

CONTRACT PROCEDURE RULES

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CONTRACT PROCEDURE RULES

1. Compliance

- 1.1. Contract Procedure Rules (CPRs) are a legal requirement and constitute standing orders for the purpose of s135 of the Local Government Act 1972.
- 1.2. The aim of these Contract Procedure Rules is to define the procedures for obtaining written quotations and competitive tenders from suppliers for the provision of Supplies, Services and Works.
- 1.3. The Authority's Constitution incorporates Financial Procedure Rules, Scheme of Delegations and Contract Procurement Rules that provide a framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.
- 1.4. These CPRs should be read in conjunction with the Financial Regulations, the Scheme of Delegation and also supporting standards, procedures and instructions that are published on the intranet.
- 1.5. These CPRs set out the key responsibilities and actions that Authorised Officers must follow when undertaking procurements.
- 1.6. CPRs do not apply to:
 - a. Contract of employment which make an individual a direct employee of the Authority. (However, these Rules do apply to Contracts for recruitment agency services and the employment of consultants or agency staff);
 - b. Agreements regarding the acquisition, disposal or transfer of land for which provision is made within the Local Government Act 1972 and in relation to which Financial Regulations apply;
 - c. The engagement of external legal services (but which must be commissioned via the Chief Legal & Governance Officer);
 - d. An arrangement with a statutory body to provide a service that the statutory body can legally provide;
 - e. Financial Services in connection with the issue, sale, purchase or transfer of securities or loans,
- 1.7. The general principles of non-discrimination, equal treatment, proportionality and transparency shall be applied to all procurements, above and below Public Contract Regulation thresholds.
- 1.8. Non-compliance with UK legal requirements, CPRs and Financial Regulations can have serious consequences for the Authority including financial penalties, legal action and reputational damage.
- 1.9. Following CPRs allows the Authority to comply with both procurement and data transparency legislation and staff should be aware that any non-compliance may result in disciplinary action.

1.10. Authorised Officers shall take appropriate measures to prevent, identify and remedy any conflicts of interest arising within a procurement process or subsequent management of contracts to avoid any distortion of competition and to ensure non-discrimination and equal treatment at all times.

2. Local Government Transparency Code

2.1 As part of the Governments' commitment to greater transparency, the Authority is required to regularly publish procurement information. This means the Authority will publish on its website details of purchases over £500, details of all contracts over £5,000 as well as all transactions undertaken using a Government Purchasing Card.

3. Responsibilities of the Management Board

3.1 Executive Officers of the Management Board are responsible:

- (a) For ensuring compliance with these Contract Procedure Rules by their Authorised Officers.
- (b) For reporting any known breaches of these Contract Procedure Rules to the Chief Legal & Governance Officer.

4. Responsibilities of the Chief Finance & Procurement Officer

4.1. The Chief Finance & Procurement Officer:

- a) Is responsible for publication on behalf of the Authority all tender notices, contract award notices and other notices required by the Public Contracts Regulations.
- b) Will maintain and publish a Contracts Register of all contracts valued £5,000 and above.
- c) Shall maintain a rolling Procurement Plan of upcoming procurement projects valued £5,000 and above that aligns with budget plans and the capital programme.
- d) Shall counter-sign all contracts valued £75,000 and above
- e) Shall report to the next scheduled meeting of the Finance & Resources Committee:
 - i. Any early termination of contracts with a residual value of £75,000 or more.
 - ii. Any waiver of Contract Procedure Rules involving sums of £75,000 or more.
 - iii. Any disposal of Assets that realised a value of £75,000 or more.

5. Delegated Authority

- 5.1 Any procurement carried out on behalf of the Authority may only be undertaken by Authorised Officers with the appropriate authority to carry out such tasks. If permitted to do so and only after consultation with the Procurement Team, officers with delegated authority may only delegate to other officers who also have the appropriate skills, knowledge and requisite training appropriate to the task. Further subsequent sub-delegation is not permitted. Officers must make enquiry of and be instructed by their senior managing officer and / or Procurement Manager to the extent of any delegated authority and any applicable financial thresholds for each procurement.
- 5.2 Within approved budgets and in accordance with the WYFRA Financial Scheme of Delegation and Annual Procurement Plan (where applicable), Authorised Officers may instruct members of staff to place orders against agreed contracts.
- 5.3 For the purpose of managing quotations and tender processes valued over £5,000 Authorised Officers shall be those who are registered on the E-procurement system and possessing the necessary procurement skills and knowledge.

