



**Estates Committee**

**St Trinnean Room, Pollock Halls, 18 Holyrood Park Road  
Wednesday 14 March 2018, 9.30am - 2:00pm**

**AGENDA**

- |          |   |          |
|----------|---|----------|
| <b>1</b> | <b>Minute (closed)</b><br>To <u>approve</u> the minute of the previous meeting held on 6 December 2017. | <b>A</b> |
| <b>2</b> | <b>Matters Arising</b><br>To <u>raise</u> any matters arising.  |          |

**SUBSTANTIVE ITEMS**

- |          |   |           |
|----------|---|-----------|
| <b>3</b> | <b>Estates Annual Capital Plan 2017/18-2026-27 (closed)</b><br>To <u>note</u> a paper from the Director of Estates.   | <b>B</b>  |
|          | <b>3.1 Finance Director's Update - Interim Ten Year Forecast (March 2018) (closed)</b> To <u>note</u> a paper from the Director of Finance.   | <b>B1</b> |
| <b>4</b> | <b>Central Area Space Study (closed)</b><br>To <u>approve</u> a paper from the College Registrar, Arts, Humanities & Social Sciences.   | <b>C</b>  |
| <b>5</b> | <b>Estates Aspirations (closed)</b><br>To <u>note</u> a paper from the Director of Estates.   | <b>D</b>  |
|          | <b>5.1 College of Arts, Humanities &amp; Social Sciences (closed)</b><br>To <u>note</u> a paper from the Head of College of Arts, Humanities & Social Sciences.                                   | <b>D1</b> |
|          | <b>5.2 College of Medicine &amp; Veterinary Medicine (closed)</b><br>To <u>note</u> a paper from the Interim Head of College of Medicine & Veterinary Medicine.                                   | <b>D2</b> |
|          | <b>5.3 College of Science &amp; Engineering (closed)</b><br>To <u>note</u> a paper from the Head of College of Science & Engineering.   | <b>D3</b> |
|          | <b>5.4 Support Groups (closed)</b><br>To <u>note</u> a paper from the Director of Estate Development.   | <b>D4</b> |
|          | <b>5.5 Capital Prioritisation Planned Major Estates Projects proposal (closed)</b><br>To <u>note</u> a paper from the Director of Finance   | <b>D5</b> |
| <b>6</b> | <b>Bringing Discovery Brain Science and Infection Medicine Research to Edinburgh BioQuarter (closed)</b><br>To <u>approve</u> a paper from the College Registrar, Medicine & Veterinary Medicine. | <b>E</b>  |

- |   |  |   |
|---|--|---|
| 7 | <b>New Medical Teaching Facility (closed)</b><br>To <u>approve</u> a paper from the College Registrar, Medicine & Veterinary Medicine. | F |
| 8 | <b>Delivering Solar Projects</b><br>To <u>approve</u> a paper from the Director of Estates Operations.                                 | G |
| 9 | <b>Teaching Integrated Scenario Planning</b><br>To <u>note</u> a paper from the Director of Estates                                    | H |

#### ROUTINE ITEMS

- |    |  |   |
|----|--|---|
| 10 | <b>Capital Project Update (closed)</b><br>To <u>note</u> a paper from the Director of Estate Development.  | I |
| 11 | <b>Estates Committee Sub-Group Approvals</b><br>To <u>note</u> a paper from the Estates Depute Director.   | J |
| 12 | <b>Development &amp; Alumni Capital Project Update (closed)</b><br>To <u>note</u> a paper from Director of Philanthropy and Donor Relations, Development & Alumni. | K |
| 13 | <b>Strategic Acquisitions and Disposals (closed)</b><br>To <u>note</u> a paper from the Director of Estates  | L |

#### ITEMS FOR FORMAL APPROVAL/NOTING (Please note these items are not normally discussed.)

- |    |   |   |
|----|---|---|
| 14 | <b>College of Arts, Humanities and Social Sciences Summary Report (closed)</b><br>To <u>approve</u> a paper from College Registrar, Arts, Humanities & Social Sciences. | M |
| 15 | <b>College of Medicine &amp; Veterinary Medicine Summary Report (closed)</b><br>To <u>approve</u> a paper from College Registrar, Medicine & Veterinary Medicine        | N |
| 16 | <b>College of Science and Engineering Summary Report (closed)</b><br>To <u>note</u> a paper from College Registrar, Science & Engineering. (                            | O |
| 17 | <b>Support Groups Summary Report (closed)</b><br>To <u>approve</u> a paper by Director of Estate Development.   | P |
| 18 | <b>Estates Department Procurement Guidance</b><br>To <u>approve</u> a report from the Depute Director, Estates.   | Q |
| 19 | <b>Date of next meeting: Wednesday 16 May 2018 -09:30 –12:30 to be held in the Raeburn Room, Old College.</b>   |   |



