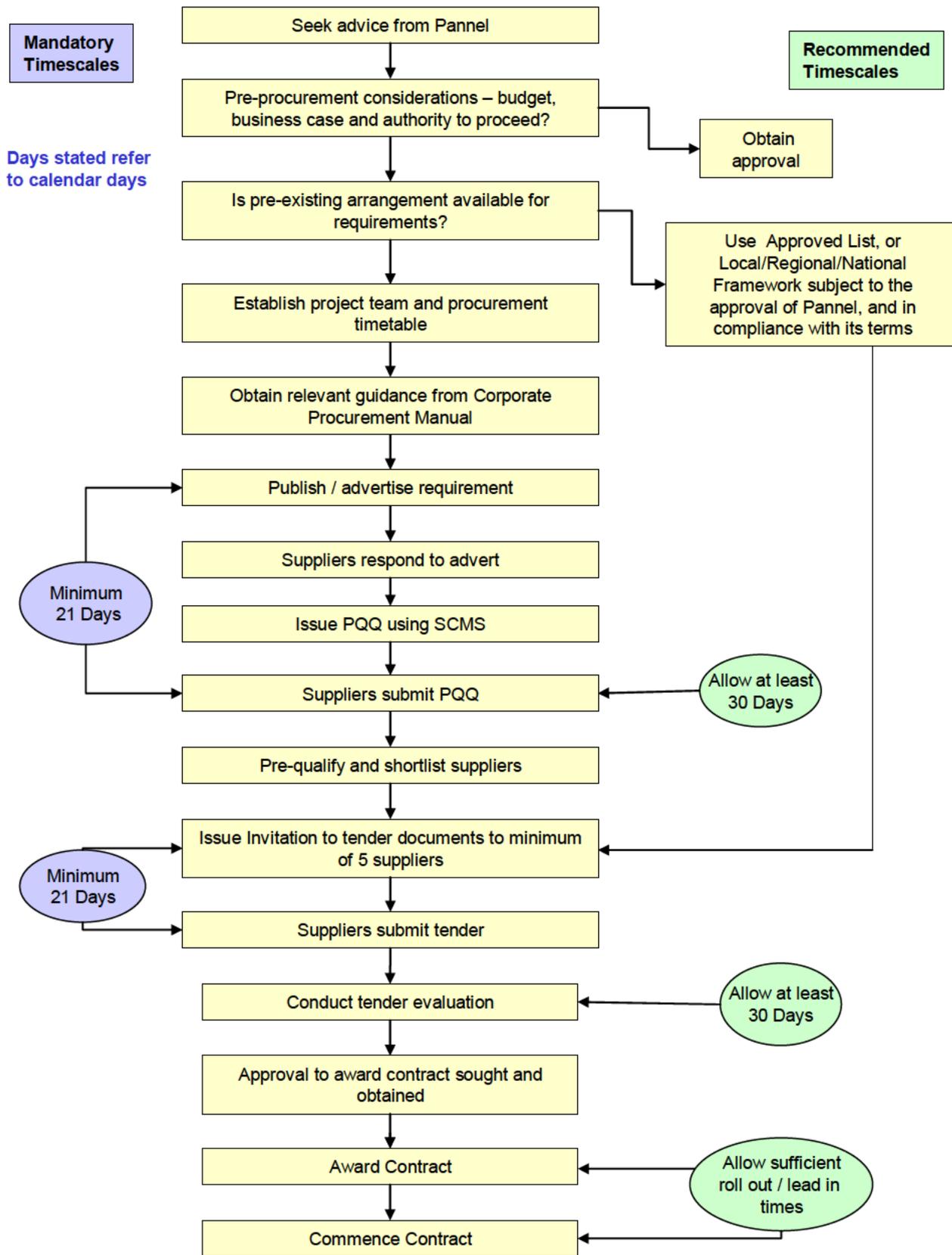
Contract Procedure Rules

Supplies/Services/Works Contracts £50,000 to EU Threshold continued

Execution continued
<p>Every contract as a minimum shall be in writing and specify:</p> <ul style="list-style-type: none">• the supplies or services to be provided and/or the work(s) to be executed;• the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;• the time within which the contract is to be performed; and• other conditions and terms as are required to protect the council's interest as may be agreed between the parties. <p>A formal purchase order or contract shall be issued specifying the supplies, services or works and setting out prices and terms of payment.</p>
<p>All contracts under £100,000 shall be signed by the relevant Executive Director (NELC) or Service Director (NLC).</p> <p>All contracts over £100,000 or where there has been deviation from the approved standard Terms & Conditions, shall be signed by the Executive Director Business Services (NELC) or the Service Director Legal and Democratic (NLC), attesting the Common Seal of the council as appropriate.</p> <p>Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above.</p>
Records & Documentation
<p>The Service Area or Directorate shall retain records of the procurement exercise, including the original signed copy of the contract if the value is below £100,000, in accordance with the council's approved record management or document retention policy.</p> <p>Where the contract value is over £100,000, the original signed copy shall be retained with the Executive Director Business Services (NELC), or the Service Director Legal and Democratic (NLC).</p>

Contract Procedure Rules

4.5 Works Contracts (above EU Threshold for Supplies/Services and below EU Threshold for Works)



Contract Procedure Rules

Works Contracts (above EU Threshold for Supplies/Services and below EU Threshold for Works)