6. Transfer of Undertakings (Protection of Employment) - (TUPE)

- 6.1 Any contract awards which involve the Transfer of Undertakings (Protection of Employment) Regulations 2006 of employees into or out of the Fire Service shall be referred for a decision from the Fire & Rescue Authority or appropriate Committee.

7. Pre-Procurement Planning

- 7.1 The Authorised Officer leading a procurement must:
- (a) Identify the need and fully assess any options for meeting those needs.
 - (b) Determine the total value of the contract including any options to extend
 - (c) Consider the Authority's Procurement Strategy & Policy
 - (d) At the pre-procurement phase, consider the Social Value Act within any procurement that is estimated above PCR thresholds; and consider how what is being procured, might improve the economic, social and environmental well-being of an area and how the authority might secure that improvement in the procurement process itself. There is also a requirement that authorities consider whether to consult on these matters. The Act does not apply to call-off contracts from a framework agreement.
 - (e) Consider all other means of satisfying the need (including recycling, re-use, joint working and shared services) and establish a business case and approved budget for the procurement;
 - (f) Consider whether a Community Impact Assessment should be completed dependent upon the nature of the supplies, services or works being procured.

- (g) Consult with all relevant stakeholders including Members, trade unions if TUPE applies and service users.
- (h) Take all necessary financial (including insurance) and other professional advice (for example procurement, health and safety and risk management). Officers should have regard to current Authority policies, procedures and standard documentation.
- (i) Seek legal advice for all procurements over £75,000 (or lesser values as necessary to mitigate any apparent risks or liabilities).
- (j) Review the Procurement Plan and Contracts Register to determine whether there are opportunities to aggregate spend for better value or whether any contract or appropriate Framework Agreement exists that should be used;
- (k) Utilise the E-procurement system electronic tendering system for all procurement over £5,000 unless this system cannot deliver the required procurement objectives.

7.2 The Authorised Officer and Procurement Officer shall, where appropriate, undertake pre-market consultation with potential suppliers in an open and transparent manner to inform them of the planned procurement and for officers to gain a better understanding of market conditions and use this information in the preparation of tender documents.

8. Estimating the Contract Value and Variations

- 8.1 In cases involving supplies or services where a contract fixed term is not defined, the estimated contract value shall be calculated by multiplying the estimated monthly value by 48, using historical spend information where available.
- 8.2 When the total estimated cost of the supplies, services or works has been determined to exceed Regulation thresholds; then officers must consider subdividing the requirements into "Lots" in accordance with Regulations to enable Small Medium Enterprises (SME's) the opportunity to compete.

9. Framework Agreements

- 9.1 Framework Agreements are used where an Authority wishes to contract for the supply of supplies, services or works without conducting a new procurement exercise.
- 9.2 Where the Authority is able to procure from existing Framework Agreements procured by Central Government agencies, public sector purchasing consortia or other local authorities or public bodies, then the Authority may benefit from using those agreements without undertaking a separate procurement exercise.
- 9.3 There are two routes to utilising a Framework:
 - (a) Direct Award; where a single supplier is selected in accordance with the Terms & Conditions of the original criteria used to award the framework. Under no circumstances can new information be asked of a selected supplier to support a decision as this would be viewed as opening a mini-competition without asking all

other suppliers on the framework. Procurement Team advice should be sought as appropriate.

- (b) Mini-Competition; where a number of different suppliers able to provide a particular category of supplies, services or works and further competition between those suppliers is needed in accordance with the Terms & Conditions of the framework. Procurement Team advice should be sought as appropriate.

- 9.4 A signed Access Agreement will be required between the Framework provider and the Authority, when specified within the Framework conditions.
- 9.5 A legal agreement (e.g. Contract or Letter of Appointment) should be signed between the Authority and the appointed Framework supplier, upon awarding the procurement.
- 9.6 All Purchase Orders raised in relation to the Framework contract must clearly identify which Framework Agreement has been utilised.

10. Dynamic Purchasing Systems

- 10.1 A Dynamic Purchasing System (DPS) is an open version of a framework agreement that allows new suppliers to join (or leave) at any time over its duration, providing suppliers meet minimum entry standards.
- 10.2 A DPS must be operated entirely electronically and be managed by the Procurement Team.
- 10.3 Authorised Officers must clearly state in the tender notice, any intention to use a DPS process along with details of the DPS provider and how suppliers can apply to join.

