



DONCASTER CHILDREN'S SERVICES TRUST LIMITED

CONTRACT PROCEDURE RULES (CPR)

MARCH 2016

Contents

1.0	Introduction and definition of procurement.....	3
2.0	Basic Principles of Procurement.....	3
3.0	Compliance	4
4.0	Procurement Plan, Contracts Register and Statistical Returns	4
5.0	Contract Value.....	5
6.0	Relevant Contracts.....	5
7.0	Exceptions to the requirement of competition	6
8.0	Using DMBC Corporate Contracts.....	7
9.0	Using Framework Contracts	7
10.0	Joint Procurement	7
11.0	Below £20k – Low Value Procurement (Quotations).....	8
12.0	Between £20k and £150k – Intermediate Value Procurement (Quotations)	8
13.0	Over £150k – High Value Procurements (Tenders)	9
14.0	Qualification	10
15.0	The Invitation to Tender/Quote	10
16.0	Submission, Receipt, Opening and Registration of Tenders/Quotes.....	11
17.0	Evaluation of Tenders & Quotations	12
18.0	Errors in Tenders/Quotations.....	12
19.0	Post Tender Negotiation.....	13
20.0	Awarding Contracts.	13
21.0	Contract Award Notice.....	16
22.0	Contract Terms and Conditions	16
23.0	Contract Extensions and Variations.....	16
24.0	Termination of Contract.....	17
26.0	Record and Document Retention and Control	18
27.0	Purchasing Cards.....	18
28.0	Cost Control	18
29.0	Contract Claims.....	18
30.0	Review	19
31.0	Appendix A - Glossary of Terms (including general procurement terms)	20
32.0	Appendix B – Procurement Process Reference Table	23
33.0	Appendix C – Current EU Thresholds.....	24

CONTRACT PROCEDURE RULES

1.0 Introduction and definition of procurement

- 1.1 The definition of procurement is the process of identifying, sourcing and managing the external resources that an organisation needs or may need to fulfil its strategic objectives.
- 1.2 These Contract Procedure Rules outline the policy and procedures for procurement activities across Doncaster Children's Services Trust Limited (The Trust") which includes ordering for the purchase, commissioning, hire, rental of goods, supplies, works and services on behalf of the Trust.
- 1.3 Compliance with the Contract Procedure Rules ensures that:
 - All contractors, suppliers and providers are treated fairly and equally and that all procurement takes place in an open and transparent way, encouraging competition.
 - The rules and procedures governing the procurement process are set out clearly for all interested stakeholders.
 - All elements of procurement, from identifying the need through to disposal of goods or ending of contracts, are governed to ensure sound, robust procurement practice.
 - The Trust complies with EU Procurement Directives and the UK Public Procurement Regulations.
 - The Trust can defend against allegations of incorrect or fraudulent procurement practice, should the need arise.
- 1.4 The Trust has a duty to make the best use of its assets and finances on behalf of children, young people, families and business of the borough. It is important that works, goods and services are procured in a way that offers value for money and is carefully regulated, lawful, and ensures transparency and accountability.
- 1.5 The Trust is considered a sub-central contracting Authority and as such is bound by the Public Contracts Regulations (2015), the same as other public bodies.
- 1.6 The following pages offer further details in relation to the compliance and general requirements around procuring goods and services on behalf of the Trust and should be read and complied with for any procurement exercise.
- 1.7 It also should be noted that these Contract Procedure Rules should be read in conjunction with the Trust's Financial Regulations, the Commissioning Framework and the Procurement Guidelines in order for budget holders and Lead Officers to discharge their responsibilities accordingly.

2.0 Basic Principles of Procurement

- 2.1 All procurement and commissioning procedures must:
 - Be in line with the Trust's objectives as set out in the Business Plan.
 - Meet the procurement need and achieve value for money.
 - Ensure fairness and transparency in the allocation of public contracts.
 - Comply with all appropriate legal requirements.
 - Ensure that all risks in the process are appropriately assessed and managed.
 - Be outcomes focused.

- Include consultation and co-production unless there is a compelling business reason not to.
- 2.2 Prior to any procurement the Lead Officer must consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area.
- 2.3 Procurement Procedures - once the need for goods, services or works has been identified, Officers are required to:
- a) investigate whether the Trust has an “in house” supplier which can meet the requirements; if this is not possible
 - b) investigate whether the Trust can access a DMBC contract or other arrangement through which the requirement can be met; if this is not possible
 - c) investigate whether there is a suitable regional or national framework which can be used to source the requirement; if this is not possible
 - d) consider carrying out a bespoke procurement process
- 2.4 A procurement process under d) above should only be undertaken when none of the options a) to c) are able to meet the service need or provide excellent value for money.

3.0 Compliance

- 3.1 The Contract Procedure Rules must be adhered to by:
- All Officers
 - Contractors, suppliers and third parties responsible for awarding, managing and monitoring contracts on behalf of the Trust.
- 3.2 The highest standards of probity are required of all those involved in the procurement, award and management of Trust contracts.
- 3.3 Any **failure to comply** with any of the provisions of these Contract Procedure Rules, the Financial Regulations, the Commissioning Framework, the Procurement Guidelines and UK and European Union legal requirements by Officers **may result in disciplinary action**.

4.0 Procurement Plan, Contracts Register and Statistical Returns

- 4.1 The Trust’s Head of Commissioning and Procurement (or nominated deputy), in conjunction with Service Leads, shall publish Prior Information Notices (PIN) in the Official Journal of the European Union listing the contracts for services and supplies which it expects to procure in the coming financial year for values over the EU threshold.
- 4.2 Officers shall ensure that all contracts to be procured over £150,000 (or the EU threshold as revised, whichever is lower) are notified to the Head of Commissioning and Procurement (or nominated deputy) and are registered on the procurement forward plan.
- 4.3 Values below the EU threshold can also be published as a PIN, but this isn’t required unless there are concrete indications of cross-border interest

- 4.4 All Officers shall ensure they notify the Head of Commissioning and Procurement (or nominated deputy) of any contracts awarded or extended so that they can update the Trust Contracts Register.

