



## PROCUREMENT POLICY

Version	Owner	Date Adopted	Review Due	Review Team
V1	TC	January 2022	May 2023 To be reviewed in conjunction with any revision or amendment to Financial Regulations	RFO

### 1. Introduction

The purpose of this policy is to provide guidance on the procedures which will be followed when purchasing goods and services. The policy aims to give effect to and comply with S135 of the Local Government Act 1972 and the Public Contracts Regulations 2015.

Every Contract by the Council or person acting on its behalf shall comply with this Procurement Policy, the Town Council's Standing Orders and Financial Regulations. Each document should be read in conjunction with the others. These regulations cover, amongst other things: the number of quotations to be sought and the tendering procedure.

The National Association of Local Councils Legal Topic Note 87 also provides sensible guidance. [NALC 87 re Procurement Policy.pdf](#)

A Contract is an agreement between the Council and an individual or organisation for the individual or organisation to provide works, goods, or services (including the engagement of consultants) in exchange for payment by the Council. The following contracts are exempt from the requirements of these rules: contracts relating solely to disposal or acquisition of land; employment contracts and individual agency contracts for the provision of temporary staff.

The Council strives to attain best value for the goods, materials, and services that it purchases. Best value is defined as a balance of price, quality of product and local supplier services. Before commencing a procurement, it is essential that the authorised person leading the procurement

has identified the need and fully assessed the options for meeting those needs. The best use of purchasing power shall be sought by bulk purchases wherever possible.

Exceptions to any of the following provisions of these Contract Procurement Rules may be made under the direction of the Council, in consultation with the RFO, where they are satisfied that the exception is justified in special circumstances. Every exception and reason therefore shall be recorded by a resolution of Council.

The council must be mindful of avoiding conflicts of interest when obtaining quotations and awarding tenders. **Quotations cannot be obtained by members.**

## **2. Purpose**

Melksham Town Council's Procurement Policy has four main purposes:

1. To obtain best value in the way that the Council spends money, so that it may in turn offer better and more cost-effective services to the public.
2. To support the ability of the Council's officers to procure and manage goods, services, and suppliers effectively, advising all Council staff of the appropriate procedures and responsibilities.
3. To enable the Council to comply with legal obligations that govern the spending of public money.
4. To contribute to the Council's duty towards biodiversity and environmental aims.

## **3. Local contractors preferred**

- 3.1 The Council recognises the benefits to the economy of using local businesses and will seek out local contractors and suppliers, wherever possible.

## **4. Competence of contractors and due diligence**

4.1 The Council shall only enter into a contract with a supplier if it is satisfied as to the supplier's suitability, eligibility, financial standing, and technical capacity to undertake the contract by carrying out appropriate due diligence. A credit check will be carried out for all contracts which exceed the threshold in Financial Regulations. Officers will also seek references from suppliers.

4.2 All contractors and suppliers working on Council sites will be required to comply with the Council's relevant Health & Safety policy and any rules specific to the site of operation. Provision of suitable risk assessments and safe working method statements will be a condition of all such contracts.

4.3 The Council requires all contractors working on Council sites and projects to maintain adequate insurance, including but not limited to Public Liability insurance, per the threshold in Financial Regulations, and only more where there is a legal requirement for it to be more.

4.4 All procurement will be in accordance with the Council's Equality Policy and in line with our legal obligations under the Equalities Act 2010 which makes it generally unlawful to discriminate

on the grounds of colour, race, nationality, ethnic or national origins, sex or marital status, disability and on the grounds of age.

## **5. Equality and sustainability**

5.1 The Council recognises the importance of sustainability and will consider the environmental, social and economic impacts of its purchasing decisions.

5.2 The Council recognises its duty to protect biodiversity under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. To meet this duty the Council will wherever possible purchase products that protect biodiversity, for example peat-free compost.

5.3 The Council will encourage the purchase of locally sourced products and, where possible, ensure that products and materials originate from sustainable sources and accredited sustainable companies. To:

- minimise waste and maximise efficiency
- minimise travel
- minimise energy consumption
- promote greater use of new sustainable technologies
- keep material consumption to a minimum.