11. Electronic Auctions

- 11.1 Electronic Auctions may be used to drive prices down and are mainly used for large quantities with known specifications and often in collaboration.
- 11.2 An Electronic Auction is a repetitive electronic process resulting in the lowest priced bid being awarded the contract.
- 11.3 Electronic Auctions may not be used in circumstances involving intellectual criteria that cannot be ranked (e.g. building design).
- 11.4 Authorised Officers must take advice from the Procurement Manager before agreeing to take part in any form of Electronic Auction.

12. Contract Procedure Rule Thresholds

ESTIMATED VALUE	PROCEDURE	AUTHORISATION
Up to £250	Purchasing Card Purchase Order No need for written quotations	Card holder Budget holder Station personnel
£250 to £4,999	One written quotation via email that must constitute value for money	Group Managers Support Staff Grade 7 and above
£5,000 to £24,999	RfQ (Request for Quote) Process Minimum three (3) invites via the E-procurement system	Central Procurement Team Stores and Deputy Property Managers EO grades Area Managers GM Human Resources Organisation Development Manager
£25,000 to £74,999	Open Tender process involving the Procurement Team via the E-procurement system and published to Contracts Finder	Central Procurement Team Stores and Deputy Property Managers EO grades Area Managers GM Human Resources Organisation Development Manager
£75,000 to £188,000	Open Tender process involving the Procurement Team via the E-procurement system and published to Contracts Finder	Management Board Central Procurement Team
> £189,000 (Goods and Services)	Open Tender process involving the Procurement Team via the E-procurement system and published to Contracts Finder and FTS	Management Board Central Procurement Team
> £4.7M (Works)	Open Tender process involving the Procurement Team via the E-procurement system and published to Contracts Finder and FTS	Management Board Central Procurement Team
Any tender process involving TUPE	Tender process managed by the Procurement Team via the E-procurement system	Management Board Central Procurement Team

13. Estimated Value less than £5,000

- 13.1 Competitive quotations are not required for awarding contracts with an estimated value of below £5,000. However, regard should still be paid to obtaining value for money and to undertake price comparisons or to invite alternative quotations, as appropriate.
- 13.2 For purchases up to £250 a Government Purchasing Card may be used or a Purchase Order issued without the need for a written quotation.
- 13.3 For purchases £250 - £4,999 a written quotation must be obtained from the chosen single supplier via email and retained in accordance with the Authority's Retention of Documents Policy.
- 13.4 Where provided in the opinion of the Authorised Officer best value can be achieved, this process shall prioritise the placing of orders with local businesses (i.e. within WYFRA boundaries).
- 13.5 The purchase order shall specify the supplies, services or works to be provided and clearly state the agreed quantity and price.

14. Estimated Value between £5,000 - £24,999

- 14.1 This process may be conducted by Authorised Officers in departments for simple, non-complex and low risk procurements.
- 14.2 Where appropriate, if the intended procurement is complex; involves relatively high risk and would therefore benefit from the added safeguards afforded by a tendering process and more appropriate terms and conditions, then the Authorised Officer should refer the project to the Procurement Team to run under a tender process.
- 14.3 For procurements with an estimated value over £5,000 but less than £24,999 at least 3 written quotations should be obtained. If less than 3 quotations are received at the first attempt, further invitations should be issued or an exemption form completed and approved prior to award of a contract.
- 14.4 Request-for-Quotation (RfQ's) should be issued utilising the electronic procurement system and where appropriate at least 2 of the suppliers invited to submit quotations should be local businesses (i.e. within WYFRA boundaries).
- 14.5 The outcome of the contract award procedure shall be recorded in the Contracts Register (maintained by the Procurement Team).

15. Estimated Value between £25,000 to £74,999 and above £75,000

- 15.1 Procurements with an estimated value between £25,000 to £74,999 shall be managed by the Procurement Team via an open tender process published to Contracts Finder via the E-procurement system. A PAD (Procurement Approval Document) should be used.

- 15.2 At least 2 of the suppliers invited where appropriate should be from local businesses within WYFRA boundaries but being mindful to use as wide a pool of suppliers as possible and to avoid repeatedly inviting the same few suppliers each time.
- 15.3 The open tender process shall be managed by the Procurement Team via the E-procurement system with the outcome of the contract award recorded on the Contracts Register.
- 15.4 Where the estimated contract value is above £75,000 the above process is required, managed by the Procurement Team via a formal tender process and a PAD must be used and countersigned accordingly by the Chief Finance and Procurement Officer.