NELC	NLC
Authorisation to Proceed with Procurement	
<p>Verify availability of budget. Approval must be obtained from the budget holder and the relevant Deputy Director (NELC) or Service Director (NLC) where the procurement is in line with the capital programme.</p> <p>Where the procurement falls outside of the capital programme, seek approval from the relevant Portfolio Holder (NELC) or Cabinet member (NLC).</p>	
Competitive Process	
<p>Establish a Project Team and procurement timetable. Project managers should ensure that the procurement is undertaken in line with the council's agreed project management framework, where appropriate.</p> <p>Consider, in consultation with Pannel, whether the requirement needs to be procured in accordance with:</p> <ul style="list-style-type: none"> • the SME Concordat • Council Skills Pledge • Sustainable Procurement Policy <p>Use a formal Tender procedure, and manage the process fully using SCMS. Following selection, tenders may be invited from a minimum of five potential contractors.</p> <p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) taking into account both quality and cost in the proportions appropriate to the particular contract. Ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The Invitation to Tender must state that no tenders will be considered unless it is received by the date and time stipulated in the Tender documentation. No tender delivered in contravention of this rule shall be accepted without the approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p> <p>Where the cost element is less than 60%, referral should be made to Pannel who will seek prior approval from the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p> <p>Where alternative Terms & Conditions are used, or amendments are made to the approved standard Terms & Conditions, seek guidance and approval from Legal and Democratic Services.</p> <p>Requests to use electronic auctions should be referred to Pannel who will seek authorisation from the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p>	
Advertisement (only applicable if not using Approved List)	
<p>Mandatory – Greater Grimsby Business Directory, SCMS with indicative contract values published.</p>	<p>Mandatory – SCMS with indicative contract values published.</p>
<p>Optional - one or more specialist trade or professional newspapers or journals where appropriate. Direct marketing is permissible to include organisations that may not see the opportunity to ensure local / regional / national competition. Notify VANEL and VANL if considered to be a TSO opportunity.</p>	
<p>Any advertisement shall specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution and state the last date and time when expressions of interest or tenders will be acceptable, and shall comply in all respects with the requirements of the relevant UK legislation.</p>	