5.0 Contract Value

- 5.1 Competitive tendering exercises must be undertaken with due consideration to Contract Procedure Rules, EU Procurement Regulations and EC Treaty principles which include fairness, transparency, non-discrimination and mutual recognition.
- 5.2 When contracting goods, services or works a genuine assessment of the whole life value of the costs must be undertaken.
- 5.3 The estimated value must present the total potential cost, exclusive of VAT, over the whole life of the project, including any extension terms.
- 5.4 The Trust shall make the best use of its purchasing power by aggregating purchases wherever possible. In particular contracts for supplies, services or works shall not be split in an attempt to avoid the /application of these Contract Procedure Rules or the Regulations.
- 5.5 Where the Trust enters into multiple contracts to fulfil a single requirement, the value of those contracts should be aggregated to decide whether the purchase is above the EU threshold.
- 5.6 Where possible, the Trust should divide a large contract into lots in order to encourage smaller suppliers. Where this is not possible, reasoning should be included in the contract award report.

6.0 Relevant Contracts

- 6.1 All relevant contracts must comply with the Contract Procedure Rules.
- 6.2 A relevant contract is any arrangement made by, or on behalf of, the Trust for the carrying out of works, or for the supply or provision of goods, materials or services.
- 6.3 This includes arrangements for:
- The supply or disposal of goods
 - The hire, rental or leasing of goods and equipment
 - The delivery of services, including (but not limited to) those related to:
 - Use of agency staff
 - Land and property transactions relating to development agreements
 - Financial Services
 - Consultancy services.
- 6.4 Relevant contracts do not include:
- Contracts for the employment of individual members staff (permanent, temporary or casual). For the avoidance of doubt the appointment of recruitment agencies would need to be subject to Contract Procedure Rules.
 - The employment of barristers.

- Contracts relating to disposal or acquisition of an interest in land.
- 6.5 A contract is a legally binding agreement required for all goods, works or services entered into by a representative of the Trust. A contract can be formed through verbal, written means or via the exchange of monies.
- 6.6 Contractors fulfilling duties on behalf of the Trust must comply with the Trust's Contract Procedure Rules.
- 6.7 Any lease, hire, rental or credit arrangement (such as vehicle or equipment leasing) which has a capital cost must be approved for inclusion in the Capital Programme in accordance Financial Regulations relating to Capital expenditure, prior to commencing any procurement exercise.

7.0 Exceptions to the requirement of competition

- 7.1 No exceptions can be made to the requirements of competition in terms of the Contract Procedure Rules, unless authorised in writing by a Director or Chief Executive (or nominated deputies), after considering a written report by the appropriate Officer.
- 7.2 A register of all exceptions will be maintained by the Head of Commissioning and Procurement (or nominated deputy) and will be reported to the Board on a six monthly basis.
- 7.3 Subject to the statutory requirements and provided that the market for a proposed contract has been investigated and it can be demonstrated that departure from these Rules is justifiable, the requirement of competition will not apply to:
- 7.3.1 the purchase of proprietary or patented goods or materials or services which, in the opinion of the officer, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available.
 - 7.3.2 the execution of works or the supply of goods or services that are controlled by a statutory body
 - 7.3.3 the execution of works or supply of goods or services that are of a specialised nature which, in the opinion of the officer, are carried out by only one supplier, and where no reasonably satisfactory alternative is available;
 - 7.3.4 the execution of works or supply of goods or services for which the officer can demonstrate that no genuine competition can be obtained;
 - 7.3.5 the purchase of a named product required to be compatible with an existing installation.
 - 7.3.6 procurements made through or on behalf of any consortium, local authority, statutory or similar body provided that tenders or quotations are invited and contracts placed in accordance with national or EU legislation;
 - 7.3.7 obtaining work or supplies from an in house service provider;
 - 7.3.8 social care contracts, if in the opinion of the Officer and following consultation with the Head of Finance and Business Planning, it is considered in the Trust's interests and to meet its obligations under relevant legislation;
 - 7.3.9 the execution of works or the supply of goods and services that are required so urgently as not to permit compliance with the requirements of competition.

- 7.3.10 carrying out, with the approval of the Head of Finance and Business Planning (or nominated deputy), security works where the publication of documents or details in the tendering process could prejudice the security of the works to be done.
- 7.4 Only the Directors or the Chief Executive (or nominated deputies) have authority to grant exceptions to the requirement for competition.
- 7.5 Exceptions must be obtained in advance of the procurement action as an exception cannot be issued retrospectively.
- 7.6 Exceptions must not be used to avoid the requirements of the Contract Procedure Rules to go to competition, due to lack of time available within the procurement timelines.
- 7.7 Requirements of EU Procurement Directives, UK Procurement legislation or any other relevant law or external regulatory framework cannot be waived.
- 7.8 Exceptions for goods and services contracts can only be allowed up to the EU threshold.
- 7.9 Instances in which an exception has been granted must still demonstrate that value for money has been obtained and there is a clear benefit or advantage to the Trust.
- 7.10 Exceptions must be documented in the CPR Waiver Form and approved by the Head of Finance and Business Planning or the Chief Executive (or nominated deputies). This form is available from the Contracts and Commissioning Team.

8.0 Using DMBC Corporate Contracts

- 8.1 Where DMBC holds corporate contracts that are accessible to the Trust, these should be investigated to see if they meet service and value for money requirements, before undertaking bespoke procurement.
- 8.2 Details of the current council wide contracts are available on the council's intranet page.

9.0 Using Framework Contracts

- 9.1 Officers should use a framework agreement let by another public sector body, such as the Crown Commercial Service, YPO, other public sector consortia or another council, where these are available for the service or goods that are required and meet service and value for money requirements.
- 9.2 The advice of the Head of Commissioning and Procurement (or nominated deputy) should be sought when using frameworks.
- 9.3 The framework may also include, within its terms, the requirement for a mini-competition exercise. If this is required, the Head of Commissioning and Procurement (or nominated deputy) will assist with this process.

