



CONTRACT PROCEDURE RULES FOR THE SCHOOLS OF LEEDS

APPLICABLE FROM 1 APRIL 2008 to 31 March 2010

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Schools Contract Procedure Rules 2008

CONTRACT PROCEDURE RULES FOR SCHOOLS (CPRs)

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CONTRACT PROCEDURE RULES FOR SCHOOLS
Applicable from 1 April 08 to 31 March 10

1.0 Compliance

- 1.1 Every contract entered into by a School shall be entered into pursuant to or in connection with the Schools functions and shall comply with:
- (a) all relevant statutory provisions
 - (b) the relevant European procurement rules (the EC Treaty, the general principles of community law and the European Union's public procurement directives implemented by the UK Regulations)
 - (c) the School's constitution including these Contracts Procedure Rules (School CPRs), the School's Financial Procedure Rules (School FPRs)/education Financial Manual FINANCIAL PROCEDURE RULES and the Leeds Scheme for Delegation/Section 52 SECTION 52 STATEMENT and
 - (d) the School's strategic objectives and policies including the school's Annual Procurement Plan.
- 1.2 The highest standards of probity are required of all headteachers, managers, teachers, officers (School and Council) and governors involved in the procurement, award and management of contracts.
- 1.3 Headteachers, managers, teachers, officers and governors are reminded of their responsibilities in relation to declaration of interest, gifts and hospitality and must ensure that they comply with their obligations set out in the relevant Financial Codes and Rules and any guidance issued in that regard.
- 1.4 Any failure to comply with any of the provisions of these CPRs shall be reported by the Headteacher to the Chair of Governors. Failure to comply may result in disciplinary action.
- 1.5 If any governor, manager, teacher or officer has concern or evidence that suggests that either the Headteacher and/or Chair of Governors has acted in an inappropriate way in respect of these CPRs then the matter must be referred to a full meeting of the Governing Body.

2.0 School Procurement Plan

- 2.1 For each financial year, the School must publish a Procurement Plan setting out its current contracts and contracts to be procured over £10,000 in value for the forthcoming financial year, including details as to how any devolved capital is to be allocated.
- 2.2 At the beginning of each financial year, the Council (on behalf of schools) shall publish a Prior Information Notice in the Official Journal of the European Union listing all contracts for services and supplies that are subject to the provisions of the European public procurement directives, that are to be procured during the forthcoming financial year.
- 2.3 The Headteacher shall keep a contracts register setting down details of the contracts awarded in the preceding twelve months including the basis on which those contracts were awarded, together with details of those contracts of £10,000 and above to be awarded during the forthcoming financial year.
- 2.4 The school will identify the relevant headteachers, managers, officers (School) and teachers responsible for carrying out the school's procurement by the type of services and supplies to be procured and by value. These authorised officers and their respective details shall be included as part of the Procurement Plan.

3.0 Delegated Authority

- 3.1 Any procurement carried out on behalf of the School may only be undertaken by headteachers, managers, teachers and officers (School) with the appropriate delegated authority to carry out such tasks as set out in the Procurement Plan. Headteachers, managers, officers (School) and teachers with delegated authority may only delegate to other managers, officers (School) and teachers who have suitable experience and seniority. Managers, officers (School) and teachers shall be informed by their Headteacher as to the extent of any delegated authority and any applicable financial thresholds for each procurement.
- 3.2 Within approved budgets and schemes for delegation, and in accordance with the Annual Procurement Plan, where applicable, authorised officers may place orders against Framework Agreements which have been entered into by the Council, on behalf of schools, or to which the Council legally has access through consortia arrangements or Government contracts. Procurements which involve any potential transfer of employees of the Council or of a private contractor to another contractor shall be referred to the Head of Procurement and Service Advice (Refer to CPR 6.5 (High Value Procurements)).

4.0 Exempt Contracts

- 4.1 Contracts of employment are exempt from the requirements of these CPRs
- 4.2 Capital procurements must follow Leeds City Council CPRs and access to support should be directly with Education Leeds Estates Teams and Leeds City Council Corporate Procurement Team.