5.4 The Council will, wherever possible, purchase goods that meet international Fairtrade standards (or similar).

5.5 The Council will consider the whole life cost of products when selecting a supplier (Energy efficient products for example often have an increased capital cost that is more than offset over time by the reduced operational cost)

5.6 The Council will never buy products that are harmful to the environment if a less damaging alternative is available (for example never use tropical hardwood that is not independently certified as being from a sustainable forest). The Council will always specify goods, products and materials that cause minimum damage to the environment including the impact of their manufacture, distribution, use & disposal.

5.7 The Council aims to promote sustainability within all its contract and tendering documentation and promote awareness amongst members and officers.

5.8 The Council will continually review the purchasing of goods and services through contract specifications, with the intention of decreasing the Council's environmental impact and increasing its positive impacts on society, the local economy, and producers.

5.9 The Council aims to draw the sustainable elements of its Procurement Policy to the attention of key suppliers and communicate it as widely as is practicable to the potential supply market.

## **6. Prompt payment of invoices**

6.1 The Council understands the importance of paying suppliers promptly and will wherever possible settle accounts within a maximum of 30 days, or earlier, by agreement. To comply with current legislation all payments (apart from petty cash payments) are made by BACS transfer, Direct Debit, or cheque.

6.2 Non-compliance by contractors/ suppliers with the specification or other contract requirements could result in delayed or even reduced payment.

## **7. Community engagement**

7.1 Where relevant, the Council will consult with residents and service users to better understand what is needed, who will use it and what the essential requirements are for an item of capital expenditure.

## **8. Pre-approval of contractors**

8.1. In respect of contracts that may be exempt from the Public Contracts Regulations 2015, the Council may require access to pre-approved contractors to supply routine services (or who can be called on to provide emergency services) including but not limited to:

- a) Electricians
- b) General builders
- c) Glaziers
- d) Grass and hedge cutting contractors
- e) Groundworkers
- f) HR advice
- g) IT support
- h) Legal advice
- i) Locksmiths
- j) Plant hirers
- k) Play equipment repairers
- l) Plumbing and heating engineers
- m) Project management/ quantity surveying
- o) Tree surgeons
- p) Vehicle and machinery service engineers

8.2 Contractors wishing to be included on the Council's register of approved contractors will be required to complete a registration form (See Appendix A).

8.3 The register of approved contractors will be reviewed every three years.

8.4 Provision of the Town Council's internal audit services is reviewed every three years. A decision must be made by 31 December for the next financial year.

## **9. Best value**

9.1 Normally the Council will accept the quotation, estimate, or tender that provides best value for money. However, in accordance with Standing Orders, the Council is not obliged to accept the lowest of any tender, quotation, or estimate.

## **10. Purchases on account**

10.1 The Council maintains monthly accounts with suppliers of regular purchases. All purchases on Council accounts may only be made by authorised Council officers who must be provided with a receipt. A purchase order must be raised for all goods. Limits will be set on each account on the maximum value of individual purchases and the overall balance on the account. Expenditure over these limits must be authorised in advance.

## **11. Specifications for tender process**

11.1 Enquiries and invitations to tender shall be based on a written specification. The specification shall adequately describe the requirement procedure in sufficient detail to enable effective procurement in accordance with these rules.

11.2 A specification is the description of the product or service required and will form part of the contract with the selected supplier. It is therefore important that the specification is clear and un-ambiguous as changes/additions to the specification post-contract may entail extra costs. Also, the specification should not be biased towards any one company and should enable suppliers to tender or quote the Town Council on an equitable basis. Where adequate expertise is not available within the Council (officers and members) outside assistance should be sought.

Invitations to quote should be in writing or by e-mail and sent to all suppliers selected to quote.