16. Contracts above Regulation Thresholds

- 16.1 The tender process shall be managed by the Procurement Team.
- 16.2 The Regulation thresholds at 1 January 2020 are:
- Supplies and Services - £189,330
 - Works - £4,733,252
- 16.3 The thresholds change every 2 years and are scheduled to change again on 1 January 2022. Further help and guidance can be obtained by contacting the Procurement Team.
- 16.4 Where an estimated value exceeds the current Regulations threshold then the contract shall be tendered in accordance with the Regulations and appropriate procedure.
- 16.5 The Regulations set out the minimum timescales for receipt of expressions of interest and tenders. Where the Authority has published a Prior Information Notice announcing its forthcoming contracts for the year ahead or is using electronic means of tendering, then the Authority may rely on reduced timescales if appropriate.
- 16.6 Where possible the use of “Lots” shall be used to sub divide the requirement in order to allow Small Medium Enterprises (SME's) and local supply chain to bid (in accordance with CPR 8).
- 16.7 The process shall be managed via the E-procurement system with the outcome of the contract award being recorded on the Contracts Register (maintained by the Procurement Team).

17. Open Tender Procedure (1 Stage Process)

- 17.1 An open procedure may be used for any value of procurement.
- 17.2 All compliant submissions from bidders must be evaluated equally and fairly.
- 17.3 All documentation must be published on the E-procurement system at the time of the primary contract notice, with all quotations / tenders being submitted by bidders via this system.

18. Restricted Tender Procedure (2 Stage Process)

- 18.1 A restricted procedure may only be used for contracts above the Regulation threshold and not for any contracts below the relevant Regulation threshold.
- 18.2 The requirement to publish an FTS notice is the same as in the open procedure except that the notice shall state that a restricted procedure is being used.
- 18.3 All documentation must be published on the E-procurement system at the time of the FTS notice and all tenders must be submitted by bidders via E-procurement system.
- 18.4 Under the restricted procedure, potential suppliers are invited to apply within the period of advertising by the completion of the Standard Selection Questionnaire (SSQ). Any service-specific questions entered within Section 3 of the Standard Selection Questionnaire must be relevant to the subject matter of the procurement and be proportionate.
- 18.5 Following an assessment of the SSQ at least 5 suppliers (where there are 5 or more who meet the requirements and are also absent of any grounds for exclusion) should be selected to receive an Invitation to Tender (ITT).
- 18.6 If fewer than 5 suppliers have applied who meet the requirements and are absent of any grounds for exclusion, all those who have applied shall receive an Invitation to Tender. Where, in this situation, officers are concerned there may not be adequate competition; they should obtain advice from the Procurement Manager.

19. Other Permitted Tender Procedures

The following procedures are also permitted within the Regulations for above threshold values, but may only be applied following consultation with and the prior approval of the Chief Financial & Procurement Officer:

- a) Competitive Procedure with Negotiation (Regulation 29)
- b) Competitive Dialogue Procedure (Regulation 30)
- c) Innovative Partnership Procedure (Regulation 31)
- d) Negotiated Procedure without Prior Publication (Regulation 32)

and managed by the Procurement Team.

20. Publicising Quotations and Tenders

- 20.1 There is no need to advertise quotations valued below £5,000.
- 20.2 For quotations and tenders above £5,000, E-procurement system should be used for advertising.

- 20.3 Where the estimated value of the contract is £25,000 or above AND an Open procedure is being used then a notice must also be placed on Contracts Finder (automatically via the e-procurement system), advertising the opportunity.
- 20.4 There is no need to publish a notice on Contracts Finder if the opportunity is being offered to a restricted number of suppliers or is being managed through a Framework Agreement.
- 20.5 Where the Regulations apply, a contract notice must be published in the FTS in the prescribed form before any other notice is published and no other notice should contain any more information than that published in the FTS.
- 20.6 If an FTS notice is required, then no other means of advertising is permitted until the FTS notice has been acknowledged or as a minimum within 48 hours of the FTS notice being sent for publication.

21. Submission and Opening of Quotations/Tenders

- 21.1 Quotations/Tenders valued £5,000 or above shall be managed via the E-procurement system.
- 21.2 The opening of quotations and tenders on the E-procurement system should be performed at the stated date/time.
- 21.3 When the opening of any quotation or tender has taken place, the Authorised Officer shall ensure that a Quotation/Tender Opening Record form or PAD document is updated, fully completed and safely filed for future reference.

22. Late Quotations/Tenders

- 22.1 Late bids may only be accepted with the approval of the Chief Finance & Procurement Officer where other bids have not yet been opened and the late bidder has gained no advantage as a result of the late submission for reasons where, for example, there is evidence that technological reasons have prevented the submission on time, through no fault of the bidder.