**ESTATES COMMITTEE**

**14 March 2018**

**Delivering Solar Projects**

**Description of paper**

1. This paper requests funding for investment in 3 proposed onsite solar photovoltaic (PV) projects. It further presents the proposed governance arrangements as set out in para 8.

**Action requested / Recommendations**

2. Estates Committee is requested to:

- approve £212,000 funding from the Scottish Funding Council loan monies for all pre-development fees

**Background and context**

3. As part of the Renewable Energy and Low Carbon Options (RELCO) group's review, a high-level feasibility study was carried out across the entire University estate to identify potential sites for solar PV installations.

4. In December 2017, the University was awarded a £5.2 million, 7-year interest-free loan from the Scottish Funding Council (SFC), including £3.25m to fund the three solar projects. The loan will cover all costs and fees for the projects, but not VAT. The conditions of the loan stipulate that projects must start by 18 July 2018 and be completed by July 2019. Consultations with the School of Engineering and the School of Social and Political Sciences have identified potential research and teaching opportunities linked to the solar projects.

**Discussion**

5. A solar feasibility study was carried out by the Department of Social Responsibility and Sustainability (SRS) in close collaboration with Estates, Finance and the Royal (Dick) School for Veterinary Studies (R(D)SVS), and identified the following 3 potential investment opportunities:

600 kW building mounted solar PV on 10 University buildings.

6. The feasibility study utilised criteria that was sensitive to building location and orientation, listing status, roof structure, estates development plans and electricity demand.

As a result, a shortlist of 10 buildings has been produced:

Site	Installed capacity (kWp)	Generation (kWh/yr)
ROSLIN INSTITUTE	190	165,220
CENTRE FOR SPORTS AND EXERCISE	123	111,406
VET SCHOOL	101	81,352
CHANCELLORS COURT	49	43,030
FLOWAVE TT BUILDING	40	35,347
JOHN BURNETT HOUSE	34	30,078
BUMSTEAD BUILDING	31	24,362
GREENWOOD BUILDING	25	20,859
ERSKINE WILLIAMSON BLDG	21	18,557
WADDINGTON BUILDING 1	19	14,686
<b>Total</b>	<b>633</b>	<b>544,897</b>

500 kW solar carports with electric vehicle (EV) charging points at Easter Bush.

This installation would modernise the campus and accommodate the growing numbers of EVs. By connecting the EVs to a renewable energy source, emissions from staff commuting would also be reduced, thereby aligning with the University's Transport Policy objectives.

2.5 MW ground mounted solar farm on 5 hectares of land at Easter Bush

Following discussions with the Estates Development and the R(D)SVS, a potential site that could be used for an onsite solar farm has been identified.

7. Taken together, these solar projects would:
  - Mitigate roughly 1.3% of the University's total emissions (1,200 tonnes CO<sub>2</sub>e, or the equivalent of the emissions associated with driving over 3.5 million miles in an average UK passenger vehicle).
  - Save c£400k annually in avoided electricity costs
  - Potentially deliver (modest) new research and teaching opportunities for the School of Engineering and School of Social and Political Science.
8. The projects would be delivered by the Estates Department under the governance of a Project Board.
9. In order to recover VAT, it is proposed that the project would be routed through University Utilities Supply Company. Where possible, opportunities for research and teaching will be explored with engineering and School of Social and Political Sciences (SPSS) colleagues.

## Resource implications

10. The estimated cost for site investigation for all projects is £212,000. This would cover structural, geo-technical, and planning studies and fees for all systems. Budget for charges from the District Network Operator (DNO) is included, but exact amounts will not be known until applications are made. The intention is to capitalise these costs.
11. An outline business case using prudent assumptions has been worked up for all projects with Finance Department. Key metrics are noted below and are indicative of costs and savings associated with current design proposals. A re-evaluation of the business case will be carried out in the post-survey review stage.