10.0 Joint Procurement

10.1 When undertaking a joint procurement arrangement on behalf of the Trust and other public bodies, the officer must ensure the other public bodies that are to be included in that arrangement are listed in the advertisement and contract documents. They can either be individually listed or referred to as a class of organisation within a particular region e.g. “all Local Authorities in the Yorkshire and Humber Region”. The estimate given must include the potential usage of that joint arrangement by those public bodies listed.

11.0 Below £20k – Low Value Procurement (Quotations)

11.1 For contracts valued at below £20,000, the Lead Officer concerned should proceed in a manner most expedient to the efficient management of the service.

11.2 The Lead Officer must be able to demonstrate best value for money inviting local suppliers where the supply base is available. It is recommended that invitations to quote over £5,000 are placed on the DCS Trust Portal. A contract of any value can be advertised if deemed appropriate.

11.3 If the opportunity is advertised, it must also be advertised on Contracts Finder.

11.4 Pre-Qualifying Questionnaires cannot be used.

11.5 Officers shall retain a written record of actions taken and the reasons.

11.6 If the minimum requirement is not likely to achieve best value for money and / or quality of service for the Trust then a full tender should be undertaken using the Open Procedure.

12.0 Between £20k and £150k – Intermediate Value Procurement (Quotations)

12.1 The **minimum** requirement is for 3 written quotations from suitable suppliers or providers. Wherever possible a minimum of one of the quotations must be sought from a Doncaster Business.

12.2 All invitations to tender or invitations to quote for contracts shall be placed on the DCS Trust Portal, unless there is a valid reason not to advertise on the Portal which has been authorised by the Head of Commissioning and Procurement (or nominated deputy).

12.3 Invitations to tender or invitations to quote must also be advertised on Contracts Finder. This must be done within 24 hours of being advertised elsewhere. This does not apply where agreement has been gained that advertising is not required as per 12.2. This also does not apply to procurement from a framework.

12.4 Pre-Qualifying Questionnaires cannot be used.

12.5 All quotes, except where lowest price was predetermined to be the only criteria, must be assessed on the basis of the offer which represents Most Economically Advantageous Tender. This should be determined on the basis of both quality and total lifetime cost.

12.6 One of the Officers responsible for the award authorisation, or nominated deputy (see section 20) must be involved in the project throughout.

12.7 If the minimum requirement is not likely to achieve best value for money and / or quality of service for the Trust then a full tender should be undertaken using the Open Procedure.

13.0 Over £150k – High Value Procurements (Tenders)

13.1 Before commencing any procurement process (including a process which involves a proposed service transfer or the development of a strategic partnership) for the procurement of works, goods or services with an estimated contract value in excess of £150K, the Lead Officer must consult the Head of Commissioning and Procurement (or nominated deputy).

13.2 Contracts over £150K must only be let following a full tender process.

13.3 Where relevant, tenders must be tendered in accordance with the relevant EU procurement rules. The exception to this rule is through an existing framework agreement that has been established via the relevant EU process.

13.4 For contract values above the EU threshold, contractors must be appointed by the by one of the following methods:

13.4.1 The Open procedure

13.4.2 The Restricted procedure.

13.4.3 The Competitive procedure with Negotiation and The Competitive Dialogue procedure for more strategic, complex or high value projects. It is best used when the specific requirements are known, but negotiation is allowed with a view to ensuring the bid is improved to meet the needs. Allows the discussion of options with bidders before selecting a solution. There are limited circumstances under which this process can be used.

13.4.4 Innovation Partnership. This is a structured partnership for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works.

13.5 All tenders shall be advertised and available for download on the DCS Trust Portal system and also placed on Contracts Finder.

13.6 Standard template documentation must be used.

13.7 Deadlines for submission of bids cannot close on a weekend or on a Monday.

13.8 All tenders and quotes must be assessed on the basis of the offer which represents Most Economically Advantageous Tender. This should be determined on the basis of both quality and total lifetime cost. Lowest price cannot be used as the basis for evaluating tenders and quotes of this value.

13.9 All tenders above the relevant EU threshold must be advertised in the OJEU journal using the Contract Notice template supplied on Tenders Electronic daily (TED). See appendix B for the relevant thresholds.

13.10 One of the Officers responsible for the award authorisation, or nominated deputy (see section 20) must be involved in the project throughout.

14.0 Qualification

14.1 For all procurements with a value of over £30k the Trust shall only enter into a contract with a Contractor if it is satisfied as to the Contractor's:

- Economic and financial standing
- Technical ability and capacity
- Insurance arrangements
- Quality systems
- Health and Safety Records
- Environmental performance and compliance with environmental legislation
- Compliance with all relevant legislation
- Tax payment history
- Previous performance (leading to early termination). Time limits apply
- Criminal conviction history for certain offences

14.2 Sid4gov may be used to assess the financial stability of a registered potential supplier. This is accessible through the Contracts and Commissioning Team.

15.0 The Invitation to Tender/Quote

15.1 The invitation to tender or quote shall include details of the Trust's requirements for the particular contract including:

- 15.1.1 a description of the services, supplies or works being procured;
- 15.1.2 the procurement timetable including the Tender/Quotation return date and timescales. A reasonable period should be allowed for the applicants to prepare their Tender/Quotation and where applicable meet the minimum regulation timescales;
- 15.1.3 a specification and instructions on whether any variant bids are permissible;
- 15.1.4 subject to the Trust's terms and conditions of contract or a request for the bidders to submit their terms and conditions (the Trust should look to use its own terms and conditions wherever possible);
- 15.1.5 the evaluation criteria including any weightings and or sub-criteria as considered appropriate;
- 15.1.6 pricing mechanism and instructions for completion;
- 15.1.7 whether the Trust is of the view that TUPE may apply;
- 15.1.8 if appropriate the form and content of method statements to be provided by the bidders;
- 15.1.9 rules for submitting of Tenders/Quotations - all invitations to Tender/Quote should state that Tenders/Quotations should be submitted electronically on the DCS Trust Portal, unless there is a valid reason with approval from the Head of Commissioning and Procurement (or nominated deputy) as to why hard copy submissions should be allowed;
- 15.1.10 any further information, such as a project brief, which will inform or assist Contractors in preparing Tenders/Quotations;
- 15.1.11 Consideration should also be given whether or not a performance bond should be required. This should be considered for all contracts over £500,000, and should only be specified following advice from legal services and finance.