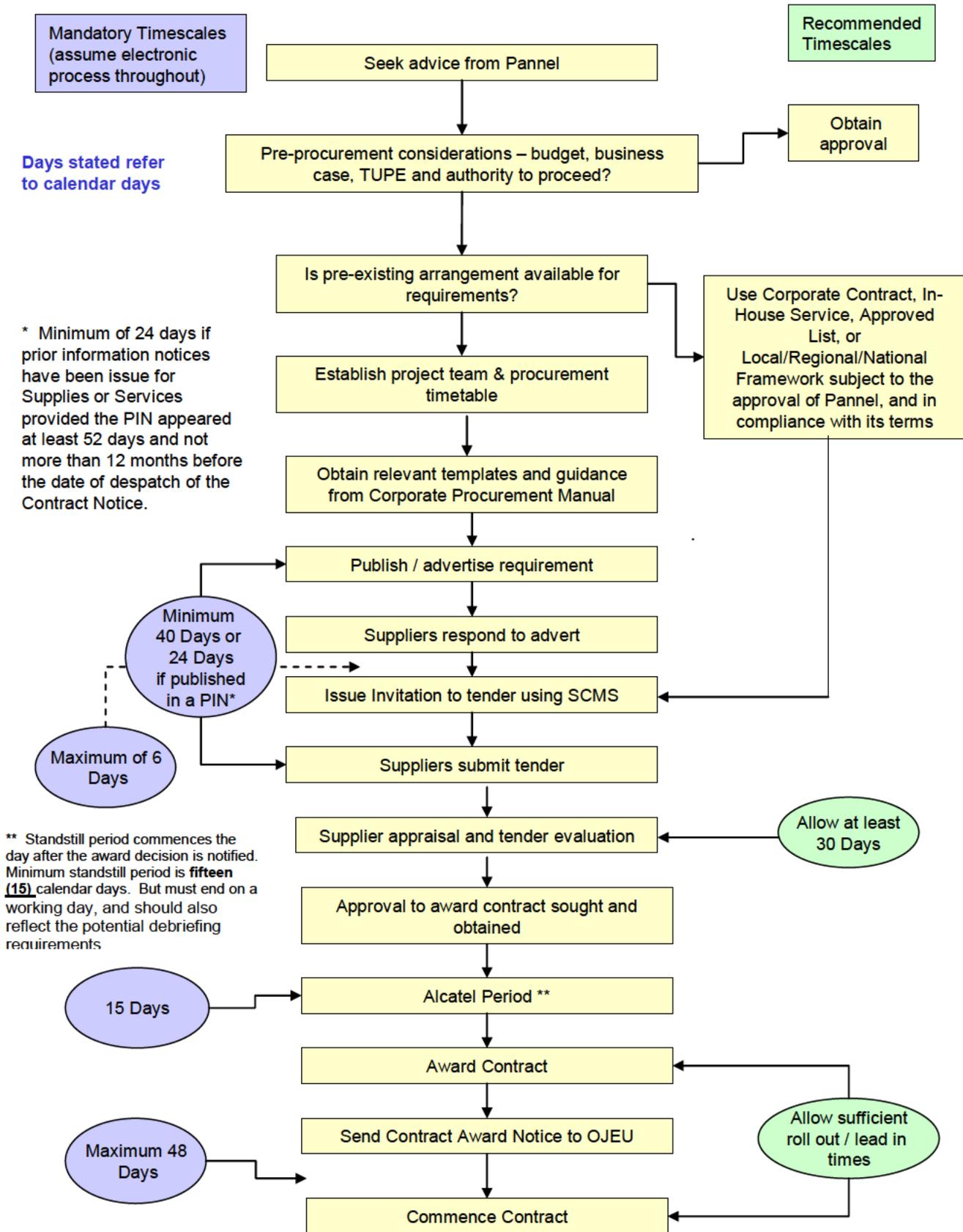
Contract Procedure Rules

NELC	NLC
Receiving & Opening of Bids	
<p>Managed using SCMS, kept confidential and opened by an independent tender opening officer nominated by the Executive Director Business Services (NELC) or the Service Director Legal and Democratic (NLC). The project manager or their nominee, and relevant Cabinet Member (NLC) or Portfolio Holder (NELC) may attend at their discretion.</p>	
Evaluating Tenders	
<p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) requirements previously disclosed, and the tenderer's ability to comply with any requisite standards or policy. Refer to CPR 14 for guidance on how to manage errors in tender submissions.</p>	
Post Tender Negotiation	
<p>No negotiation with the existing or potential contractors shall be carried out without the approval and guidance of Pannel.</p>	
Authorisation to Award	
<p>Must be obtained from the relevant Deputy Director (NELC) or Service Director (NLC) where consistent in all respects with council's Policy and Budget Framework.</p> <p>If only one response is received, the approval of the Service Director Finance (NLC) or Executive Director Business Services (NELC) must be obtained prior to accepting the tender.</p> <p>Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.</p>	
Execution	
<p>The acceptance of the successful tenderer should be obtained in writing prior to sending the notification to the unsuccessful tenderers.</p> <p>All tenderers must be advised of the outcome of the tender exercise in writing, and the following information must be included in the notice:</p> <ul style="list-style-type: none"> • the name of the successful tenderer • the award criteria and any sub-weightings used • the full reasons for the decision, including the characteristics of the successful tenderer • the relative advantages of the successful tenderer compared to the recipient organisation • the scores of the successful tendered and the organisation receiving the notice <p>Unsuccessful tenderers may request a general clarity-improving debrief.</p> <p>Every contract as a minimum shall be in writing and specify:</p> <ul style="list-style-type: none"> • the supplies or services to be provided and/or the work(s) to be executed • the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions • the time within which the contract is to be performed • liability, indemnity and insurance • other conditions and terms required to protect the council's interest as may be agreed between the parties. 	
<p>All contracts shall be signed by the Executive Director Business Services (NELC) or the Service Director Legal and Democratic (NLC), attesting the Common Seal of the council as appropriate. Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above.</p>	
Records & Documentation	
<p>The Service Area or Directorate shall retain records of the procurement exercise, in accordance with the council's approved record management or document retention policy.</p> <p>The original signed copy of the contract shall be retained by the Executive Director Business Services (NELC), or the Service Director Legal and Democratic (NLC).</p>	

Contract Procedure Rules

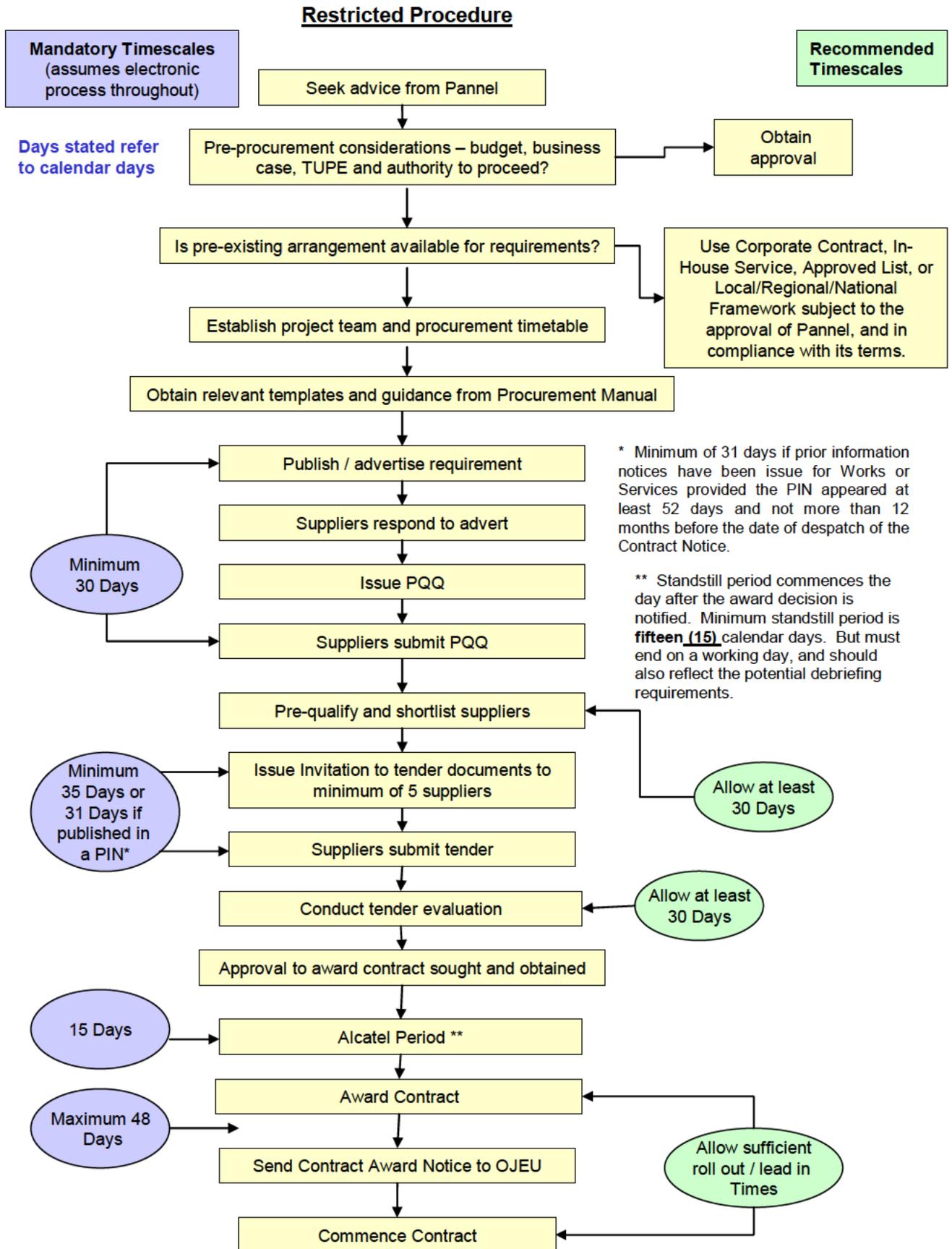
4.6 Supplies/Services Contracts above EU Thresholds