Estimated Costs and NPV / IRR associated with all solar projects		
<b>Capital Costs (Year 1, inc VAT)</b>	Site investigation	£212k
	Construction	£3,698k
<b>Net Present Value (NPV) @ 5.6% discount rate</b>		£2,004k
<b>Internal Rate of Return (IRR) @ 5.6% discount rate</b>		10.4%
<b>Simple Payback</b>		10.3 years

## Risk Management

12. A risk assessment has been carried out to look at potential risks and mitigations. The key risks are considered to be:
- Agreeing a suitable site and securing planning permission and other regulatory approvals, with grid connection and visual impact two key factors
  - Preliminary analysis has shown interaction of one building mounted installation at Sports and Exercise with the Combined Heat and Power plant (CHP) at Holyrood which must be managed
  - Winter management of the solar farm and car ports proposals must be considered including the ability of the roof to support heavy loads during snow conditions.

## Equality & Diversity

13. Climate change disproportionately affects those from poorer countries, particularly women, so projects that reduce emissions will have a positive impact. Specific equality and diversity considerations will be highlighted throughout the project.

## Next Steps

14. Progress is subject to approval of fees for detailed site investigation to confirm feasibility, and confirmation of a governance and implementation structure. The overall aim is to have the projects operational by summer 2019.

## Consultation

15. Student and staff consultations were held in June 2017. Principal's Strategy Group reviewed the recommendations in October 2017 and CPG reviewed the RELCO business cases in January 2018.

**Further information****16. Authors**

Cara Merusi, Zero Carbon Projects Analyst, SRS  
Dave Gorman, Director of SRS  
28 February 2018.

**Presenter**

Grant Ferguson  
Director of Estates Operations

**Freedom of Information**

17. This paper is open.



**ESTATES COMMITTEE**

**14 March 2018**

**Teaching Integrated Scenario Planning**

**Description of paper**

1. This paper reports on the main matters discussed at the meeting of the Space Strategy Group (SSG) held on 14 February 2018, specifically highlighting the challenge in providing sufficient Central Area teaching space for the period through to 2020/2021.

**Action requested/Recommendations**

2. Estates Committee is asked to:

- note emerging requirements for the provision of an additional large lecture theatre on the Central Area by 2020/21, which should be referred to the University Executive and the Senate Learning Teaching Committee for further consideration and recommendation on approval of the requirement;
- note modelling outcomes from 3-year projection analysis;
- note that further consideration was required by the College of Arts, Humanities and Social Sciences (CAHSS) regarding future approaches to repeat lecturing and maximum class sizes.

**Background and context**

3. At the meeting on 14 February 2018, the SSG considered a paper which set out the updated teaching space projections in line with the latest student growth figures. As part of the established cycle of room projection modelling, the Timetabling Unit had undertaken a first phase of the 10-year room projection analysis from 2017/18 up to and including 2027/2028. A 3 year projection update and a 10 year room projection were presented to the SSG.

4. It was highlighted that by the 2020/21 academic year there would be a requirement for an additional lecture theatre with a capacity greater than 400 in the Central Area and that there was currently no funding in place for a lecture theatre of this scale. The SSG agreed that this issue required to be escalated to the Estates Committee and the University Executive for further consideration and discussion.

**Discussion**

5. The Central Area 3-year projection analysis was presented to Estates Committee in December 2017. This has been updated in line with updated student growth figures and the analysis:

- projects an overall shortfall of 11 rooms on the Central Area by 2020/21;
- predicts the requirement for 1 additional large lecture theatre on the Central Area by 2020/21;

- confirms current pressure in the accommodation of large lecture teaching on the Central campus.

6. Table 1 below outlines the projected room requirement across the upcoming 3-years against known available space. This information demonstrates the requirement for an additional large lecture theatre by the 2020/2021 academic year. More specific analysis was discussed at the SSG meeting which confirmed that this additional requirement was within the 400+ capacity range.

*Table 1: 3-year Central Area projection*

	17/18	2018/19		2019/20		2020/21	
Capacity	Provision	Required	Available	Required	Available	Required	Available
300+	4	3	4	4	4	5	4
200-299	5	5	5	5	5	5	5
100-199	9	7	11	8	11	8	11
50-99	28	19	25	20	25	20	25
21-49	57	54	73	53	79	54	79
1-20	102	132	98	137	98	142	98
<b>Overall</b>	<b>205</b>	<b>220</b>	<b>216</b>	<b>227</b>	<b>223</b>	<b>234</b>	<b>223</b>
	<b>Balance</b>	<b>+15</b>	<b>- 4</b>	<b>+7</b>	<b>- 4</b>	<b>+7</b>	<b>-11</b>

7. Appendix A confirms the projected continued upward trajectory in large lecture theatre requirements across a 10-year period.

