



Kingsteignton Town Council

Contract Procedure Rules

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Definitions

Contract	means a legally binding agreement under which the Council receives the benefit of, or incurs the liability for: The payment of money The performance of services The execution of work The supply of goods or materials The transfer of an interest in land
Contract Procedure Rules	means these contract procedure rules
Economically Advantageous	means finding the best value for money through quality and price
Executive	means full council
Exemptions	means going outside of these contract procedure rules
Find A Tender Service (FTS)	means the marketplace used for above threshold procurements
Invitation to Tender (ITT)	means the documentation used for a formal procurement
Mayor	means the highest ranking official
Notices	means public notices published in accordance with The Public Contracts Regulations 2015
Payment	means paying money in exchange for goods, services or works
Professional Service	means a service, normally charged at an hourly fee, requiring specialist expertise or qualifications. act on the Council's behalf in connection with a contract, or his/her nominee.
Public Contracts Regulations 2015	The current procurement regulations
Responsible Finance Officer	means the Responsible Finance Officer to act on the Council's behalf in connection with a contract, or his/her nominee
Thresholds	means the financial thresholds under The Public Contract Regulations 2015 and these Contract Procedure Rules
Value for money	means taking into account quality and price when purchasing
Variation	means a change to a contract

Introduction

1. The contract procedure rules of Kingsteignton Town Council, and the objective of these rules, is to ensure that all works, goods and services:

- Are obtained with probity.
- Are appropriate for the purpose for which they are obtained.
- Offer the most economically advantageous bid.
- Are consistent with the policies of the Council.
- Provide relevant references.
- Represent value for money.

Delegation of Duties

2. The Responsible Finance Officer may delegate his/her duties under these Rules to the Mayor.

Compliance with Procedures

3. The procedures for inviting tenders and entering into contracts set out in these Rules form Financial Procedure Rules of Kingsteignton Town Council and must be complied with for all contracts. Variation of, or exemption from, these procedures can be authorised only by the Executive on the consideration of a report from the Responsible Finance Officer, which includes reasons for the proposed variation or exemption.

Value Added Tax

4. All amounts quoted in these Rules refer to values including Value Added Tax

Types of Contracts

5. To facilitate up-dating and amendment of these Rules, contracts for the supply of goods or materials or for the execution of works are classified by total contract value as follows:

Type Estimated Contract Value

Type of Contract	Total Value (incl. VAT)	Award Procedure
A	£0 - £10,000	A minimum of 1 written quotation, however, preferably 3 quotes demonstrating best value for money. Quotes must be sought from suppliers within the local district.

		<p>If there are no suppliers within the local district who can fulfil the requirement; Officers are asked to look at suppliers based in the Devon District.</p> <p>If there are no suppliers based in the Devon district, Officers are asked to look at national suppliers.</p> <p>If using national suppliers, please use their geographical location as part of your best value for money evidence e.g. a supplier closer to the Devon district is a more environmentally sustainable solution if delivering goods, or if travelling is needed for services and works.</p> <p>Officers can also utilise the Supply Devon portal for these lower value procurements.</p>
B	£10,001 - £100,000	<p>A minimum of three formal written Quotations (Request for Quotation) demonstrating best value for money.</p> <p>Please use the Supply Devon portal to conduct your Request for Quotation. If there are no suppliers on the Supply Devon portal who can fulfil your requirement, please use email.</p>
C	£100,000 – FTS Threshold	<p>Invitation to Tender by advertisement via Contracts Finder.</p> <p>Please contact The Corporate Procurement Officer at Teignbridge District Council</p>
D	FTS Threshold and over	<p>Invitation to Tender by advertisement via Contracts Finder and Find a Tender Service.</p> <p>Please contact The Corporate Procurement Officer at Teignbridge District Council</p>

Requirements

6. All contracts and tendering procedures will comply with English Law and where appropriate the requirements of Directives on public contract procurement.

Forms of Contract

7. All contracts of Types A shall be by official order or requisition from an approved list of contractors.
8. All Contracts of Types B, C, or D shall be in writing.

Sealing

A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end.
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services, or
- there is any doubt about the authority of the person signing for the other contracting party.