11.3 Specifications for the provision of goods and services should include where applicable:

- The key features, functions, performance and installation standards and methods (where appropriate) required
- Any essential design requirements and/or limitations
- Details of any existing suitable products that the requirements are based upon including relevant standards and Health and Safety considerations
- The timescale required for delivery
- Any specific evaluation criteria and relevant experience required
- A statement to the effect that non-compliance with instructions may lead to disqualification from the procurement process

Wherever possible/relevant a note should be included stating that where suppliers feel that specific requirements could be varied to the benefit or improvement in overall value to or effective operation by the Council, they are encouraged to say so in writing along with detailed

justification. Consideration will then be given without compromising the principle of fairness previously referred to.

## **12. Supplier selection and appraisal**

12.1 In many cases a list of potential suppliers can be produced through previous experience and market knowledge. In other circumstances advertisements may be placed in appropriate trade journals. The Town Council website should also be used. Where the council intends to procure or award a public supply contract, public service contract or public works contract as defined by The Public Contracts Regulations 2015 ("the Regulations") which is defined as a very large contract, the council shall comply with the relevant requirements of the Regulations. Potential suppliers need to be assessed to ensure that they can meet the requirements. This assessment should be based on technical, commercial, and financial grounds and may involve one or more of the following:

- Requesting that potential suppliers complete a pre-qualification document, where appropriate, providing information relevant to the contract
- Visiting and assessing the premises and/or web site of a supplier
- Taking up references from appropriate professional organisations or comparison websites

Where appropriate, suppliers should be contacted prior to the issue of invitations to quote/tender in order to establish:

- That they are willing to quote/tender for the work
- Timescales for return of quotes/tenders.
- A contact name, address, phone number and e-mail address

12.2 If supplies or services can only be supplied by one supplier or local specialists are needed or the supplies or services are proprietary, they can be sourced outside the normal procurement procedure subject to the procedure referred to in Section 1 para 7.

12.3 Suppliers and contractors are monitored to assess their compliance against the pre-determined performance criteria set out in the contract documentation, which will be decided on a project-by-project basis. We work continually to improve our performance and expect our contractors to do the same.

## **13. Contracts - medium (to be read in conjunction with Financial Regulations)**

13.1 A minimum of three quotes shall be sought and obtained, wherever possible, in accordance with Financial Regulations, by the RFO or delegated officer (except where a pre-approved contractor is used per Para 8 above).

13.2 A credit check should be carried out for all suppliers where the contract being awarded is more than the threshold per Financial Regulations.

#### **14. Contracts - large (to be read in conjunction with Financial Regulations)**

14.1 A minimum of three quotes shall be sought and obtained, wherever possible, in accordance with Financial Regulations, by the RFO or delegated officer (except where a pre-approved contractor is used per Para 8 above).

14.2 If it is not possible to obtain three quotes, the reasons and actions must be noted and approval to proceed authorised by the RFO/ Chair of the Finance, Admin and Performance committee, or formally approved by a resolution of Council.

#### **15. Contracts – very large and tender process (to be read in conjunction with Financial Regulations)**

15.1 The tender shall be advertised in a local newspaper, the Government's 'Contracts Finder' website, the Melksham Town Council website and social media, and in any other manner that is appropriate including notifying local businesses, (Para. 14.7) setting out particulars of the contract and inviting persons interested to apply for the opportunity to tender.

15.2 After the expiration of the period specified in the public notice invitations to tender shall be sent to individuals or organisations that could undertake the contract.

15.3 Tenders are to be submitted and opened in accordance with Para 16.3 below.

15.4 Every written contract shall comply with Financial Regulations.

15.5 Every contract which is categorised as a very large contract and is either for the execution of work or the supply of goods or materials shall provide for payment of liquidated damages by the contractor in case the terms of the contract are not performed.

15.6 Very large contracts shall comply with Articles 109 to 114 of the Public Contracts Regulations 2015 as explained in [NALC 87 re Procurement Policy.pdf](#) regarding the advertising of contracts and the use of the Government's 'Contracts Finder' website.

#### **16. Submission of tenders: submission procedures for very large contracts (to be read in conjunction with Financial Regulations)**

16.1 Where an invitation to tender is made, such invitation to tender shall state the general nature of the intended contract and the Town Clerk/ RFO shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitations shall in addition state that tenders must be addressed to the Town Clerk/ RFO. Each tendering firm shall be supplied with a specifically marked envelope in which the tender is to be sealed and remain sealed until the prescribed dates for opening tenders for the contract.