8. With this, and the emerging requirement for further space in 2020/21, CAHSS should consider establishing a position regarding maximum lecture sizes and repeat teaching to ensure emerging recommendations regarding incoming space sit in line with College learning and teaching based strategies. The current estate provision will necessitate an increase in repeat lecture delivery in lieu of an emerging strategy for capacity provision.

9. The King's Building Nucleus project is scheduled to deliver a range of lecture theatre space, with the College of Science and Engineering confirming a maximum capacity of 400, thus recognising the need to further increase the provision of repeat teaching as the preferred method for dealing with student growth.

10. It should be noted that the development time for 400+ capacity lecture theatre by September 2020 is already restricted, hence an early decision is vital.



### **Resource implications**

11. Time in developing and implementing policies to ensure the optimal use of all teaching and learning space in line with the University's Strategic Plan and other relevant plans, policies and strategies.

12. There is currently no provision in the capital plan for a new large lecture theatre in the Central Area.

### **Risk Management**

13. The main risk is future disruption to University business continuity due to insufficient or inappropriate space which will impact on the student and staff experience.

### **Equality & Diversity**

14. All Equality and Diversity implications in relation to the content of the report will be addressed within the specific projects and programmes

### **Next steps/implications**

15. If the recommendations are approved the risk elements described in the paper will be escalated to the University Executive and the Senate Learning and Teaching Committee.

### **Consultation**

16. Space Strategy Group and Teaching Space Oversight Group members.

### **Further information**

#### **17. Authors**

Assistant Principal  
Professor Sarah Cunningham-Burley  
Convener of SSG,  
Mr Scott Rosie  
Head of Timetabling Services  
Gill Nicoll, Learning & Teaching Design Manager

#### **Presenter**

Gary Jebb  
Director of Estates

### **Freedom of Information**

18. This is an open paper

### **Appendices**

Appendix A – 10-year projection – capacity 300+

**Appendix A – 10-year projection – capacity 300+**

Rooms required at 65% Frequency											
Capacity	Current	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
400+	1	2	2	2	2	2	2	2	3	4	3
300-399	3	2	3	3	3	4	4	4	4	3	5



**ESTATES COMMITTEE**

**14 March 2018**

**Estates Committee Sub-Group Approvals**

**Description of paper**

1. This paper provides a consolidated list of decisions taken by Estates Committee Sub-Group (ECSG) since the last Estates Committee meeting on 6 December 2017. The paper also presents a list of contracts awards (greater than £250,000) over the period 23 November 2017 to 28 February 2018.

**Action requested/Recommendation**

2. Estates Committee is asked to note the decisions taken by ECSG referred to in point

**Background and context**

3. This paper enhances the 'transparency' in relation to the operation of the ECSG, highlighted in the effectiveness review.

**Discussion**

4. Since the Estates Committee last met, ECSG approved the following contract awards and acquisitions:

Fully Approved (fully funded) Projects

- 7-8 Chambers Street – approved £5.6m funding from University Corporate Resources to allow preparation of tender documentation to create new centrally bookable Learning and Teaching spaces combined with Design Studio Decant Space for the Edinburgh School of Architecture and Landscape Architecture (ESALA).
- Scottish Funding Council Zero Interest Loan – approved acceptance to enter into and repay a zero interest loan of £5.2m from its new low carbon fund to pursue the University's climate change strategy and renewables review group proposals.
- Pentland House – approved to proceed with further discussion and finalisation of Heads of Terms to progress a 20 Year Lease Agreement for student accommodation and associated outdoor amenities. Exceptions Committee have subsequently approved this.

5. A list of contract awards (greater than £250,000) over the period to 23 November 2017 to 28 February 2018 is included in the Appendix.

**Resource implications**

6. Fully Approved (fully funded) Projects – No additional implications. Projects already contained in the Fully Approved (fully funded) Estates Capital Plan.