5.0 Using Existing Corporate Contracts

Where approved lists, framework contracts, preferred providers, corporate contracts, strategic alliances or partnerships exist, for the provision of services or goods, then they should be used, as they are the prime way to demonstrate best value. Details of these arrangements can be found on CIS and SCMS

6.0 Financial Thresholds and Relevant Procurement Processes

- 6.1 Financial thresholds for the procurement of services and goods have been set for each of the procurement levels, to reflect a balance between financial prudence and the disposal of bureaucracy. The Authorised Officer, when preparing a procurement business case, must recommend the appropriate procurement level to match the estimated contract value.

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Financial thresholds and their relevant procurement processes are:

Minimum requirements to advertise and tender for contracts:

Procurement Level	Procurement Process	Financial Threshold (£) (value over the whole contract period)
Low Value procurement (quotations)	Three written quotes is recommended, where sensible and practical	0-10k
Intermediate Value procurement (quotations)	Must obtain three written quotes and advertise on the LCC electronic tendering system. PASAT will assist	10-60k
High Value procurement (tenders)	Must obtain four tenders and advertise on the LCC electronic tendering system. Local Authority countersignature required.	60k-EU threshold (138k)
EU Procurement (tenders)	Must contact PASAT for support.	EU threshold and above (138k+)

- 6.2 Financial Thresholds relate to the value of contracts over the whole life of the purchase and contracts must not be split to avoid specific thresholds.
- 6.3 In the case of **Low Value procurements**, £0-10k, the invitation of **three written quotes is recommended**. Contracts in this category can be awarded by the Authorised Officer. The purchase order should set out the price and terms and conditions.
- 6.4 In the case of **Intermediate Value procurements**, £10-60k a **minimum of three written quotes must be invited** for services and goods.. The procurement process must include advertising, as a minimum on the Leeds City Council electronic tendering website SCMS Contracts in this value must not be awarded without the prior authorisation of the Chair of Governors.. The contract award must be recorded on the school contracts register. If the procurement has great risk or the potential transfer of staff then it must be treated as a High Value procurement, regardless of the contract value.
- 6.5 In the case of **High Value procurements**, £60k-EU threshold of c£138k, a minimum of four tenders must be invited for goods and services. The procurement process must include advertising, as a minimum on the Leeds City Council electronic tendering website SCMS. Contracts in this value must not be awarded without the prior authorisation of the Headteacher, Chair of Governors and LA countersignature. The contract award must be recorded on the school contracts register.
- 6.6 **EU Procurements** Where the aggregated value of the services and goods to be

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procured exceeds the **EU threshold**, currently c£138k, then the procurement process must be conducted in accordance with the full requirements of the EU Public Procurement Directives. The Procurement and Service Advice Team must be involved at an early stage. A contract notice must be published in the Official Journal of the European Union in order to invite tenders or expressions of interest. The rules relating to technical specifications and the publication of contract award notices shall be observed for all contracts as shall the EC Treaty and the general principles of EC law, including non-discrimination, equal treatment and transparency. The procurement regulations set out the minimum timescale for receipt of expressions of interest and tenders. Where the School/Council has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, then the School may take the benefit of a reduced timescale, if appropriate. The EU Threshold changes every two years, but will not change again until 1 January 2010

7.0 Pre-Procurement Procedure

- 7.1 Before commencing a procurement, it is essential that the Authorised Officer leading the procurement has identified and fully assessed any issues, considered the School's Annual Procurement Plan and the relevant parts of these CPRs.
- 7.2 Before undertaking a procurement the authorised Officer must also consider the Pre-procurement procedure outlined in Appendix 1.

8.0 Estimating the Contract Value

- 8.1 Contract values must be calculated in accordance with the EU Procurement Regulations (even when the Regulations are not applicable) for consistency. The School must aggregate purchases, indeed purchases of services or goods must not be split (disaggregated) in an attempt to avoid these CPRs or the EU Regulations.

9.0 Open Tendering Procedure

- 9.1 The School publishes a notice and/or advertisement and all expressions of interest are invited to tender. If the publication of an EU notice is not required then the notice must be published on the electronic tendering website of LCC as a minimum but could also be published in the local press and any appropriate national newspaper and/or trade journals in order to target the relevant market for a particular contract. The advertisement must contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. After the expiry of a deadline date for expressions of interest, the School shall send within 6 days to any party expressing an interest an Invitation to Tender. The Invitation to Tender shall specify the return date for tenders.