23. Abnormally Low Quotations/Tenders

- 23.1 Where a submitted price appears abnormally low it may not be rejected without:
- a) giving the bidder an opportunity to explain the tendered price (such explanation to be given in writing),
 - b) considering the evidence provided, and
 - c) obtaining the written approval of the Chief Finance & Procurement Officer or in their absence an Executive Officer.

24. Errors or Omissions in Quotations/Tenders

- 24.1 Errors or omissions in quotations/tenders shall be dealt with in one of the following ways:
- (a) The bidder shall be given details of the error(s) or omissions found during the examination of the quotation/tender and shall be required at the decision of the Chief Finance & Procurement Officer to confirm without amendment or withdraw the quotation/tender
 - (b) Amending the quotation/tender to correct genuine error(s) or omissions provided that, in this case, apart from these genuine errors or omissions no other adjustment, revision or qualification is permitted.
- 24.2 All amendments shall be fully recorded with justification for the action taken. Where necessary legal advice should be sought.

25. Tender Evaluation

- 25.1 All criteria, sub-criteria and weightings must be made available to bidders at the invitation to tender / quotation stage.
- 25.2. Criteria, sub-criteria and weightings cannot be used for evaluation purposes which have not previously been brought to all bidders' attention.
- 25.3 Published criteria must be strictly observed at all times throughout the procurement process, selection and contract award stages by the Authorised Officer involved in the tender evaluation.
- 25.4 Records should be kept of the evaluation process, (e.g. criteria, sub-criteria, weightings, individual and consensual scoring and reasons for any adjusted scores), signed and dated by the individuals involved in the process and filed in a secure place on the WYFRA server with the full document set.

26. Post Tender Negotiation

- 26.1 Where the procurement is conducted through either an Open or Restricted procedure, no post tender negotiations are permitted other than to clarify details prior to award of contract or in accordance with CPR 37. Under no other circumstances must material changes be made to the Authority's requirements or the winning bidders' submission that could be deemed to disadvantage other bidders, distort competition or adversely impact the competitive tendering process.
- 26.2 Where "Competitive Procedure with Negotiation – Regulation 29" or "Negotiated Procedure without Prior Publication – Regulation 32" have been used, the Authorised Officer must fully comply with the Regulations and procedures stated in the tender instructions.

- 26.3 Negotiations must be conducted on behalf of the Authority by at least two appropriately trained or experienced Officers. A full written record shall be kept of the results of the negotiations, signed by the Authorised Officer and the Supplier, and retained with the procurement documentation.
- 26.4 At all times during any negotiation the Authorised Officer shall ensure that all tenderers are treated equally and in a non-discriminatory and transparent manner.
- 26.5 Prior to undertaking any Post Tender Negotiation advice must be obtained from the Procurement Manager.

27. Bonds, Guarantees and Security

- 27.1 For procurements over £75,000 the Authorised Officer and Evaluation Team shall consider as part of the criteria whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred Supplier dependent upon the preferred supplier's status, the product characteristics and a thorough risk analysis.
- 27.2 The Authority will only accept Performance Bonds or Sureties that are UK based or held in UK escrow arrangements
- 27.3 Authorised Officers must consider any steps necessary to protect the Authority's interests in the event of a suppliers' default, having regard to advice from the Chief Legal & Governance Officer and Chief Finance & Procurement Officer.
- 27.4 This consideration should be based on risk to the Authority, taking account of the circumstances, including:
- (a) the value of the Contract;
 - (b) the type of Supplies, Services or Works being procured;
 - (c) the payment profile of the Contract;
 - (d) the financial strength of the suppliers in the market;
 - (e) affordability and proportionality;

and should assess whether additional security is required in the form of a bond, guarantee, fee retention (where performance is required by a particular date, and where delay would have financial consequences for the Authority) or provision for liquidated damages.

- 27.5 The Authorised Officer shall ensure minimum levels of appropriate insurance are provided for within each contract. Minimum levels are:
- a) Employee Insurance - £5m
 - b) Public Liability Insurance - £10m
 - c) Professional Indemnity Insurance - £2m

28. Acceptance of Quotations/Tenders and Award

- 28.1 The Authority is not bound to accept any quotation or tender and this must be made clear to bidders in writing at the beginning of the procurement process and as appropriate throughout.
- 28.2 Quotations and tenders may be accepted on behalf of the Authority by the relevant Authorised Officer in accordance with the contract value and the Financial Scheme of Delegation, provided they have been invited, evaluated and is to be awarded fully in compliance with these rules.
- 28.3 In relation to all contracts valued over £5,000, once a decision to award a contract is made, all bidders must be notified at the same time via the E-procurement system of the intention to award the contract to the successful bidder.