**Risk Management**

7. There are no specific risks identified.

**Equality & Diversity**

8. No specific Equality and Diversity issues are identified.

**Next steps/implications**

9. The Estates Department will oversee any procurement processes.

**Consultation**

10. Convener, Director of Finance, Director of Estates, Director of Estates Development and Head of Estates Finance.

**Further information****11. Author**

Graham Bell,  
Depute Director of Estates  
28 February 2018

**Presenter**

Graham Bell  
Depute Director of Estates

**Freedom of Information**

12. This is an open paper.

**Works Contracts Awards = > £250,000**  
**23 November 2017 - 28 February 2018**

Paper J  
Appendix 1

Appointed Contractor	Project Description	Contract Award
CBC Stone Ltd	Edinburgh Futures Institute at Quartermile, Phase 4A Wing E External Fabric Repairs	£ 1,724,893.75
Sharkey	Masson House Phase 2 refurbishment	£ 1,972,737.89
Forth Stone Ltd	Rainy Hall Roof and Stonework Repairs	£ 288,832.26
Ashwood Scotland Ltd	Charles Stewart House, Phase 2	£ 408,774.31
Ashwood Scotland Ltd	Hunter Building, catering facility (ECAfe) refurbishment	£ 325,210.98
Ogilvie Construction	University Collections Facility, South Gyle Unit 3a fit-out	£ 1,601,640.89
Clark Contracts	Centre Building, Tennant Fit-Out Works	£ 775,793.65
<b>Total</b>		<b>£ 7,097,883.73</b>

**Services Contracts Awards = > £250,000**  
**23 November 2017 - 28 February 2018**

Appointed Consultant	Project Description	Contract Award
Reiach and Hall	Masterplan for Outdoor Sports, Design Team	£ 745,500.00
Polarsoft	Enterprise Project Portfolio Management (EPPM) software and hardware package	£ 348,099.00
<b>Total</b>		<b>£ 1,093,599.00</b>

**Goods Contracts Awards = > £250,000**  
**23 November 2017 - 28 February 2018**

Appointed Supplier	Project Description	Contract Award
Azzurro	Bayes Centre Building Loose Furniture (Lot 4)	£ 422,962.50
<b>Total</b>		<b>£ 422,962.50</b>





**ESTATES COMMITTEE**

**14 March 2018**

**College of Arts, Humanities and Social Sciences Summary Report**

**Description of paper**

1. This paper presents a request to rename The FLAC Office (Room G.06) in 9B Holyrood Road, "The Elaine Tyre Room" after the late Lady Tyre, founder of the Free Legal Advice Centre ("FLAC") and former Director of Professional Legal Studies.

**Action requested/Recommendation**

2. The Estates Committee is asked to approve the renaming of Room G.06 (The FLAC Office) in the Edinburgh Centre for Professional Legal Studies ("ECPLS"), 9B Holyrood Road, "The Elaine Tyre Room".

**Background and context**

3. The ECPLS which houses the FLAC is situated at 9B Holyrood Road, part of the new Holyrood Campus.

4. The FLAC was established during academic session 2017/18 by the then Deputy Director of the Diploma in Legal Practice, Elaine Tyre. Since then, the FLAC has flourished with Diploma students providing pro bono legal advice and support to members of the community.

5. During the relocation of the ECPLS to its present position, it was agreed that there should be a designated room for students to work on their FLAC client files. This room has been used extensively and successfully by all Diploma students and currently has the name "FLAC Room" on the door.

6. Since Elaine Tyre's tragically early death in 2010, students and staff within the Law School have discussed ways in which she could be commemorated. In 2016, a proposal was put forward to the School Management Group for the FLAC room to be renamed, The Elaine Tyre Room, as a fitting tribute to her involvement in FLAC's establishment. As part of that renaming, a commemorative wall plaque, incorporating her picture, would also be placed within the room.

7. The Protocol and Events team have provided an approximate cost of £700 for the wall plaque. Funding for the cost of the wall plaque is currently being sourced.

**Discussion**

8. The reason for this proposal is for the University to acknowledge the major contribution Elaine Tyre made to the University through her involvement with the FLAC and the School of Law.

9. Lady Tyre first became a member of the Law School staff in 1980 as a part-time tutor and went on to become Deputy Director of the Legal Practice Unit in 2002, before being appointed to the new post of Director of Professional Legal Studies in 2010, just months before her untimely death in December of that year. In both posts she provided a formidable input into the upgrading of legal procedures in Scotland and made the

profession more available to the Scottish public. Both colleagues and students remember her generosity of spirit, her wide knowledge of the law and her unrelenting zest for life.