16.0 Submission, Receipt, Opening and Registration of Tenders/Quotes

16.1 Electronic Tendering

- 16.1.1 All contracts over £5K that require requests for Quotations and Invitations to Tender must be transmitted using the DCS Trust Portal, unless approval has been gained from the (or nominated deputy) to gain quotes outside of the Portal.
Using the DCS Trust Portal will:
- Evidence and record successful transmissions, questions asked by suppliers and responses to questions.
 - Securely store tenders to ensure that they are not opened until the deadline for receipt of quotations/tenders has passed.
- 16.1.2 All Tenders/Quotation submissions will be submitted electronically on the DCS Trust Portal, unless there is a valid reason with approval from the Head of Commissioning and Procurement (or nominated deputy) as to why hard copy submissions should be allowed.
- 16.1.3 All questions in relation to Tenders/Quotations by suppliers will be submitted electronically on the DCS Trust Portal to the named commissioning contact. Responses to questions will be posted on the DCS Trust Portal, and where appropriate, be shared with all suppliers on the DCS Trust Portal who have requested access to the Tender/Quote documents.
- 16.1.4 Officers who have been involved in preparing a tender bid, must not be involved in the recording or opening of tenders.

16.2 Hard Copy Tendering and Quotations

- 16.2.1 Should only be accepted where there is not any possible way of submission electronically and with approval from the Head of Commissioning and Procurement (or nominated deputy).
- 16.2.2 Tenders received shall be addressed to the Head of Finance and Business Planning (or nominated deputy) in a sealed envelope endorsed with the word "Tender" followed by the subject matter to which it relates. No marks shall be included upon the envelope that identifies the bidder prior to the opening of the envelope. Tenders shall be kept in a safe place and remain unopened until the time and date specified for their opening.
- 16.2.3 Tenders shall be opened by the Head of Finance and Business Planning (or nominated deputy) and at least one other Officer. An immediate record shall be made of the Tenders received including names, addresses, value and the date and time of opening.
- 16.2.4 Officers who have been involved in preparing a tender bid, must not be involved in the recording or opening of tenders.
- 16.2.5 All procurement must be electronic by October 2018.

16.3 General

- 16.3.1 The design of the Tender/Quotation documents must be such that price documentation cannot be changed or substituted following submission of the Tender or Quotation.
- 16.3.2 No Tenders, Quotations or Pre-Qualification Questionnaires received after the specified date and time for their receipt can be considered by the Trust.
- 16.3.3 All unsuccessful Tender/Quotation documents must be retained for three years. Documentation relating to successful Tenders or Quotations must be kept for six years.

17.0 Evaluation of Tenders & Quotations

- 17.1 The evaluation criteria shall be predetermined and listed in the Invitation to Tender/Quote documentation. The percentage of the total marks available will be listed for each criterion in the Invitation to Tender/Invitation to Quote documentation. The criteria shall be strictly observed and remain unchanged at all times throughout the contract award procedure.
- 17.2 Tenders subject to the Regulations shall be evaluated in accordance with the relevant Regulations and the evaluation criteria set out in the Invitation to Tender. Sub-criteria should also be listed if relevant.
- 17.3 For all contracts valued at £150k and under; except contracts where lowest price was predetermined to be the only criteria, must be awarded on the basis of the offer which represents Most Economically Advantageous Tender. This should be determined on the basis of both quality and total lifetime cost.
- 17.4 All contracts valued at over £150k must be awarded on the basis of the offer which represents Most Economically Advantageous Tender. This should be determined on the basis of both quality and total lifetime cost. Lowest price cannot be used as the basis for evaluating tenders and quotes of this value.
- 17.5 Procurements can only be abandoned and re-tendered for proper justifiable reasons e.g. receipt of non-compliant bids so genuine competition cannot be obtained or funding is no longer available etc. It would be a breach of the Regulations if a tender was abandoned on the grounds that a particular contractor was not the successful bidder and such action would leave the Trust open to legal challenge.

18.0 Errors in Tenders/Quotations

- 18.1 Prior to acceptance of any tender or quotation received, any arithmetic error or other minor discrepancy made in good faith can be corrected by the Lead Officer after consultation with the Head of Commissioning and Procurement (or nominated deputy) in one of the following two ways:
 - 18.1.1 The tenderer shall be given details of the error(s) found during the examination of the tender and shall also be given the opportunity of confirming without amendment or withdrawing the tender; or

18.1.2 Amending the tender to correct genuine arithmetic error(s) provided that in this case, apart from these genuine arithmetic errors, no other adjustment, revision or qualification is permitted.

18.1.3 A written record must be kept of all such amendments

18.2 Contractors who regularly make errors should be warned appropriately.

19.0 Post Tender Negotiation

19.1 In the interests of ensuring an open, fair and transparent process, negotiation following receipt of tenders is only permissible in limited circumstances.

19.2 No negotiation must be undertaken following receipt of tenders where the tender was subject to EU procurement rules except where the “competitive procedure with negotiation” or “competitive dialogue procedure” has been used. This should be used in conjunction with the Head of Commissioning and Procurement (or nominated deputy).