29. Standstill (Alcatel) Period and Debriefing

- 29.1 For procurements above Regulation thresholds, there must be a mandatory period of at least ten calendar days between the electronic notification of an award decision being sent to all bidders and before a Framework Agreement or Contract is concluded with the successful supplier(s); to allow unsuccessful bidders to consider any challenge to the award decision.
- 29.2 If the expiry of the ten calendar days falls on a weekend or bank holiday, then the expiry shall be extended to the next working day.
- 29.3 The Authority shall voluntarily apply the same best practice standstill period and process for all tenders over £75,000 (except in cases of genuine urgency).
- 29.4 The Authorised Officer responsible for each procurement must ensure the award decision notice is fully compliant with Regulations and additionally that any written debriefing requested by unsuccessful tenderers is provided within 15 calendar days of receipt of such a request.
- 29.5 Any complaints from bidders must be recorded in the project file and dealt with in the most appropriate manner taking due consideration of whether to proceed to award of contract or to defer the award pending resolution of the complaint.

30. Contract Award Notice

- 30.1 Where a contract has been tendered pursuant of the Regulations, the Authorised Officer shall publish a contract award notice in FTS and in Contracts Finder no later than 30 days after the date of award of the contract.
- 30.2 Where a contract has been awarded that is valued above £25,000 but below Regulation thresholds AND an Open procedure has been used, then a contract award notice shall be published in Contracts Finder only, no later than 30 days after the date of award of the contract

- 30.3 Where the opportunity was initially only sent to a limited number of suppliers e.g. using a quotation process or a Framework Agreement then there is no requirement to publish contract award notices valued above £25,000 in Contracts Finder.

31. Letters of Intent

- 31.1 Letters of intent shall only be used in exceptional circumstances ahead of formal contract signatures as follows:
- (a) Where a Supplier is required to provide supplies, services or works prior to formal written acceptance by the Authority; and
 - (b) Where the Authority's form of tender does legally bind either party until such time as a formal contract is executed.
- 31.2 Letters of Intent shall only be used following consultation with the Chief Finance & Procurement Officer where a delay would cause a significant interference with the provision of service delivery.
- 31.3 Letters of Intent shall be limited to 10% value of an agreed supplies or services contract, and limited to 10% or £20,000 (whichever is the lowest) for works contracts.

32. Contract Terms and Conditions

- 32.1 Contracts shall be entered into on the Authority's Terms and Conditions which shall be included with each invitation to quote / tender and orders sent by electronic means.
- 32.2 The exception to using the Authority's Terms and Conditions arises when using Terms and Conditions provided by:
- Crown Commercial Services (e.g. Consultancy Services)
 - Framework Agreements
 - Utility Company (Gas, Electricity and Water)
 - Telecommunications
 - Construction Industry Terms and Conditions (but limited to NEC, JCT, RIBA and RICS).
- 32.3 Exceptions to CPR 31.1 and 31.2 must be approved beforehand at tender preparation stage by the Chief Legal & Governance Officer.
- 32.4 The Authority may accept equivalent Terms and Conditions of other public sector authorities when participating in joint working and collaboration, provided they are deemed to be suitable and fit-for-purpose.
- 32.5 Every contract awarded that is concluded via a quotation process shall:

- a) Specify the supplies, services or works to be provided;
- b) Specify the quantities and price to be paid with a statement of any discounts or other deductions;
- c) Specify the time or times within which the contract is to be performed;
- d) Use an official order form to confirm the contract using the Authority's standard terms and conditions whenever possible.

32.6 Every contract awarded that is concluded via a tender process shall contain:

- a) A statement of the supplies, services or works to be provided;
- b) Reference to and identification of the winning tender documents;
- c) A statement of the price, payment terms and any applicable interest;
- d) Restrictions on the Contractor from re-assigning or sub-contracting any part of the contract without prior written consent;
- e) Insurance clauses - (see minimum levels in CPR27.5);
- f) Health & Safety clauses and a requirement to comply with all relevant Health and Safety regulations and instructions issued by the Authority;
- g) General Data Protection Regulations clauses;
- h) Equalities and anti-discrimination clauses that relate in particular to the Equalities Act; and the Living Wage Act;
- i) An Audit clause that provides a right of access to records pertaining to the contract and service delivery;
- j) A clause that states the Authority's duty to comply with the Freedom of Information Act and that the contractor is obliged to assist the Authority in fulfilling these duties where appropriate;
- k) Human Rights clauses;
- l) A clause that requires the contractor to pay subcontractors within 30 days of them invoicing the contractor;
- m) A clause allowing the Recovery of Sums owed to the Authority by a Contractor by off-setting against any sums owed by the Authority to the Contractor;
- n) Anti-Corruption and anti-Bribery clauses;
- o) A Dispute Resolution clause;
- p) Clauses for the provision of a performance bond, parent company guarantee or other form of security (but only when considered necessary);
- q) Liquidated Damages clauses in the event of the Contractors' failure to deliver the contract;