10. She was a woman of much drive and imagination, always keen to ensure that the law should work for everyone in Scotland and to reform the process of legal education.

11. She established the FLAC at the University in 2007, thus allowing Diploma students to use their legal knowledge to serve the wider community. The FLAC has gone from strength to strength and has itself received awards and commendations from the legal profession and the University.

12. The FLAC 10<sup>th</sup> Anniversary celebration is taking place at the McEwan Hall on 29 March 2018 at which a framed photograph/plaque, dedicated to Lady Tyre will be unveiled for later mounting in The Elaine Tyre Room to commemorate Elaine Tyre at this event and in this way will be a fitting tribute to this much missed and much respected woman. The commemoration will be made in the presence of past and present students, volunteer solicitors (many of whom are alumni of the University), colleagues, family and friends, and other members of the legal profession. In view of the time-critical nature, an early decision is requested.

13. There has been very warm support from the School Management Group and School of Law for this commemoration and, additionally, that we honour our female members of staff as well as male.

### **Resource implications**

14. Funding £700 for a commemorative plaque and door name are currently being sourced.

### **Risk Management.**

15. There are no anticipated risks associated with this proposal.

### **Equality & Diversity**

16. There are no Equality and Diversity implications as a result of the recommendations contained in this paper.

### **Next steps/implications**

17. The Author of this paper along with the School of Law and Development & Alumni will complete the next steps if the Committee approve this request.

### **Consultation**

18. The School of Law Management Group, Law School members, current and former Heads of School and Lady Tyre's family have been consulted on this.



**Further information****19. Author**

Rebecca Samaras, Director ECPLS  
25 February 2018

**Presenter**

Catherine Martin  
Registrar, College of Arts, Humanities &  
Social Sciences

**Freedom of Information**

20. This paper is open.





**ESTATES COMMITTEE**

**14 March 2018**

**Estates Department Procurement Guidance**

**Description of paper**

1. The purpose of the paper is to seek Estates Committee approval of the Estates Department Procurement Protocol (Version 4 January 2018).

**Action requested / Recommendation**

2. Estates Committee is asked to approve the Estates Department Procurement Protocol (Version 4 January 2018).

**Background and context**

3. The Estates Department has a key strategic aim to ensure procurement legislative compliance across the department and the Procurement Protocol has been developed to ensure that all staff are equipped with the tools to achieve this and that all staff are aware of their procurement responsibilities.

4. The current Estates Department Procurement Protocol (Version 3 dated September 2016) was approved at the Estates Committee meeting in September 2016. The September revision updated the previous version in order to comply with the Public Contracts (Scotland) Regulations 2015 (implementing EU Procurement Directive 2014) and the Procurement Reform (Scotland) Act 2014 (PRSA)<sup>1</sup>.

**Discussion**

5. The Estates Department has worked with the Procurement Office and Legal Services to develop the latest version of the relevant Procurement Guidance which will be mandatory for all purchasing and procurement activities undertaken by the Estates Department.

6. Version 4 has been updated to reflect changes in best practice including the Scottish Government's Construction Procurement Policy Unit's Construction Policy Notes (CPN) which have been incrementally introduced following the Scottish Government's agreement to implement most of the recommendations of the "Review of Scottish Public Procurement" published in 2013.

7. The Estates Department Procurement Protocol is issued to Estates Committee as Appendix A.

**Resource implications**

8. Regulated procurements are managed with the University Procurement Office. The increased reporting and audit requirements require additional staff resource and following HR processes, additional procurement staff have been recruited.

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<sup>1</sup> This legislation applied a new regime to regulated contracts above £50K for Goods or Services and £2M for Works with increased accountability and reporting obligations and a greater emphasis on economic, social and environmental matters and transparency.

**Risk Management**

9. There is a procurement risk and consequential reputational risk in not having a consistent mandatory approach for all Estates procurement activities. The implementation of the Procurement Guidance will ensure that all staff are aware of their procurement responsibilities.

**Equality & Diversity**

10. There are no Equality and Diversity issues.

**Next steps/implications**

11. Provided Estates Committee approves the Procurement Protocol, this will be issued to all Estates staff who have a purchasing or procurement responsibility and training will be arranged for staff to reinforce the key changes. The associated templates will also be updated.