Open Procedure



Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds



Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget.	
<p>Seek advice from Pannel and determine the EU procedure to be used (Open, Restricted, Negotiated and/or Competitive Dialogue). Use of Negotiated and/or Competitive Dialogue Procedure <u>must</u> be approved by the Service Director of Finance in consultation with Service Director of Legal & Democratic Services (NLC), or Executive Director Business Services (NELC).</p> <p>Obtain approval from the budget holder and relevant Service Director (NLC) or Executive Director (NELC).</p> <p>Where:</p> <ul style="list-style-type: none"> • the project exceeds £1M; and/or • there are possible council workforce and related TUPE implications; and/or • there are potentially significant economic development / sustainability implications; and/or • there are budget or policy implications (Cabinet or full council approval may be necessary) <p>then the Service Director (NLC) or Executive Director (NELC) will consult with the relevant Cabinet Member (NLC) or Portfolio Holder (NELC).</p>	
Competitive Process	
<p>Establish a Project Team and procurement timetable. Project managers should ensure that any procurement is undertaken in line with the council's agreed project management framework, where appropriate.</p> <p>Consider, in consultation with Pannel, whether the requirement needs to be procured in accordance with:</p> <ul style="list-style-type: none"> • the SME Concordat • COMPACT • Council Skills Pledge • Sustainable Procurement Policy • Economic impact assessment <p>Use a formal Tender procedure, and manage the process fully using SCMS. Where a restricted procedure is used, tenders may be invited from a minimum of five potential contractors.</p> <p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) taking into account both quality and cost in the proportions appropriate to the particular contract. Ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The Invitation to Tender must state that no tenders will be considered unless it is received by the date and time stipulated in the Tender documentation. No tender delivered in contravention of this rule shall be accepted without the approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p> <p>Where the cost element is less than 60%, referral should be made to Pannel who will seek prior approval from the Service Director Finance (NLC) or the Executive Director Business Services (NELC).</p> <p>Project specific, alternative Terms & Conditions are likely to be necessary and guidance and approval must be sought from Legal and Democratic Services.</p>	

Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds continued

NELC	NLC
Competitive Process continued	
Requests to use electronic auctions should be referred to Pannel who will seek authorisation from the Service Director Finance (NLC) or the Executive Director Business Services (NELC).	
Advertisement	
Official Journal of the European Union (OJEU) approved and issued via Pannel. After publication of the OJEU notice, then:	
Mandatory – One local newspaper, Greater Grimsby Business Directory, SCMS	Mandatory –One local newspaper, SCMS
<p>Optional - one or more specialist trade or professional newspapers or journals where appropriate. Direct marketing is permissible, after publication of the OJEU notice, to include organisations that may not see the opportunity to ensure local / regional / national competition. Notify VANEL and VANL if considered to be a TSO opportunity.</p> <p>Any advertisement shall specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution and state the last date and time when expressions of interest or tenders will be acceptable, and shall comply in all respects with the requirements of the relevant EU Directive or UK legislation.</p> <p>Only information published on the OJEU notice can be included in any subsequent advertisements placed.</p>	
Receiving & Opening of Tenders	
Managed using SCMS, kept confidential and opened by an independent tender opening officer nominated by the Executive Director Business Services (NELC) or the Service Director Legal and Democratic (NLC). The project manager or their nominee, and relevant Cabinet Member (NLC) or Portfolio Holder (NELC) may attend at their discretion.	
Evaluating Bids	
Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) requirements previously disclosed, and the tenderer's ability to comply with any requisite standards or policy. Refer to CPR 14 for guidance on how to manage errors in tender submissions.	
Post Tender Negotiation	
No negotiation with the existing or potential contractors shall be carried out without the approval and guidance of Pannel.	
Authorisation to Award	
<p>Must be obtained from the relevant Executive Director (NELC) or Service Director (NLC) where consistent in all respects with council's Policy and Budget Framework. If only one response is received, the approval of the Service Director Finance (NLC) or Executive Director Business Services (NELC) must be obtained prior to accepting the tender.</p> <p>An information report setting out the findings of the procurement exercise, together with the outcome, should be provided to the relevant Portfolio Holder (NELC) or Cabinet Member (NLC).</p> <p>Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.</p>	

Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds continued

NELC	NLC
Alcatel Standstill Period	
<p>All tenderers, and any candidates who have not already received notification of their rejection for example at PQQ stage, must be advised of the preferred tenderer status in writing, using SCMS. The following information must be included in the notice or pre-Alcatel award letter:</p> <ul style="list-style-type: none">• the name of the successful tenderer• the award criteria and any sub-weightings used• the full reasons for the decision, including the characteristics of the successful tenderer• the relative advantages of the successful tenderer compared to the recipient organisation• the reasons why the recipient did not meet the technical specification, if applicable• the scores of the successful tenderer and the organisation receiving the notice• the length of the standstill period, and anticipated end time and date. <p>All Alcatel letters must be approved by Pannel, and signed by Legal and Democratic Services. Hard copies of the letters must be posted to all recipients. Unsuccessful tenderers may request a general clarity-improving debrief.</p> <p>Following this notification, a mandatory minimum fifteen (15) calendar day standstill period must be observed prior to final award. The period commences on the day following electronic issue of the pre-Alcatel award letters and must end on a working day. If a legal challenge of the award decision has not been brought during the standstill period, issue the post-Alcatel award letter to the successful tenderer.</p>	
Execution	
<p>The acceptance of the successful tenderer should be obtained in writing.</p> <p>Every contract as a minimum shall be in writing and specify:</p> <ul style="list-style-type: none">• the supplies or services to be provided and/or the work(s) to be executed;• the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;• the time within which the contract is to be performed; and• other conditions and terms as are required to protect the council's interest as may be agreed between the parties.	
<p>The contract must be signed by the Executive Director Business Services (NELC) or the Service Director Legal and Democratic (NLC), attesting the Common Seal of the council as appropriate.</p>	
OJEU Award Notice	
<p>Contract award must be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of the post-Alcatel award letter. This is the responsibility of Pannel.</p>	
Records & Documentation	
<p>The Service Area or Directorate shall retain records of the procurement exercise, in accordance with the council's approved record management or document retention policy.</p> <p>The original signed copy of the contract shall be retained by the Executive Director Business Services (NELC), or the Service Director Legal and Democratic (NLC).</p>	