- r) A right of Early Contract Termination in specified instances e.g. money laundering, fraud, bankruptcy; tax evasion; etc
- s) A clause for Termination and Damages in the event of contractor default;

33. Execution of Contracts

- 33.1 Any contracts that have potential long-term liabilities as determined through risk assessment on a case by case basis, and would benefit from the added legal protection afforded by the process of “sealing” shall be made by affixing the Common Seal of the Authority. This shall only be attested by the Chief Legal & Governance Officer or nominated Deputy.
- 33.2 Contracts with a total value up to £75,000 may be signed by an Authorised Officer in accordance with the Scheme of Delegation and provided this is within approved budget.
- 33.3 Contracts with a total value of £75,000 or above may be signed by an Authorised Officer in accordance with Financial Procedures (Scheme of Delegation) but must be countersigned by the Chief Finance & Procurement Officer and sealed if appropriate. Individual Purchase Orders with a value above £75,000 that are not under an established contract must be countersigned by the relevant department Director prior to sending to the supplier.

34. Records of Contracts

- 34.1 A Register of contracts awarded above £5,000 shall be maintained electronically by the Procurement Team on behalf of the Authority.
- 34.2 Authorised Officers awarding contracts must provide all necessary details to the Procurement Team for recording on the Register, including the agreed Contract Manager.
- 34.3 Contract files shall be maintained in accordance with the Authority’s retention schedule.

35. Contract Management

- 35.1 Contract Managers listed in the Contracts Register are responsible for effectively monitoring and reporting on contractor’s performance in the delivery of the required supplies, services or works.
- 35.2 Risk assessments and the value of the contract shall be used, in consultation with the Procurement Manager, to determine the degree of monitoring and reporting necessary.

36. Novation

- 36.1 Novation occurs where there is an agreement to change a contract by substituting a third party for the original contractor. Where the Authority is approached regarding novation the Authorised Officer must seek advice of both the Procurement Manager and Chief Legal & Governance Officer before novation can be agreed.

37. Modification of Contracts During Their Term

- 37.1 Contracts and Framework Agreements may be modified (including extensions) without a new procurement procedure, in the following cases:

- a) The modification, irrespective of monetary value, was provided for in the initial contract as clear, precise and unequivocal clauses.
- b) The additional supplies, services or works by the original supplier that have become necessary, were not included in the initial procurement and where a change of supplier;
 - i. Cannot be made for economic or technical reasons such as interchangeability or interoperability with existing equipment, services or installations or
 - ii. Would cause significant inconvenience or substantial duplication of costs
 - iii. Provided that any increase in price does not exceed 50% of the value of the original contract.
- c) Where all of the following conditions apply:
 - i) The need for modification came about by unforeseen circumstances,
 - ii) The modification does not alter the overall nature of the contract,
 - iii) The increase in price does not exceed 50% of the original contract

- 37.2 Any modifications to contracts as described in CPR35.1 must be agreed beforehand by the Chief Procurement & Finance Officer and signed by all parties in the form of a Contract Variation Agreement.

- 37.3 Any modifications described in b) and c) as relating to the original award of contract value that exceeded Regulation thresholds must be notified to the Procurement Manager who shall in turn publish the necessary Notice.

- 37.4 Any proposals to modify a contract or framework agreement that would be considered substantial are not permitted and would require a new procurement procedure. Advice from the Chief Finance & Procurement Officer must be sought.

38. Termination of Contract

- 38.1 Contracts may be terminated early by the Chief Finance & Procurement Officer in accordance with the termination provisions set out in the contract.
- 38.2 Any contracts that are terminated early with a residual value exceeding £75,000 shall be reported to the next meeting of the Authority by the Chief Finance & Procurement Officer.