**Consultation**

12. The Procurement Protocol has been updated in conjunction with the Procurement Office and Legal Services.

**Further information**

13. Author

Graham Bell, Depute Director of Estates  
25 February 2018

Presenter

Graham Bell, Depute Director of Estates

**Freedom of Information**

14. This paper is open.



THE UNIVERSITY *of* EDINBURGH  
Estates Department

# Procurement Guidance

Version 4.0  
January 2018



**The University of Edinburgh**  
Estates Department

# PROCUREMENT PROTOCOL

Version 4  
February 2018

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## Quality Assurance and Version Control

<b>Version:</b>	4
<b>Date Approved:</b>	
<b>Approving Body:</b>	Estates Committee and Director of Procurement
<b>Implementation Date:</b>	1 <sup>st</sup> April 2018
<b>Supersedes:</b>	Version 3 – January 2017
<b>Consultation Undertaken:</b>	Procurement Office and Estates Department
<b>Target Audience:</b>	All Estates Department Staff Procurement Staff working with Estates
<b>Supporting Procedure(s):</b>	Delegated Authority Schedule The Procurement Protocol should be followed in conjunction with all other supporting procurement procedures advised and made available to Estates Department staff as appropriate
<b>Review Date:</b>	1 February 2019
<b>Authors:</b>	Legal Services/Estates Department/Procurement Office
<b>Responsible Manager:</b>	Director of Estate Development, Head of Estates Business Services

## Section 1: Introduction

The [Estates Vision 2017-2027](https://www.edweb.ed.ac.uk/estates/staff/info-est-dept-staff/estates-vision) (<https://www.edweb.ed.ac.uk/estates/staff/info-est-dept-staff/estates-vision>) reflects the ambitious vision the University has for the development of its estate infrastructure over a ten year period. It is set against a backdrop of continued growth in the University's activities and accompanying ongoing investment in its estate whilst taking into account the context of significant uncertainty around future levels of income from all major sources following the global economic crisis and the decision of the UK to leave Europe.

Key to the success of any project begins with selecting the right people to provide services, deliver supplies or undertake construction works required for the project. Our projects, construction works and equipment are in the main funded from the 'public purse', therefore we must take the responsibility of obtaining value for money whilst taking into account our social, environmental and legal responsibilities. This is a crucial part of the professional service which the Estates and Procurement Offices provide for the University.

In common with all public contracting authorities, the procurement of Goods, Works and Services by the University is governed by legislation, including the Procurement Reform (Scotland) Act 2014 and the Public Contracts (Scotland) Regulations 2015 as amended.

The University will comply with all relevant laws and their related Statutory Guidance and Regulations as well as the Scottish Procurement Policy Notes. The University will also regularly review its practices in light of emerging EU, UK and Scots case law.

An independent [construction review](#) has been conducted. It looked at how public bodies involved in construction-related procurement adopt practices that are streamlined and deliver value for taxpayers' money. It resulted in a report entitled 'Review of Scottish Public-Sector Procurement' published in October 2013. The Scottish Government agreed to implement 66 out of the 67 recommendations contained in the report and the work to implement the recommendations from the review is ongoing.

The Construction Procurement Manual content has been removed from the Scottish Government website temporarily and is being reviewed and updated to reflect current legislation. In August 2017, the Scottish Government's Construction Procurement Policy Unit introduced Construction Policy Notes (CPN) in order to ensure appropriate dissemination of information and guidance relevant to the public-sector delivery and management of construction and construction related services (consultancy) projects. CPNs will be used routinely to alert contracting authorities to new policy, new guidance and to bring their attention to any relevant matters affecting public sector construction. In addition, whilst the new Construction Manual is being prepared, as an interim measure, guidance resulting from the implementation of the recommendations of the Review will be published as a Construction Policy Note (CPN), where appropriate.

The Protocol will be updated and amended as and when required to reflect relevant changes in best practice, guidance and legislation and all staff must ensure the latest version of the Protocol is being followed.

This Procurement Protocol has been jointly developed by the Estates Department, Procurement Office and Legal Services. Its use is mandatory for all procurement activities undertaken from budgets managed by the Estates Department, and the procedures must be followed. Only in very exceptional circumstances can variations to the procedures be permitted and then only with the prior formal approval of the Estates Tender Review Panel, and where applicable the Project Board.