10.0 Restricted Tendering Procedure

- 10.1 The School publishes a notice. Only those applicants selected by the School are invited to tender. Firms/organisations must be selected on the basis of the published pre-qualification criteria.
- 10.2 If the publication of a notice in the Official Journal of the European Union is not required the advertisement requirements are **the same as in CPR - 9 Open Tendering Procedure**, except that the advertisement must state that the Restricted Tendering Procedure is being used. If the EU Procurement Regulations apply a minimum of 5 firms/organisations must be invited to tender and in all other cases a minimum of 3 shall be invited to tender.

11.0 Negotiated Tendering Procedure

11.1 The Negotiated Tendering Procedure is not recommended for contracts valued at below the EU thresholds. The Negotiated Tendering procedure will only be applicable in limited circumstances, usually where the School is unable to ascertain prior overall pricing of the services, supplies or works to be procured, or the School is unable to draw up sufficiently detailed specifications. Contact the Head of Procurement and Service Advice to access this process.

12.0 Pre-Qualification Process

12.1 The process is used to ascertain an applicant's suitability for inclusion on either an approved list or on a select list of tenderers and includes evaluation of the applicant's:

- (a) previous experience and technical/professional capacity/health and safety
- (b) eligibility
- (c) vetting of financial standing and capacity.

12.2 Any procurements subject to the EU Procurement Regulations must comply with the appropriate EU Regulations.

13.0 The Invitation to Tender

13.1 The Invitation to Tender (or Negotiate) must include details of the School's requirements for any particular contract falling within the High Value Procurement (Tenders) category and includes:

- (a) a description of the services, supplies or works being procured;
- (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
- (c) a specification and instructions on whether any variants are permissible;
- (d) the School's terms and conditions of contract;
- (e) the evaluation criteria including any weightings as considered appropriate;
- (f) pricing mechanism and instructions for completion;
- (g) whether the School is of the view that TUPE will apply;
- (h) form and content of method statements to be provided;
- (i) rules for submitting of tenders
- (j) any further information which will inform or assist tenderers in preparing tenders..

14.0 Submission and Opening of Tenders and Quotations

14.1 Tenders shall be submitted in accordance with requirements set out in the Invitation to Tender. Unless submitted electronically, any tenders received shall be addressed to the Headteacher in a sealed envelope endorsed with the word "Tender" followed by the subject matter to which it relates. Tenders shall be kept in a safe place and remain unopened until the time and date specified for their opening. No tenders received after the specified date and time for receipt of tenders shall be considered by the School (this rule also applies to Pre Qualification Questionnaires).

14.2 Tenders shall be opened by the Authorised Officer and at least one other officer nominated by the Headteacher. An immediate record should be made of the tenders

15.0 Electronic Tendering

15.1 Requests for Quotations and Invitations to Tender should be transmitted by electronic means. Quotations and tenders should be submitted by electronic means provided that:

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- a) evidence that the transmission was successfully completed is obtained and recorded;
 - b) electronic tenders are kept in a separate secure folder under the control of the Headteacher which is not opened until the deadline has passed for receipt of tenders.
- 15.2 All procurements in excess of £10,000 should, as a minimum, be procured through the Council's electronic tendering system by the appropriate headteacher. This will include making the tender documents electronically available.
- 15.3 Each Headteacher shall set up a system for submission and opening of quotations which shall replicate that for tenders.

16.0 Tender and Quotation Evaluation

- 16.1 Tenders subject to the EU Regulations shall be evaluated in accordance with the relevant EU Regulations and the evaluation criteria set out in the Invitation to Tender. All other tenders shall be evaluated in accordance with the evaluation criteria set out in the Invitation to Tender. All contracts, except contracts where lowest price was predetermined to be the appropriate criteria, shall be awarded on the basis of the offer which represents Best Value for Money to the School. The evaluation criteria shall be predetermined and approved by the appropriate Headteacher and listed in the Invitation to Tender documentation, in order of importance. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure. Evaluation Criteria will depend on the procurement in question but might include:
- quality of work proposed
 - cost (whole life) - also consider including a financial threshold above or below which a tender would not be viable/affordable
 - experience of similar work
 - financial stability of the organisation
 - level of resources available in the organisation
 - references
- 16.2 At all times during the procurement (whether subject to the Regulations or not), the School shall consider and implement the principles of non-discrimination, equal treatment and transparency.