16.2 The tenders shall be kept in the custody of the appropriate nominated person until the time and date specified for their opening.

16.3 Tenders shall be opened by the Town Clerk/ RFO in the presence of at least two councillors from the Finance, Admin. and Performance Committee. Tenders shall be date stamped and signed on all pages containing price information.

## **17. Acceptance of quotations and tenders**

17.1 Tenders received will be evaluated and reported to and considered by the appropriate meeting of the Council or a committee or sub-committee with delegated responsibility.

17.2 The Town Council shall not be obliged to accept the lowest of any tender, quote, or estimate.

17.3 Where the Town Clerk/ RFO considers it in the best interest of the Council, he/she may negotiate with the tenderers whose tenders are being considered for acceptance. No negotiation on very large contracts can take place without reference to the Town Clerk/ RFO. Any negotiations which would distort competition is expressly forbidden.

17.4 Arithmetical errors found in any tender when checking shall be dealt with as follows: the tenderer shall have the error pointed out to them and be offered the opportunity to stand by their original tender, or their corrected tender, or withdraw it.

17.5 Should it occur that the council, or duly delegated committee, does not accept any tender, quote or estimate, the work is not allocated, and the council requires further pricing, provided that the specification does not change, no person shall be permitted to submit a later tender, estimate or quote who was present when the original decision-making process was being undertaken.

## **18. Nominated sub-contractors and suppliers**

18.1 Where a sub-contractor or supplier is to be nominated to a main contractor, the procurement of the services of the sub-contractor or supplier shall be subject to these Contract Procedure Rules.

## **19. Contracts' record**

19.1 A record of all contracts placed by the Council, dealt with under the tender process, shall be kept by the Town Clerk. This record shall specify for each contract the name of the contractor, the works to be executed or the goods or services to be supplied, the contract value and the contract period. This is the responsibility of the appointed person authorising the contract to ensure that an accurate record is maintained.

## **20. Contract variations**

20.1 Any variation to a contract or addition to or omission from a contract must be approved by the Council and stated in writing to the contractor by the Town Clerk. The Council must be informed where the final cost is likely to exceed the financial provision.



## **21. Bonds, guarantees and insurance**

21.1 For procurement projects where the spend is categorised as a very large contract per Financial Regulations, consideration must be given as part of the pre-qualification assessment and evaluation process as to whether a performance bond and/or parent company guarantee (if applicable) shall be required from the successful tenderer.

21.2 Consideration must be given as to the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

## **22. Termination of contracts**

22.1 The Council reserves the right to terminate any contract immediately for any of the following reasons: Termination for Cause – where a supplier commits a material breach of the agreement to deliver services, or fails to deliver agreed services, in the agreed timeframe without a plan to address the failings.

## **23. Compliance with other relevant legislation**

23.1 In cases where any law, statutory instrument of Government regulation is found to be at variance with any section of this policy, then that shall be applied, and this document shall be amended accordingly.

## APPENDIX 1

### APPLICATION FOR INCLUSION ON MELKSHAM TOWN COUNCIL'S APPROVED CONTRACTOR LIST

Business	
Business Address	
Postcode	
Telephone	
Email	
Services provided	
Years in business	
Memberships/ professional bodies	
Declaration	<ul style="list-style-type: none"><li>• I understand that the Council requires me to hold Public Liability Insurance for contracts which involve working on Council sites for the minimum amount set out in the Town Council's Financial Regulations (TBC at the time of order).</li><li>• I confirm that I will supply a copy of my PLI policy schedule annually at renewal.</li><li>• I am aware that I am required to comply with the Council's Health and Safety and Equality policies.</li><li>• I am aware that I may be required to provide suitable risk assessments and/ or method statements.</li></ul>
Signed	
Date	
Name	
Position	

Please email completed form to: [townhall@melksham-tc.gov.uk](mailto:townhall@melksham-tc.gov.uk)

Reviewed and Adopted 17 January 2022