19.3 Where the Lead Officer considers that none of the tenders or quotations are acceptable, and it is in the Trust’s interests to do so, s/he may undertake negotiations with one or more tenderers or quotation providers. This course of action will only be taken by the Lead Officer after consultation with the Head of Commissioning and Procurement (or nominated deputy) and where it is intended to obtain better value for money.

19.4 Negotiation on behalf of the Trust should be conducted by two or more officers and a written record kept of the negotiation.

19.5 An amended Tender following negotiations under this rule may not be accepted unless it provides value for money to the Trust.

19.6 At all times during the procurement process the Trust shall ensure that all tenderers are treated equally and in a non-discriminatory and transparent manner.

20.0 Awarding Contracts.

20.1 Where an Invitation to Tender/Quote has been issued, a contract shall only be awarded subject to the tender evaluation criteria.

20.2 Where a Tender is to be evaluated on price only the Contract must be awarded to the Contractor submitting the lowest price; it is not usually recommended to award contracts on price only. This only available for tenders valued at £150k and under. Tenders valued at over £150k must be evaluated on the basis of the Most Economically Advantageous Tender.

20.3 No contract will be awarded unless the Lead Officer has identified that the budget is available. If the award of a contract would result in the agreed budget being overspent the contract will only be awarded following discussion and written confirmation from the Chief Executive and Head of Finance and Business Planning (or nominated deputy) to identify other savings to offset the overspend.

- 20.4 Where the scope of the original contract is to be reduced in order to fit within budgetary provision, the Lead Officer will be required to re-enter negotiations with all contractors who have submitted a bid. See section 19.0.
- 20.5 For all tenders covered by the EU procurement rules, the minimum statutory standstill period is required between notification of the award decision and final contract award.
- 20.6 For all tenders under the EU threshold, a voluntary 10 day standstill period is required between notification of the award decision and final contract award, unless there is a valid reason why this should not take place. This exception must be agreed by the Head of Commissioning and Procurement (or nominated deputy) prior to the contract award.
- 20.7 Approval to award a contract under £20k rests with the relevant budget holder jointly with the Finance Business Partner, Head of Finance and Business Planning or the Head of Commissioning and Procurement.
- 20.8 Approval to award a contract up to £100k rests with Heads of Service jointly with the Head of Finance and Business Planning or Head of Commissioning and Procurement.
- 20.9 Approval to award a contract up to £150k rests jointly with any two Directors.
- 20.10 Approval to award a contract up to £500k rests with Chief Executive jointly with another Director.
- 20.11 Approval to award over £500K rests with the Trust Board or Executive Task Committee, or nominated deputies.
- 20.12 Where there is a delay in informing suppliers of the outcome of the tender or quotation evaluation by the intended date, suppliers will be informed of the delay by posting a message on the DCS Trust Portal where appropriate, or by email. Where possible the suppliers will be informed of revised timescales.
- 20.13 All contracts over £250k shall be under seal, unless a Director or Chief Executive (or nominated deputy) approves other arrangements.
- 20.14 Where a full invitation to quote or tender exercise has taken place, a Contract Award Report must be drawn up in relation to each contract or framework awarded. This also applies for purchasing from a framework. The template available from the Contracts and Commissioning team should be used. The report should be saved with the procurement documents and contain:
- 20.14.1 the name and address of the Trust, the subject-matter and value of the contract;
 - 20.14.2 where applicable, the results of the qualitative selection and reduction
 - 20.14.3 the names of the selected and rejected tenderers and the reasons for their selection and rejection
 - 20.14.4 the reasons for the rejection of tenders found to be abnormally low
 - 20.14.5 the share and names (if any) of the contract or framework agreement which the successful tenderer intends to subcontract to third parties,

- 20.14.6 for competitive procedures with negotiation and competitive dialogues, the circumstances which justify the use of those procedures;
 - 20.14.7 for negotiated procedures without prior publication, the circumstances which justify the use of this procedure;
 - 20.14.8 where applicable, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system;
 - 20.14.9 where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
 - 20.14.10 where applicable, conflicts of interests detected and subsequent measures taken.
 - 20.14.11 where applicable, the reason the contract was not broken down into smaller lots.
- 20.15 Once a contract that has been advertised on the DCS Trust Portal has been awarded, the DCS Trust Portal must be updated to reflect the award.
- 20.16 There are certain circumstances when a Contract Award must be published to Contracts Finder as follows:
- 20.16.1 When a contract has been advertised on Contracts Finder, or;
 - 20.16.2 Procurement has taken place from a framework, or;
 - 20.16.3 A contract is not advertised on Contracts Finder but is valued at £20,000 or higher.
- 20.17 Where 20.16.1 – 20.16.3 apply, the contract award must be posted to Contracts Finder within 90 days after the contract award date including the following information:
- 20.17.1 Who the contract has been awarded to;
 - 20.17.2 The value of the contract;
 - 20.17.3 The contract start date;
 - 20.17.4 If the successful supplier is a Small or Medium Sized Enterprise or a Voluntary and Community Social Enterprise
- 20.18 Where a full tender or invitation to quote process has been undertaken, the Contracts and Commissioning team must write to the unsuccessful bidders detailing:
- 20.18.1 The suppliers score and the winning bidders score against each scoring criterion
 - 20.18.2 The reasons why the winning bidder's tender achieved a higher score
 - 20.18.3 Offering further feedback within 10 working days
 - 20.18.4 The length of the standstill period and if it is voluntary
- 20.19 Where further feedback is requested by an unsuccessful supplier, a pre agreed time and date should be arranged to give further feedback by telephone or email. The Head of Commissioning and Procurement (or nominated deputy) will lead on or advise on feedback to be given. Prior to the meeting or telephone call; the feedback to be given to the supplier should be prepared
- 20.20 Where further feedback is requested from a supplier in writing, it must be provided within 15 working days.