Contract Procedure Rules

5 **CORPORATE CONTRACTS**

5.1 Where a Corporate Contract exists for supplies, services or works, it must be used. Only in the following circumstances will a request for exception be considered:

- Availability - The requirement cannot be obtained through a corporate contract; or
- Timescale - The requirement cannot be obtained in the required timescale through a corporate contract; or
- Specification - The requirement cannot be obtained with the required specification through a corporate contract.

6 **LEAD SERVICES**

6.1 Directorates or Services Areas undertaking procurement of the following supplies, services or works must be guided by the lead service indicated:

Requirement	Lead Service (NELC)	Lead Service (NLC)
Cleaning Services	Asset & Facilities Management	Neighbourhood & Environmental Services
Civil Engineering and non-building construction works	Engineering Services / Highways & Planning	Highways & Planning
Building works, accommodation and facilities management where a work permit MUST be obtained	Asset & Facilities Management; Architectural Consultancy	Asset Management & Culture
Energy, Fuel & Water	Architectural Consultancy	Asset Management & Culture
Financial & Leasing Services	Finance	Financial Services
ICT requirements / services	ICT	Asset Management & Culture
Legal Services	Law & Democratic Services	Legal & Democratic Services
Printing Services	Strategic Business Support – IT Print Unit	Community Planning & Resources
Commissioning of social or personal care services, and placement activity	Children & Family Services; Community Services	Children & Young People Service; Adult Services
Training & Development Services	Human Resources; Learning & Development	Human Resources
Transport Services	Children & Family Services; Community Services; Highways & Transport	Highways & Planning
Vehicles	Neighbourhood Services	Neighbourhood & Environmental Services
Waste Disposal	Neighbourhood Services	Neighbourhood & Environmental Services