Packaging of Contracts

9. No contract may be divided into smaller components for the purpose of avoiding the requirements of these Rules.

Exemptions from Tendering

10. It is obligatory to invite tenders except where:

- a) The contract is of type A
- b) The Council has approved an alternative type of competitive exercise; or
- c) The subject matter of the contract can be arranged only through a single contractor; or
- d) The contract can be arranged through a consortium, the majority of whose members are local authorities; or
- e) The contract is a 'framework' contract that has been negotiated regionally / nationally on behalf of all local authorities; or
- f) Effective competition is prevented by government control; or
- g) The contract is an extension of a contract in progress and the extension does not exceed 10% of the total value of the existing contract; or
- h) The contract is an up-grading of an existing service or supply; or
- i) The contract concerns, wholly or mainly, repairs to or the supply of parts for existing machinery, plant or equipment; or
- j) The Responsible Finance Officer with the agreement of two Members of the Council, one of whom is the Mayor, or in his/her absence, the Deputy Mayor deems that the circumstances require such urgent action that the use of the tender process would be unreasonable. Any such action must be reported to the Council; or
- k) There is another reason expressly approved by the Council on consideration of a report from the Responsible Finance Officer.

Where exemptions from tendering are claimed under any of these provisions the reasons must be documented with evidence to support the exemption via the exemption form. Exemptions may be subject to scrutiny by Internal Audit and External Audit.

Tendering: Public Notice

11. At least 10 days' public notice of the intention to enter into a contract will be given in one or more local newspapers and the Council's website.
12. The notice will state:
 - a) The nature and purpose of the proposed contract; or
 - b) The closing date for applications; and
 - c) The address to which applications should be sent.
13. Notices on contracts finder will be published for any procurements over £25,000 [Contracts Finder - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Procuring under a framework

14. Frameworks are a register of suppliers than have already been procured. The Council may procure under a framework if it states that sub central authorities are allowed to use the framework.

The main framework providers as of 2022 are:

- a.) NHS SBS – [Shared corporate solutions. Reimagined. - NHS SBS](#)
- b.) CCS – [Search agreements - CCS \(crowncommercial.gov.uk\)](#)
- c.) ESPO – [ESPO - Procurement services for the public sector](#)
- d.) YPO – [Public Sector Procurement in England, Wales, Scotland and NI | YPO](#)
- e.) Southern Construction Framework – [Our Services - SCF \(southernconstructionframework.gov.uk\)](#)

Invitations to Tender

15. After the closing date for applications, the Responsible Finance Officer is authorised to invite tenders in the minimum number stated for each type of contract. For Contract Types B, C, D, E and F this authorisation is subject to the approval of the Council.

<£10,000	A minimum of 1 written quotation via email or equivalent. Use Supply Devon where possible	
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£10,001 - £100,000	A minimum of 3 Quotations via Supply Devon	
£100,001 – FTS Threshold	Invitation to Tender with a minimum of 3 where possible	

16. Every invitation to tender will state:

- a) The nature and purpose of the contract
- b) The closing date and time for receipt of tenders, i.e., 12 noon
- c) That no tender will be opened if it is received after the specified closing date and time
- d) Any other information as The Responsible Finance Officer may consider necessary for the purpose of evaluating the tender.

Invitations to Tender for Professional and consultancy Services.

17. In addition to the requirements set out in paragraphs 29 and 34 above, invitations to tender for professional and consultancy services shall require the tenderer to submit full details of:

- a) The name of the person who will be the lead contact in respect of the contract.
- b) The names, professional qualifications and experience of the persons employed by the tenderer who shall be engaged on a day-to-day basis in the contract
- c) Full particulars of the pricing structure to be applied to the contract, including daily, hourly or fixed rate fees and any limits to be applied to expenses.
- d) Particulars (if any) of other local authorities or organisations for whom work of a similar nature has been undertaken.
- e) Complete a check of IR35 status via the following website [Check employment status for tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/check-employment-status-for-tax)

Receipt of Tenders

18. Tenders can be submitted electronically via any procurement portal used or via email to The Responsible Finance Officer.

Acceptance of Tenders

19. Provided that the procedural requirements for the value of the contract as set out in paragraphs 1 to 36 above have been fulfilled, the Responsible Finance Officer may accept without further approval a tender that is within the approved Budget, and that either:

- a) Is the lowest if payment is to be made; or
- b) Is the highest if payment is to be received; or
- c) Has been selected in accordance with previously approved criteria.