- 20.21 Where a full tender process has taken place the Contracts and Commissioning team must write to the successful bidder(s) detailing:
- 20.21.1 Their score against each scoring criterion.
 - 20.21.2 Why they have been successful.
 - 20.21.3 The length of the standstill period and if it is voluntary
 - 20.21.4 That the letter is not a formal offer at this stage

20.22 Where a full tender or quotation process has not been undertaken, feedback should also be provided by the Lead Officer to unsuccessful bidders. This should be done in writing by email and give a brief reasoning as to why they were not successful.

21.0 Contract Award Notice

21.1 Where a contract has been tendered pursuant to the Regulations (the value is over the EU threshold), the Trust shall publish a contract award notice in the Official Journal of the European Union as soon as possible after the decision to award the contract has been taken, and in any event no later than 48 days after the date of award of the contract. The Contract Award Notice should be submitted using the templates on Tenders Electronic Daily. Procurement from a framework does not require a Contract Award Notice.

22.0 Contract Terms and Conditions

22.1 The Trust's Standard terms and conditions should be entered into wherever possible for all contracts. If this is not possible a supplier will be asked to submit their terms which must be approved by the Head of Commissioning and Procurement (or nominated deputy) prior to entering into the contract.

22.2 The above rule shall not apply to:

22.2.1 UK government standard documentation or government sponsored schemes and amendments may be made for best value for money or project specific reasons.

22.2.2 Construction and/or engineering contracts where bespoke conditions based on accepted industry practice are used e.g. JCT, NEC3 or ICE

22.3 All contracts will be in writing.

22.4 All written contracts shall contain:

22.4.1 details of the work, goods or services to be provided.

22.4.2 full details of the prices to be paid, frequency and any discounts.

22.4.3 the period or times over which the contract is to be performed.

23.0 Contract Extensions and Variations

23.1 Variations must be evidenced in writing.

23.2 The Lead Officer, after consultation with the Head of Commissioning and Procurement (or nominated deputy), can extend a contract by any value subject to the extension being permitted within the scope of the original contract and before the expiry date.

- 23.3 An options appraisal must be undertaken to determine if it represents best value for money to extend the contract, and approval shall be sought in a timely manner from the relevant designated authorisers in section 20.
- 23.4 The Lead Officer must make every effort to negotiate improved terms with regard to the cost and quality of the goods or services.
- 23.5 No extension shall be made until funding has been secured in accordance with the Trust's Financial Regulations or any other similar requirement.
- 23.6 All contract variations must be carried out within the scope of the original contract and must not materially affect or change the contract.
- 23.7 A new procurement will be required if the proposed variation has a material change where one or more of the following are met:
 - 23.7.1 the variation introduces new conditions which, had they been part of the original procurement procedure, would have allowed other candidates to be selected to bid or the contract to be awarded to another tenderer.
 - 23.7.2 the variation changes the economic balance in favour of the contractor.
 - 23.7.3 the variation extends the scope of the contract considerably.
- 23.8 Where the value of the contract is £20k and over; and a contract is modified mid-term, a new procurement process will be triggered unless:
 - 23.8.1 the modifications, irrespective of their monetary value, have been provided for in the initial procurement document, or;
 - 23.8.2 there are unforeseen circumstances and the change does not alter the overall nature of contract, the price increase is not greater than 50% and still within the same EU threshold, or;
 - 23.8.3 the change in value is relatively small. 10% for service and supplies, or 15% for works and still within the same EU threshold, or;
 - 23.8.4 there has been a replacement of a supplier following a restructure, insolvency or merger and the new supplier still meets the original criteria, or;
 - 23.8.5 where additional works, services or supplies are required and a change in contractor cannot be made for economical or technical reasons. Any increase in price must not exceed 50% of the value of the original contract and and still be within the same EU threshold

24.0 Termination of Contract

- 24.1 Provision for the termination of a contract must be included within the terms and conditions of the contract.
- 24.2 The Head of Commissioning and Procurement (or nominated deputy) must be consulted where there are serious concerns over the performance of a contract.
- 24.3 The Head of Commissioning and Procurement (or nominated deputy) must be consulted if the performance of a contract is giving rise to concern and consideration is given to termination.

25.0 Procurement by External Agents

- 25.1 Any consultants used by the Trust shall be appointed in accordance with these Contract Procedure Rules. Where the Trust uses consultants to act on its behalf in relation to any procurement, then the Lead Officer shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules. No consultant shall make any decision on whether to award a Contract or to whom a Contract should be awarded. The Lead Officer shall ensure that the consultant's performance in relation to procurement is in accordance with these Contract Procedure Rules.
- 25.2 Where the Trust uses consultants to act on its behalf in relation to any procurement the consultant must declare any conflict of interest that may arise to the Lead Officer prior to commencing work on any Tender.
- 25.3 Where the Lead Officer considers that such a conflict of interest is significant the Lead Officer should consider whether it is appropriate for the consultant to work on a particular tender and the consultant should not be allowed to evaluate Tenders on behalf of the Trust.

26.0 Record and Document Retention and Control

- 26.1 A Contracts Register of all Contracts awarded shall be maintained by the Head of Commissioning and Procurement (or nominated deputy).
- 26.2 Each Relevant Officer shall inform the Head of Commissioning and Procurement (or nominated deputy) of all contracts in their area to allow the Register of Contracts to be maintained.

27.0 Purchasing Cards

- 27.1 The Trust uses Purchasing Cards in order to reduce transaction costs for low value purchases by reducing time spent on processing of orders and invoices.
- 27.2 Purchase cards must not be used as a way of bypassing Contract Procedure Rules. However, in some circumstances, where a contract exists and the supplier allows, a purchase card may still be used as a method of payment, where this offers better value for money or is specified in the contract. For further guidance refer to the Purchase Card policy.

28.0 Cost Control

- 28.1 The Lead Officer shall ensure that suitable procedures are laid down and followed for the effective cost control of all Contracts. Such procedures shall involve a continuous monitoring of the cost being incurred on each Contract with the objective of ensuring that the project is completed within the authorised cost and that any extra costs are identified quickly so that appropriate action can be taken.
- 28.2 As soon as it becomes apparent to the Lead Officer that costs will exceed the amount authorised, the Lead Officer must immediately report the situation to the Head of Finance and Business Planning (or nominated deputy).