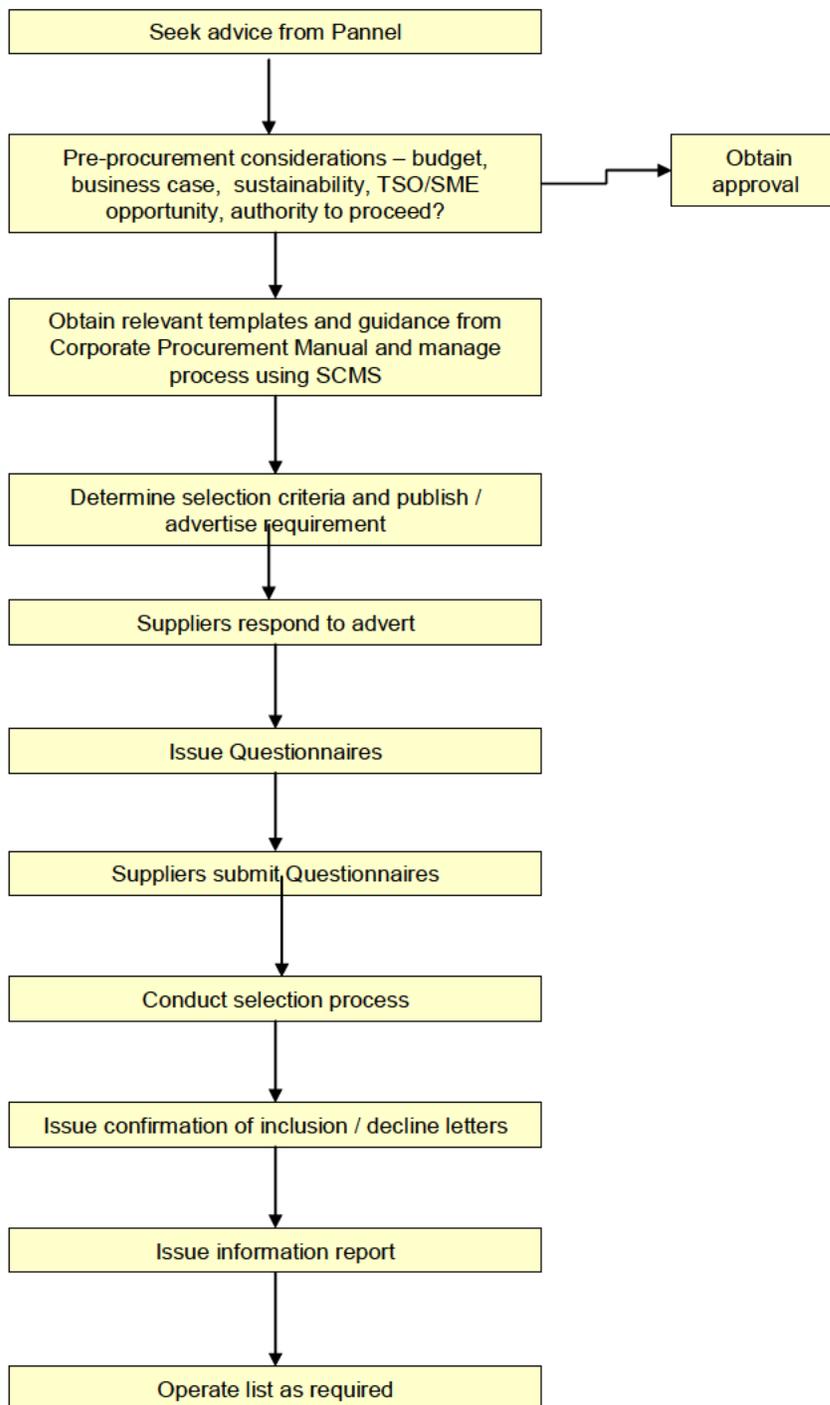
7 **IN-HOUSE PROVIDERS**

7.1 Where a decision to procure has been made, any in-house provider should be considered as potential providers of the required supplies, services or works, and should be invited to submit bids as part of the competitive process and subject to the same procedures.

7.2 No Service Area or Directorate of the council shall submit a tender or quotation to any other Service Area or Directorate of the council to perform work or supply goods or services that they do not have the capacity to deliver without recourse to external suppliers, except where the proposed external element is of a specialist nature.

8 APPROVED CONTRACTOR LISTS

8.1 Where an Approved Contractor List is proposed to be established, the process for this is set out below.



APPROVED CONTRACTOR LISTS

NELC		NLC	
Authorisation to Proceed with Procurement			
Verify availability of budget.			
Seek advice from Pannel on intention to form or review any Approved Lists. Obtain approval from the budget holder and Service Director Finance (NLC) or Executive Director Business Services (NELC).			
Competitive Process			
Establish a Project Team and procurement timetable. Project managers should ensure that any procurement is undertaken in line with the council's agreed project management framework, where appropriate.			
Use a formal open procedure, and manage the process fully using SCMS.			
All contractors applying to go on the Approved List shall be required to make a formal application using a standard questionnaire in which the minimum acceptable standards, the criteria for which has been pre-determined by the project team, shall be stated.			
Any such list shall:			
<ul style="list-style-type: none"> • Specify the maximum number of potential contractors to be included; • specify the maximum values of concurrent contracts, amounts or categories of supplies/services/works for which each contractor is acceptable; • specify the guidelines for rotation of contractors; • be reviewed at regular intervals not exceeding 4 years; • be open for use by all Service areas of the council 			
Where alternative Terms & Conditions are used, or amendments are made to the approved standard Terms & Conditions, seek guidance and approval from Legal and Democratic Services.			
Advertisement			
Mandatory –One local newspaper, Greater Grimsby Business Directory, SCMS.		Mandatory – One local newspaper, SCMS.	
Optional - one or more specialist trade journals where appropriate. Direct marketing is permissible, after publication of the OJEU notice, to include organisations that may not see the opportunity to ensure local / regional / national competition.			
Receiving & Opening of Submissions			
Managed using SCMS, kept confidential and opened by an independent tender opening officer nominated by the Executive Director Business Services (NELC) or the Service Director Legal and Democratic (NLC). The project manager or their nominee, and relevant Cabinet Member (NLC) or Portfolio Holder (NELC) may attend at their discretion.			

Contract Procedure Rules

NELC	NLC
Contractor Selection	
<p>Applicants shall be selected on the basis of a financial, technical, health & safety, environmental, and diversity appraisal identified in the questionnaire.</p>	
Authorisation to Award	
<p>Must be obtained from the relevant Executive Director (NELC) or Service Director (NLC) where consistent in all respects with council's Policy and Budget Framework. An information report setting out the findings of the procurement exercise, together with the outcome, should be provided to the relevant Portfolio Holder (NELC) or Cabinet Member (NLC).</p> <p>Upload selection results and award using SCMS</p>	
Execution	
<p>Confirmation of inclusion letters, or decline letters shall be issued using SCMS.</p> <p>All unsuccessful tenderers should be given the opportunity to receive a debrief.</p>	
Operation	
<p>In-house providers shall be asked to bid on every occasion where they are capable and have expressed an interest in providing the works or services in question, unless for any reason the in-house provider decline to bid.</p> <p>The maintenance of the Approved List is the responsibility of the relevant managing Directorate or Service Area.</p> <p>Any addition, suspension, or deletion of contractors will be determined under delegated powers by the relevant Executive Director (NELC) or Service Director (NLC).</p> <p>The Approved List holder shall issue an annual report to the relevant Portfolio Holder (NELC) or Cabinet Member (NLC) which shall include details of any such amendments.</p>	
Records & Documentation	
<p>The Service Area or Directorate shall retain records of the procurement exercise, in accordance with the council's approved record management or document retention policy. A record shall be kept of the selections made on each occasion that an invitation to quote or tender is used.</p>	

9 FRAMEWORK AGREEMENTS

- 9.1 A Framework Agreement must be established where a Service Area or Directorate has an on-going requirement for supplies, services or works of a similar type which, when aggregated, exceed £50,000 a year, but may be established for lower values where considered beneficial. The Framework Agreement is to be established in accordance with the requirements of CPRs with guidance from Pannel.
- 9.2 Service Areas and Directorates must not disaggregate their purchase to avoid CPR requirements.
- 9.3 The use of Framework Agreements established by other Public Buying Organisations must be authorised by the Service Director Finance (NLC) or the Executive Director Business Services (NELC).
- 9.4 All framework agreements must comply with the following:
- Maximum length 4 years
 - Specify which authorities are allowed to use the agreement
 - Estimated value shall include all potential call-offs by all authorities (where applicable)
 - Conclude with either one supplier, or a minimum of **three** suppliers
 - Contracts are formed when requirements are called-off
 - Award criteria and procedure for call-off should be as per the terms of the Framework Agreement

10 CONCESSION CONTRACTS

- 10.1 A Concession Contract is used where the council wishes to engage a third party to provide a service, with or without a fee payable by the council. Consideration for the service is in the form of the party ("the concessionaire") being given a right to charge the public for the services being provided. Advice from Pannel **must** be sought before engaging in any procurement relating to a Concession Contract.