17.0 Evaluation Team

- 17.1 For each contract subject to the EU Procurement Regulations or above the £60,000 threshold, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders.

18.0 Post Tender Negotiation

- 18.1 Where a procurement is conducted pursuant to the EU Regulations through either the open or restricted procedures, no post tender negotiations are permitted. The Authorised Officer may seek clarification from contractors where appropriate. Where the EU Regulations apply negotiations on price are never permissible.

19.0 Risk Assessment/Insurance

- 19.1 For high value procurements, the Evaluation Team shall carry out a risk assessment as part of its pre-qualification assessment and the evaluation process.

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19.2 The Evaluation Team shall consider the appropriate type (employers' liability, public liability, professional indemnity, etc) and level of insurance requirements for each contract.

20.0 Awarding Contracts

20.1 The School shall only award a contract where it represents Best Value for Money. A contract shall only be awarded using the tender evaluation criteria.

20.2 A contract may only be awarded by an officer with the requisite delegated authority to award contracts. The Authorised Officer should ensure, prior to award, that the budget holder responsible for the contract has sufficient funds in place to sustain the contract prior to award. For all procurements with an aggregate value of £60,000 and above, the decision to award a contract shall be made by the appropriate Headteacher on receipt of a report from the Authorised Officer.

20.3 Where a tender is to be awarded on the basis of a price/quality evaluation and the difference between the lowest price tender and the tender which represents the best balance of price and quality is the lower of 5% of the contract value or £5,000, the comments must be sought of the chair of governors and appropriate sub-committee chair on the headteacher's decision.

21.0 Debriefing

21.1 The Authorised Officer responsible for each procurement shall provide a full debriefing to unsuccessful tenderers on written request.

22.0 Contract Award Notice

22.1 Where a contract has been tendered pursuant to the EU Regulations, the School shall publish a contract award notice in the Official Journal of the European Union and on the Council's electronic tendering system no later than 48 days after the date of award of the contract.

23.0 Letters of Intent

23.1 Letters of intent shall only be used with the agreement of the Chair of Governors and only in exceptional circumstances.

24.0 Contract Terms and Conditions

24.1 Contracts shall be entered into on the School's terms and conditions, which shall be included with each purchase order or Invitation to Tender or Negotiate. Exceptions to this rule must be approved by the Chair of Governors.

24.2 The rules relating to technical specifications mean that any reference to a technical standard, make or type shall be prefaced with the words "or EU equivalent". This requirement applies to all contracts.

25.0 Execution of Contracts

25.1 Any contracts with an aggregated value of above £60,000 shall be executed as a deed. All other contracts may be signed by a school finance officer with appropriate delegated authority.

25.2 Electronic signatures may be used in accordance with the Electronic Signature Regulations.

26.0 Records of Tenders and Contracts

26.1 The Authorised Officer with delegated authority in respect of a particular procurement shall maintain a list of all tenders and quotations received.

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- 26.2 A Contracts Register of all contracts awarded above £10,000 shall be maintained by the Headteacher. The Contracts Register may be maintained electronically.
- 26.3 Each Headteacher shall maintain his/her own register of all other contracts entered into by his/her School.
- 26.4 For every individual contract above £60,000 a contracts file shall be maintained and a tender evaluation report be completed by the Authorised Officer.

27.0 Approved Lists

- 27.1 The Council maintains approved lists of contractors <http://scms.alito.co.uk/> that meet its pre-qualification requirements. Quotations and tenders for contracts that are not subject to the EU Regulations may be invited from contractors included on an Approved List where an Approved List exists. The setting up of an Approved List shall be advertised by the LCC Assistant Chief Executive (Corporate Governance) who shall maintain and review all such lists.

28.0 Framework Agreements

- 28.1 Framework Agreements <http://cis.leeds.gov.uk> can be used by Schools for the purchase of services or supplies when a suitable agreement is available, without conducting a new procurement exercise. However, the Framework Agreement may include, within its terms, a requirement for a mini competition exercise between those contractors who are parties to the Framework Agreement. Any Framework Agreement shall be tendered in accordance with these Contracts Procedure Rules. Where the Council has entered into a Framework Agreement, on behalf of schools, through procurement then that Framework Agreement may be used. Where the Council is able to call off from existing Framework Agreements procured by central Government agencies, then the School may benefit from using those contracts without entering into a separate procurement exercise. Legal advice should be sought as appropriate from the Head of Procurement and Service Advice.