29.0 Contract Claims

- 29.1 To safeguard the Trust's right to deduct liquidated damages, if the Contract is over-running the Lead Officer must certify in writing that the Contractor ought reasonably to have completed the works within the Contract period. Such a certification must be in accordance with the Contract conditions.
- 29.2 Any events that may lead to claims for extension of time must immediately be brought to the attention of the Lead Officer.
- 29.3 Claims for extension of time must be assessed promptly and any extension award made in accordance with the conditions of Contract.
- 29.4 If the works are not complete the Lead Officer must issue a certificate of non-completion in accordance with any relevant Contract conditions immediately after the expiry of the (extended) date for completion. It is the ultimate responsibility of the Lead Officer to arrange for the deduction of liquidated damages.
- 29.5 The above procedures must be strictly followed for each section of a Contract in the case of sectional completions.
- 29.6 The Head of Commissioning and Procurement (or nominated deputy) shall be kept informed at all times of all contractual claims whether by or against the Trust.
- 29.7 It is critical that documentary evidence is kept relating to all aspects and stages of a claim and these should be kept by the Lead Officer.

30.0 Review

- 30.1 These Contract Procedure Rules will be reviewed by the Trust Board every two years.
- 30.2 In the event of the need to update the Contract Procedure Rules outside of the timescales in 30.1 the Trust Board will review the Rules if required.

31.0 Appendix A - Glossary of Terms (including general procurement terms)

Added value - Any benefits or services which can be provided over and above that of the contract requirements.

Aggregation of demand – Where similar or same purchases made separately over a period of time (and often from multiple suppliers) are combined into one contract requirement.

Alcatel (or standstill) period – Some contracts over the EU threshold must include a minimum standstill period between the decision to award a contract and the actual award. Unsuccessful suppliers are notified of the proposed award and given the opportunity to appeal if they believe that the award is not justified. It's named after the case law establishing a ruling of an unfairly awarded contract.

Approved list – List of suppliers who have met a minimal level of quality assessments, usually through a pre-qualification questionnaire, or pre-approved list e.g. Constructionline database and approved to provide specific work, goods or services.

Approved suppliers – Suppliers included on approved lists.

Assignment – The transfer of rights from one contractor to another on the basis of the same contract.

Audit trail – System or paper generated evidence showing how decisions and procedures were carried out.

Award – The allocation of a contract to a successful bidder/contractor/supplier.

Award stage – Final stage of the tendering process, with notification of the successful supplier and the signing of the contract.

Bid – A submitted tender.

Business Case (Procurement) – The reasons for carrying out a procurement or project, usually indicating initial value, and justifying the need such an identified service need or meeting Trust objectives.

Collaboration – Process by which two or more 'organisations' (local authorities, other public sector bodies) work together to obtain a joint solution for a shared requirement. Used to capitalise on the advantages of aggregating demand, such as economies of scale or stronger positioning in the marketplace.

Collusion – illegal process of agreeing to unfair activities in a procurement process, such as price fixing.

Commissioning – the strategic activity of assessing need and using resources (both budgets and services) to meet those needs, with procurement forming part of commissioning for the sourcing and setting up contracts to provide services.

Competitive dialogue – Competitive dialogue is a procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender.

Competitive procedure with negotiation – A flexible form of procurement that allows the contracting authority to negotiate with candidates after the initial tender submission and then candidates to resubmit tenders.

Contingencies – Future events or circumstances which may occur.

Contract – Legally binding document that sets out the terms and conditions of the delivery of the works, services or goods, including performance measures.

Contract Award Report – The report required to be completed and saved for every contract that has been let following a formal procurement process.

Contract management – Contract management activities can be broadly grouped into three areas. Contract Administration, Managing Service Delivery and Relationship Management.

Contract administration – Handles the formal governance of the contract and changes to the contract documentation.

Contracts register – A register of Trust contracts centrally held by the Head of Commissioning and Procurement (or nominated deputy)

Contract Award Notice – Notice of the award of a contract published in the Official Journal of the European Union (OJEU) as required by EU legislation.

Contract Procedure Rules – The Trust's rules which must be followed when undertaking any procurement process.

CPR – Contract Procedure Rules

CPR Waiver Form – The waiver form to be completed and submitted when applying for an exemption of the CPR rule.

Criteria – Set of specific requirements that a quote or tender will be marked against.

DCSTrust Portal – An electronic e-tendering system used by the Trust.

Disaggregation – Splitting a requirement for similar works, goods or services into a number of smaller contracts to avoid having to undertake a full competitive tender exercise for contracts exceeding the EU thresholds. This practice is a breach of EU legislation.

Disaggregation may be appropriate to support SMEs ability to bid and to maintain a diverse supplier base.

Dispute - Disagreement between the Trust and a supplier or contractor which may result in court action.

Doncaster business – A company or other organisation which has an office or premises within the Doncaster Metropolitan Borough Council area.

EU Procurement Directives (EU Legislation) – European procurement law enacted into UK law as the Public Contracts Regulations 2015, [soon to be updated to Public Contracts Regulations 2015] detailing rules and regulations that must be complied with for all public sector procurement processes that exceed specified thresholds.

Evaluation – Detailed assessment and comparisons of bid submissions verifying how suppliers will meet the requirements of the contract, measured against quality and price criteria.

Evaluation panel – Group brought together with the specific aim of assessing submitted tenders against pre-set criteria, to make final recommendations on the award of contract.

Exceptions – Permits the undertaking of a procurement action within a specific area without the need for a competitive tender exercise.

Execute – the completion of contract documentation, including the signing, and sealing where required, of the formal contract.

Framework agreement – Used where specific works, services or goods will be needed on a number of occasions over a known duration, but the exact requirement is not known. Can be with a single supplier or with multiple suppliers.