Contracts: Forms and Conditions

20. An appropriate form of industry specific contract should be used where appropriate. Otherwise, every contract will state:

- a) Full details of the nature and purpose of the contract
- b) The price to be paid including a statement of deductions or discounts to be applied.
- c) The period of the contract
- d) That if the contractor fails to perform the contract, the Council can cancel all or part of the contract. Complete the contract. Recover from the contractor any additional costs in completing the contract. Take appropriate legal action against the contractor.
- e) That the Council can cancel the contract and recover any resulting losses if the contractor or his/her employees, with or without his/her knowledge.
 - I. Does anything improper to influence the Council to give him/her the contract?
 - II. Commits an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972
- f) That the contractor will pay liquidated damages estimated by the Appropriate Officer if the contractor fails to meet the terms of the contract
- g) That the responsibilities under the contract may not be assigned or transferred by the contractor without the written permission of the Responsible Finance Officer

21. In addition, every contract will include in its conditions:

- a) The Council's requirements in respect of relevant Council policies
- b) That the Responsible Finance Officer will be allowed reasonable access to the Contractors' records relating to the contract
- c) Such additional conditions as the Responsible Finance Officer or the council think fit

22. All contracts shall satisfy any relevant Council requirements for Health and Safety arrangements and monitoring of the contractor of any sub-contractors to be employed. Any contract condition set out above that is not relevant or applicable may only be excluded from a contract with the approval of the Responsible Finance Officer

Approval for the Award of Contracts

23. Contracts of Types B, C and D shall not be awarded without prior approval of the Responsible Finance Officer in relation to the financial suitability of the contractor to undertake the contract as detailed in the attached Guidelines.
24. Contracts which are likely to involve the provision of services, or the execution of work shall not be awarded without the prior approval of the Responsible Finance Officer in relation to the Contractor's Health and Safety Policy (covering General Policy Organisation and arrangements) as required by Section 2(3) (f) of the Health and Safety at Work Act 1974 and any risk assessment procedures and Codes of Safe Working Practices issued to employees.
25. Contracts of Types B, C and D shall not be finalised without appropriate legal advice.
26. These are minimum requirements, and it may be appropriate to consult with others regarding issues about which they have expertise.

Award of Contracts: Mandatory Standstill Period

27. The standstill rules apply only to contracts subject to European procurement legislations)
28. The standstill rules require a mandatory period of a minimum of 10 days between communicating the award decision to all tenderers and actually concluding the contract (i.e., confirming the award and thus, proceeding with the purchase). They also allow for an additional de-briefing to be requested by unsuccessful suppliers and apply strict deadlines to both the supplier's request and the purchaser's response.
29. The 10-day period includes weekends and should be extended as necessary if Day 10 falls on a Saturday or Sunday, or if the standstill period falls around a public holiday(s).
30. The following must be provided by purchasers when notifying the award decision to unsuccessful suppliers: -
 - The award criteria
 - The name of the winning tenderer
 - The characteristics and relative advantages of the successful tender to that of the unsuccessful tender (i.e., that of the supplier being notified). This is a legal requirement of the standstill rules; however, the actual content of the notifications is at the discretion of the purchaser.
31. If the submissions were scored, then the notification should include the winning tenderer's total score against the predefined criteria, as well as the total score of the unsuccessful tenderer. In certain cases, it may be prudent to provide descriptive detail of how the unsuccessful submission fared in

relation to the winning bid. If all information which can reasonably be provided has already been given in the notification, then it is acceptable to treat the notification itself as the “additional de-brief”. In this case, it can be qualified with wording such as “This constitutes the de-briefing that is required under legislation”.

Records

32. Contract documentation and records must be kept in accordance with procedures issued by the Responsible Finance Officer

Variations to Contract

33. Variations to contracts must be by a written Variation Order
34. The Full Council must approve variations to the contract

Urgent Variations to Contract

35. A variation is deemed urgent where:
 - Immediate action is necessary to protect public safety or to avoid unacceptable disruption or inconvenience to the public, or
 - The costs of delaying work until council approval can be obtained are likely to exceed the additional costs involved in proceeding.
 - The Responsible Finance Officer together with the Mayor and an Extra Ordinary Full Council meeting may approve urgent variations.

Retentions

36. Unless otherwise approved by the Council of Types D, E, F and G will include a retention of 5% of the contract value for a period of 12 months, to ensure that all work carried out is complete and of an appropriate standard.
This could be varied with approval of the Town Council

Payments to Contractors

37. Payments to contractors will be made in accordance with the council’s financial rules
38. In every case before a final certificate of payment is made the Council may examine the agreed final account, together with such documents as the Council may consider necessary

39. Where contracts are supervised and managed by persons other than the Council's own officers, the agreement will state that the Contract Manager must abide by these regulations as if he were an officer of the Council.

Claims from Contractors

40. Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Responsible Finance Officer for consideration of the authority's legal liability before negotiations are undertaken or a settlement is reached.