29.0 Nominated and Named Sub-Contractors

- 29.1 If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with the Contract Procedure Rules and the terms of the invitation shall be compatible with the main contract.

30.0 Joint Procurement

- 30.1 Any joint procurement arrangements with other schools, local authorities or public bodies, including membership or use of Purchasing Consortia shall be approved by the appropriate chair of governors prior to the commencement of any procurement on behalf of the School or group of schools
- 30.2 Approval shall only be given where the joint procurement arrangement assures compliance with the EU Regulations and the LCC Partnerships Protocol.

31.0 Procurement by Consultants

- 31.1 Any consultants used by the School shall be appointed in accordance with these Contract Procedure Rules. Where the School uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules and use the Schools standard terms and conditions of contract in any procurement that the consultant carries out. No consultant shall make any

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decision on whether to award a contract or who a contract should be awarded to. The Authorised Officer shall ensure that the consultant's performance is monitored.

32.0 Statistical Returns

32.1 Each year the Council shall make a statistical return to Government for onward transmission to the European Commission concerning the contracts awarded during the year under the EU Rules.

32.2 The LCC Corporate Procurement Unit is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Headteachers must comply with these arrangements.

33.0 Contract Extension

33.1 Any contract may be extended in accordance with its terms.

33.2 Where the terms do not expressly provide for extension, contracts subject to the EU Regulations may be extended by negotiation subject to the rules set out in the EU Regulations. Such extension shall be notified to the appropriate Chair of Governors and the Head of Procurement and Service Advice.

33.3 Where the terms do not expressly provide for extension, contracts not subject to the EU Regulations may also be extended by negotiation and formal written variation where the Headteacher is satisfied that extension will achieve Best Value for Money and is reasonable in all the relevant circumstances. Such extension shall be notified to the appropriate Chair of Governors and the Head of Procurement and Service Advice.

33.4 Once a contract has expired it cannot then be extended.

34.0 Termination of Contract

34.1 For any contract exceeding an aggregate value of £60,000, termination shall be approved by the appropriate Chair of Governors in consultation with the Head of Procurement and Service Advice. Contracts of a lesser value may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract.

35.0 Waivers of Contract Procedure Rules

35.1 Waivers of any of these Contract Procedure Rules shall only be given in exceptional circumstances and only with the prior written approval of the appropriate Chair of Governors following consultation with the Head of Procurement and Service Advice. Where the view of either of those officers is not in accord with the proposal of the School, the matter shall be referred to the Deputy Chief Executive of Education Leeds for a decision. Waivers may not be made retrospectively.

36.0 Review and Amendment of Contract Procedure Rules

36.1 These Contract Procedure Rules shall be reviewed and updated in April 2010.

Appendix 1 PRE-PROCUREMENT PROCEDURE / PROCUREMENT APPROACH

Before commencing any procurement the school should consider the following:

A Specification for the services or goods required
<http://www.leedsadviceforschools.com/procurement.htm>
Consultation with internal customers
Consultation with relevant Education Leeds/Leeds City Council Officers
Consultation with the Head of Procurement and Service Advice
Establish whether there is an appropriate Framework Agreement or Approved List of contractors that should be used or an internal service provider that could be used.
Consideration of whether the function being procured is mandatory or discretionary (and if mandatory whether legal advice has been sought as to whether it can be provided other than directly by the Council/Education Leeds).
Details of any soft market testing undertaken
Link to the Strategic Objectives of the School
Details of Project Owner (i.e. Officer/School sponsoring the project)
Identification of client officer and client function
Type or form of contract and evaluation criteria
Expected length of contract
Whether Open, Restricted or Negotiated Procedure is to be used and why
Gateway Review
Business Case
Options appraisal
Project timetable
Budget and proposed payment mechanism
Risk assessment and proposed actions
Proposed Contract Management arrangements
Details of how any innovative/alternative bids/proposals will be dealt with