11 USE OF THE COMPETITIVE DIALOGUE PROCEDURE GOVERNED BY EU DIRECTIVES

- 11.1 Where authorisation is obtained from the Service Director Legal & Democratic and the Service Director Finance (NLC) or the Executive Director Business Services (NELC) for the use of either the Negotiated or Competitive Dialogue Procedures, the provisions of the CPRs will be modified as may be required by the application of the Public Contracts Regulations 2006 in such a way as may be jointly agreed by the Service Director Finance and Service Director Legal and Democratic (NLC), or by the Executive Director Business Services (NELC), and approved by Cabinet or Council.

12 TRANSFER OF UNDERTAKING (PROTECTION OF EMPLOYMENT) REGULATIONS - TUPE

- 12.1 Careful consideration needs to be given as to whether TUPE shall apply at commencement of the proposed procurement.

Contract Procedure Rules

- 12.2 Where a proposed procurement may have implications for council employed staff, the relevant Service Director (NLC) or Executive Director (NELC) will seek appropriate Cabinet Member (NLC) or Portfolio Holder (NELC) approval. The advice of the Service Director Human Resources and Service Director Legal and Democratic (NLC) or the advice of the Deputy Director Human Resources & Organisational Development and the Executive Director Business Services (NELC) shall be obtained prior to the issue of any invitation to quote or to tender.
- 12.3 It should be remembered that TUPE will apply equally to existing contractors whose contracts might be terminated as a result of the re-procurement.

13 **EXCEPTIONS**

- 13.1 CPRs apply to all the supplies, services, works and concessions we buy, in addition to those assets we dispose of, other than where requirements are sourced and delivered internally, and where requirements are grant funded in which case Finance Procedure Rules apply. The following additional exceptions may be applied to purchases that fall below the EU threshold levels:
- a. Where important urgent repairs are required to maintain and ensure efficient and continuous service delivery due to the breakdown, or other failure, of buildings, plant, appliances, machinery or ICT equipment or software, subject to it not exceeding the EU thresholds when aggregated. Where the urgent repair relates to a repairs & maintenance item, and where the value exceeds £2,500.00, a retrospective request for exception is acceptable.
 - b. Where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ITC equipment or software can only be efficiently carried out and most economically supplied with regards to time, cost and speed of delivery by the original contractor or supplier (or their successors or other sole specialists), subject to it not exceeding the EU thresholds when aggregated.
 - c. Where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier.
 - d. Where an emergency situation exists as defined in the council's Emergency Plan.
 - e. When the council is properly required to adopt other procedures by a Government body, or the council is procuring subsidised public transport services.
 - f. Works orders placed with utility companies (e.g. for re-routing cables or pipework).
 - g. Orders placed against corporate contracts or other approved standing arrangements.
 - h. Where the Service Director Finance (NLC) or the Executive Director (NELC) is satisfied that there is only one potential supplier of the required supplies, services or goods.
 - i. Where the Service Director Finance (NLC) or the Executive Director (NELC) is satisfied that the use of a recognised regional or national framework arrangement will provide the most cost effective procurement solution.
 - j. Contracts for the acquisition or disposal of land and/or property.
 - k. Contracts of Employment.

Contract Procedure Rules

- I. Where contracts are extended beyond their specified term.
 - m. Where there are other exceptional circumstances, and then only with the approval of the Service Director Finance (NLC) or the Executive Director Business Services (NELC).
- 13.2 In all instances, with the exception of k. Contracts of Employment, a written request for exception, clearly documenting the reasons, must be notified in advance to the Service Director Finance (NLC) or the Executive Director Business Services (NELC). A standard form is optionally available for this purpose.

14 TENDER SUBMISSION ERRORS

14.1 The right to seek clarification must be expressly stated in the tender documentation.

14.2 Electronic Submission Errors

Where it is apparent that a genuine mistake has arisen during the electronic uploading process, eg a tenderer has submitted a blank document erroneously, the tenderer should be contacted and confirmation sought that this was not their intention. The tenderer should then be given the opportunity to re-submit. A statement must be issued to other tenderers advising of this decision.

14.3 Clerical Errors (other than errors affecting the bid figure/s)

Where it is apparent that there is a clerical error in the bid, or other factor that makes the terms of the bid unclear, clarification may be sought under the guidance of Pannel.

14.4 Errors affecting the bid figures

Where examination of bids reveals an error or discrepancy which would materially affect the bid figure(s), and hence the relative position of the tenderers should the error be corrected, then advice must be sought from Pannel, and subsequent approval obtained from the Service Director Finance (NLC) or the Executive Director Business Services (NELC) prior to seeking clarification from the tenderer.

15 FINANCIAL APPRAISAL, GUARANTEES AND BONDS

- 15.1 Financial appraisals shall be carried out by the Service Director Finance (NLC) or the Executive Director Business Services (NELC) for all contracts where the estimated contract value exceeds the threshold of any relevant EU Directive or UK legislation. These should also be carried out where there would be a significant effect on the delivery of council services in the event of contractor default or cessation of supply or service.
- 15.2 Where considered appropriate following a financial appraisal of a potential contractor against the council's minimum standards of financial standing and stability, the potential contractor may be required to provide a Parent Company Guarantee or a Performance Bond in a form acceptable to the council. Any such Guarantee or Bond shall only be required where it is deemed that there is a specific ascertainable risk.