39. Waiver of Contract Procedure Rules

- 39.1 The Authority does not have the power to waive Public Contract Regulations and which take precedence over Contract Procedure Rules.
- 39.2 The Authority does have the power to waive these Contract Procedure Rules for specific projects and circumstances where a waiver is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to services, or can otherwise be reasonably justified, either an Authorised Officer (up to £25,000) or an Executive Officer (up to £75,000) may take that decision after consulting with the Procurement Manager.
- 39.3 Waiver requests in excess of £75,000 must be agreed by the Chief Executive Officer or in their absence; the Deputy Chief Fire Officer, Chief Finance and Procurement Officer, Chief Employment Services Officer or Director of Service Support. Any such waivers must be reported to the next meeting of the Finance & Resources Committee by the Chief Finance & Procurement Officer.
- 39.4 The officer seeking the waiver must ensure a copy of the approved request is registered and filed centrally with the Procurement Team for audit purposes.

40. Disposal of Assets

- 40.1 Leased assets must be disposed of in accordance with written lessor's instructions.
- 40.2 Where assets (other than land & buildings) are to be disposed of because they are surplus to requirements, damaged or obsolete; reasonable endeavours must be undertaken to realise the residual value of the assets.
- 40.3 Assets having little or no realisable value may be disposed of as waste with the approval of the relevant Executive Officer, provided the disposal favours re-use / recycling wherever possible.
- 40.4 Assets with a realisable value shall be disposed of in the manner most likely to secure best value including the use of auction houses and on-line auctions involving multiple bidders.
- 40.5 Disposal of assets that realise a value of £75,000 or more must be reported to the next meeting of the Finance & Resources Committee by the Chief Finance & Procurement Officer.

41. Review and Amendment of Contract Procedure Rules

- 41.1 These Contract Procedure Rules shall be reviewed and updated at least annually by the Chief Legal & Governance Officer in consultation with the Chief Finance & Procurement Officer.
- 41.2 Any proposed amendments as determined by the Chief Legal & Governance Officer that would materially change overall governance or introduce significant change shall be presented beforehand to the Fire & Rescue Authority or relevant Committee for approval.

42. Definitions

Access Agreement	An agreement between the Framework provider and the contracting authority to enable access to the framework
Authorised Officer	Persons with appropriate delegated authority to act on the Authority's behalf and which includes budget holders (as identified within the Financial Regulations) and those persons registered on the e-E-procurement system procurement system.
Authority	West Yorkshire Fire and Rescue Authority; or any designated committee of the Authority that has delegated powers to act on behalf of the Authority.
Constitution	The Authority's Constitution as adopted and amended from time to time and maintained on the Authority's website particularly references to the Articles, Scheme of Delegation, Officer Codes, Procedural Procedure Rules, Rules of Procedure, Access to Information Procedure Rules, these Contract Procedure Rules and Member Codes of Conduct.
Contracts Finder	The web-based government procurement portal provided on behalf of the Cabinet Office for public bodies at https://www.gov.uk/contracts-finder
Contracts Register	A register held and maintained by the Procurement Team containing details of contracts entered into by the Authority above a threshold value of £5,000.
Framework Agreement	An agreement which allows an Authority to call off from a supplier to provide supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself usually constitutes a nonbinding offer with no obligations on the Authority to call off from the Supplier. If the Authority calls off from the Supplier a binding contract comes into being.
ITT	Invitation to Tender
FTS	Official Journal of the European Union
PIN	Prior Information Notice for publication in FTS
Procurement	Any arrangement whereby a new, replacement, amended or extended contract for the supply of goods, services or works is to be put in place. This includes circumstances where more than one provider is invited to tender and also where goods, services or works are procured through a negotiation with a single provider.
Procurement Plan	A plan identifying procurement projects so that appropriate resources can be allocated and suppliers notified to give advance notice of bidding opportunities.
Procurement Team	The Officers employed in the WYFRA Procurement Service
Purchasing Consortia	A collaborative arrangement in which two or more organisations join together to combine their individual requirements for goods, works or services to gain better prices, design, supply availability and assurance benefits compared to if each member purchased the goods or services alone.
Retention Schedule	The Authority's Retention Schedule is located on the WYFRA intranet
Regulations	The Public Contracts Regulations 2015 or any subsequent amendment
RfQ	Request for Quotation
Social Value Act	A requirement to consider economic, social and environmental well-being of an area, at the pre-tender stage
Supplier	Any person or body of persons providing, or seeking to provide, supplies, services or works to an Authority.
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006.
Value for Money	The optimum combination of whole life costs and benefits to meet the customer's requirement. Such term equates to "most economically advantageous offer" (MEAT).