Invitation to Quote (ITQ) – A procedure for obtaining quotes used when a full tender is not appropriate.

Invitation to Tender (ITT) – Sent to tenderers asking them to submit bids based on a specification, indicating the requirements of the Trust.

Joint procurement – Where other public bodies are included within a procurement exercise.

Lead Officer – Within Contract Procedure Rules this refers to the Trust employee who is responsible for the procurement or contract management of a contract.

Liquidated damages – Compensation awarded by a court judgement or a contract stipulation regarding breach of contract.

Marketplace – Wording used to describe a commercial activity or a group of potential suppliers possibly able to meet requirements.

Negotiation – Process by which a contract proposal is reached through discussion and agreement between the prospective contractor and the Trust representative.

Negotiated procedure – Procurement process undertaken directly with one bidder. Used under specific circumstances [will no longer exist once Public Contracts Regulations 2015 are enacted although negotiated procedure without prior publication will still be available].

Nominated deputy - a person authorised to act as a substitute for another as agreed by the nominator.

OJEU (Official Journal of the European Union) – on-line publication advertising tender opportunities and publicising contract awards for the public sector in all EU Member states, the European Economic Area and the World Trade Organisation.

Open Tender Procedure – Tender process which is open to any supplier who wishes to bid. All tenders must be considered.

Pre-Qualification Questionnaire – Set of questions used to establish the suitability of a supplier to be included in a bidding process, based on experience, financial stability and quality assessments. Is also be used to eliminate bidders in a restricted (two stage) process so that only the most suitable suppliers are invited to tender.

Qualified tender – Where a bidder submits a bid which has been amended to the bidders requirements, such as inserting their own terms and conditions.

Quotation – Written or verbal price given by a supplier on request.

Remedies Directive – EU legislation which sets out the rules by which the procurement actions and decisions may be challenged.

Regulations – EU Procurement Directives and the UK Public Procurement Regulations.

Relationship management – Keeps the relationship between the two parties open and constructive, aiming to resolve or ease tensions and identify problems early.

Restricted tender procedure – Tender process where potential suitable tenderers are identified by the evaluation of a pre-qualification questionnaire. Only those passing the evaluation criteria of the pre-qualification questionnaires will be invited to tender.

Service delivery management – Ensures that the service is being delivered as agreed, to the required level of performance and quality.

Specification – Detailed description of what is required.

Stakeholder – Individual or organisation with an active interest in the impact or effect of the procurement activities.

State Aid – Any Government aid must not distort competition by favouring certain businesses or goods.

Sub-letting – Engagement of another contractor by the main contractor.

Submission – The bid or tender submitted by a supplier in response to an invitation to quote or tender.

Tender – Written response to an invitation to tender that contains a full costed proposal. Submitted in a sealed process, and evaluated against set criteria.

Tenderer – Prospective supplier who submitted a bid in response to an invitation to tender or quote.

Tender documents – Set of documents provided to prospective tenderers which forms the basis on which tenders will be submitted. Includes, as a minimum, instructions to tenderers, contract terms and conditions, specification, evaluation criteria, pricing schedule, form of tender and anti-collusion statement.

Testing the market – Process to establish whether there are suppliers able and interested in providing quotes or bidding.

Termination – Cancellation of all or most of a contract.

Thresholds – Financial boundaries (based on the whole life value of a proposed contract) which determine the procurement action, for example whether a competitive tender is required, or whether an EU competitive action is required.

TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) - Preserves the continuity of employment and safeguards employment rights of all employees transferring to a new employer i.e. where there is a change of contract provider or where current Trust staff are being transferred to another service provider.

Value for Money – ensuring the needs of the Trust are met whilst achieving the required balance of quality and price.

Variation - A variation is usually a change to the specification. It may either be a one-off item of work or service, or a change for the remainder of the contract. Variations are contractually binding on both parties.

Whole life value – All costs incurred in the lifespan of the contract, including disposal.

32.0 Appendix B – Procurement Process Reference Table

Amount	Process	Advertising	PQQ Allowed	Award Sign off By
Below £20,000	Lead Officer to proceed in the most expedient manner to the efficient management of the service. Can gain quotes or run a full tender if this does not achieve best value.	DCS Trust Portal (Optional. Recommended for £5K+)	No	Budget Holder jointly with a Finance Business Partner, Head of Finance and Business Planning or the Head of Commissioning and Procurement.
		Contracts Finder (only if advertised on DCS Trust Portal or elsewhere)		
£20,000 - £150,000	Minimum of three quotes. Can run a full tender if this does not achieve best value.	DCS Trust Portal (mandatory unless exemption agreed)	No	£20k - £100k - Head of Service jointly with the Head of Finance and Business Planning or the Head of Commissioning and Procurement
		Contracts Finder (mandatory if advertised on DCS Trust Portal or anywhere else)		£100k - £150k – Jointly with any two Directors.
£150,000 – EU Threshold	Full Tender All contracts over £250k must be under seal, unless the a Director or Chief Executive (or nominated deputy) approves other arrangements.	DCS Trust Portal (mandatory unless exemption agreed)	No	£150k - £500k – CEO jointly with another Director.
		Contracts Finder (mandatory if advertised on DCS Trust Portal or anywhere else)		£500k+ - Trust Board or Executive Task Committee (or nominated deputies)
EU Threshold +	Full Tender All contracts over £250k must be under seal, unless the a Director or Chief Executive (or nominated deputy) approves other arrangements.	OJEU (mandatory)	Yes	£500k+ - Trust Board or Executive Task Committee (or nominated deputies)
		DCS Trust Portal (mandatory)		
		Contracts Finder (mandatory)		

33.0 Appendix C – Current EU Thresholds

Procurement Area	EU Threshold
Health and Social Services	£589,148
Supplies contracts	£164,716
Other Services contracts	£164,716
Works contracts	£4,104,394