16 PREVENTION OF CORRUPTION

- 16.1 Requests for quotations and invitation to tenders must inform prospective tenderers of the council's whistle blowing policy
- 16.2 All contracts must contain a clause to the effect that the council will be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if:
- the contractor, his employees or agents, shall have offered or given or agreed to give to any persons any gift or consideration of any kind as an inducement or reward in any way relating to the contract or any other contract with the council, or
 - in relation to any contract with the council, the contractor, his employees or agents, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, Section 117 of the Local Government Act 1972.

17 REPORTING OF TENDERS

- 17.1 Service Directors (NLC) or Executive Directors (NELC) will report to the Cabinet Member Corporate Services (NLC) or the Portfolio Holder for Performance, Efficiency & Resources (NELC) annually on:
- the performance of contracts and partnerships with a value over £1m a year; and
 - the results of any "one off" capital procurement projects over £1m completed during the previous 12 months.
- 17.2 Pannel will report annually on:
- all contracts let over £100,000 during the previous 12 months
 - all consultancy contracts let.

18 DISPOSAL & WRITE-OFF OF ASSETS, LAND AND PROPERTY

- 18.1 All disposals of assets, other than land or property, must be undertaken in line with the council's Finance Manual (NLC) or the Financial Procedure Rules (NELC), and with the guidance of Pannel.

19 SCHOOLS

- 19.1 Schools are required to comply with CPRs except where amended by the school's Scheme of Financial Delegation.

20 PROVISION OF SERVICES TO EXTERNAL BODIES

- 20.1 In all cases where the council proposes to supply services to, or carry out work for external bodies with or without charging, prior written advice should be obtained from the Service Director Legal and Democratic (NLC) or the Executive Director Business Services (NELC).

Contract Procedure Rules

APPENDIX I **Definitions & Glossary**

Aggregation	The identification of similar purchases made and combined aggregated requirements over a specified period of time
Appropriate Officer	Member of staff who has delegated authority to conduct procurement exercises
Approved List	A list of suppliers/providers who have already been approved as suppliers to the council
BSF	Building Schools for the Future
Cabinet Member	Elected member of the council who is responsible for the Cabinet Portfolio under which the service area sits
Closed Tender Process	A number of providers are selected by the council to be invited to participate in the tender opportunity as opposed to being “open” where anyone can submit an offer.
Commissioning	The process of specifying, securing and monitoring services to meet people’s needs at a strategic level. An ongoing process, it deals with whole groups of people, which distinguishes it from the process of buying individual services.
Constitution	The set of legal, administrative and legislative principles by which the council is governed, especially in relation to the rights of the people it governs.
Contract	Document setting out various particulars for the provision of supplies, services and works
Corporate Plan	The document by which the council sets out its priorities and objectives, and how it will achieve them
Corporate Procurement Manual	Document giving further advice and clarification regarding procurement and templates for use within the procurement process
Corporate Procurement Strategy	The document by which the council’s Strategic Procurement Unit sets out its priorities and objectives, and how it will achieve them
Councils	North East Lincolnshire Borough Council and North Lincolnshire Borough Council
CPR	Contract Procedure Rule

Contract Procedure Rules

Directorate	An area of the council that is responsible for specific service delivery
Disaggregation	The splitting down of requirements into lower value packages
Electronic auction	Price based procurement auction performed online following evaluation against non-price criteria. Usually a reverse auction where bidders repetitively lower their prices.
EU	European Union
Executive Director	Member of staff who is responsible for a Directorate of the council
Framework Agreement	An overarching agreement with a supplier where prices, specifications and terms are pre-agreed, but where there is no obligation to purchase. Requirements are "called off" as and when required over a specified timeframe.
ITT	Invitation to Tender
MEAT	Most Economically Advantageous Tender
Monitoring Officer	The Monitoring Officer ensures the lawfulness and fairness of council decision making and serves as the guardian of the council's Constitution and the decision-making process. Responsibilities include advising the council on the legality of its decisions, providing guidance to councillors and officers on the council's Constitution and its powers and assisting the Standards Committee in its role of promoting and maintaining high standards of conduct and probity within the council.
NELC	North East Lincolnshire Council
NLC	North Lincolnshire Council
OJEU	Official Journal of the European Union
Option Appraisal	The assessment of options in order to establish the most viable or feasible course of action
PIN	Prior Information Notice
PQQ	Pre-Qualification Questionnaire
Priorities	The areas that the council or Pannel believes are important in order to deliver services to citizens

Contract Procedure Rules

Procurement	The process of acquiring supplies, services and goods from third parties
Purchasing Consortia	A group of organisations joining together for the shared purpose of purchasing supplies, services or works
RFQ	Request for Quotation
Risk Management	The identification of potential risks and the arrangement of contingency plans to manage or minimise those risks
SCMS	Supplier Contract Management System web portal by which the council effectively advertises and manages quotations and tenders
SME	Small and Medium sized Enterprises
SME Concordat	A nationally recognised procurement agreement to encourage a mixed range of suppliers to help develop and stimulate a varied and competitive marketplace
Threshold Level	Sets out the amount of money (or contract value) by which different procurement procedures are followed
TSO	Third Sector Organisation. A non-governmental organisation which principally reinvests its surpluses to further social, environmental or cultural objectives
TUPE	The Transfer of Undertaking (Protection of Employment) Regulations 2006 (SI No.2006/246) as amended or re-enacted from time to time
Value for Money	Obtaining the most economical, efficient, and effective solution
VANEL / VANL	Voluntary Action North East Lincolnshire / Voluntary Action North Lincolnshire help and advise people working in the voluntary and community sector through development work, service provision and support, finance and policy provision
VAT	Value Added Tax