The Procurement Protocol should be followed in conjunction with all other supporting procurement procedures advised and made available to Estates Department staff as appropriate.



## Section 2: Procurement in Estates – Key Roles

### 2.1 Collaboration between Estates and Procurement

Procuring on behalf of the University is the result of a joint, collaborative effort between the Estates Department and Procurement Office teams.

In broad terms, Estates staff lead on the Estates' works and services projects, define the goods to be acquired and determine the specification and requirements for any given procurement. Procurement staff lead on the procurement process for all regulated procurements<sup>1</sup> and will provide expert guidance on the appropriate procurement routes, the processes to be followed and compliance with all legal duties, such as the new sustainable procurement duty.

The Procurement Office provide access to electronic procurement tools such as PCS, PCS-T, Award, Buy@Ed, SciQuest and the Sustainability Test Tool , some of which have become a mandatory legal requirement to use when undertaking a procurement process. Procurement staff will provide expert guidance on the effective and appropriate use of electronic procurement tools and in particular, support Estates staff to ensure that procurements are conducted utilising the mandatory e-procurement tools, where relevant.

#### Overview of responsibilities:

Goods/Services £0 to £50k  Works £0 to £2m	Goods/Services £50 to £181k  Works £2 to £4.5m <sup>2</sup>	Goods/Services > £181k  Works > £4.5m <sup>3</sup>	Existing Framework Agreements	New Framework Agreements*
Procurement Journey ROUTE 1	Procurement Journey ROUTE 2	Procurement Journey ROUTE 3		
Estates Department	Estates Department in collaboration with Procurement	Estates Department in collaboration with Procurement	Estates Department <b>OR</b> Estates Department In collaboration with Procurement as appropriate e.g. mini competition of regulated threshold spend	Estates Department in collaboration with Procurement

\*Only the Director of Procurement has delegated authority to enter into Framework Agreements

### 2.2 Estates Tender Review Panel (ETRP)

The Estates Tender Review Panel's role is to assist with the procurement journey governance.

**Remit:** The remit of the ETRP is to receive recommendations from across the Estates Department at key points in a regulated procurement process (and non-regulated procurement process for Works above £50k but below £2M as an interim measure. See detailed Procurement Journey Route 1 for more details) and to check and approve recommendations prior to the next stage of the procurement journey.

**Process:** The ETRP will meet weekly. It is the Estates Project Manager/Operations Lead responsibility to ensure that the relevant paperwork is reviewed and approved by Estates Procurement and subsequently submitted for review to the Head of his/her section well in advance of the scheduled ETRP meeting.

<sup>1</sup> Purchases of goods or services > 50k or works > £2m – see [FAQ 1](#)

<sup>2</sup> £4,551,413

<sup>3</sup> £4,551,413

The Head of the relevant department will forward the paperwork to the Estates Department Administrative Secretary **a minimum of 2 working days** before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

**Membership:**

- Director of Estates
- Head of Estates Business Services (Chair)
- Director of Estates Development
- Head of Estates Planning
- Head of Small Projects & Minor Works
- Director of Estate Operations
- Head of Construction
- Head of Estates Finance
- Joint Director of Procurement

To be quorate, a minimum of three attendees including representation from the Procurement Office shall be required.

**Following documents must be approved by ETRP:**

1. **Procurement strategy** for any Goods and/or Services above £50K and Works above £2m. ETRP will either approve the strategy, reject or recommend amendments (**Standard P1 Template must be used**).
2. **Shortlist of ESPD Bidders where a restricted pre-qualification process has been applied and before the ITT is issued** for Goods and/or Services above £50K and Works above £2M. This includes reviewing and approving: -
  - Scoring and consensus information
  - Bidder communications and clarifications
  - ESPD successful shortlist letters
  - ESPD unsuccessful debrief letters
  - Shortlist Recommendation Report (**Standard P3 Template must be used**)
3. **Shortlist of Tenderers** which will be identified from the list of Public Contract Scotland (PCS) registered suppliers using the **Quick Quote tool** for Works above £50K but below £2M. **Note:-** this is a temporary process until such time that a suitable contracting mechanism such as a minor works Framework Agreement or Dynamic Procurement System is established. This includes reviewing and approving the Shortlist Recommendation Report (**Standard P3 Template must be used**).
4. **Invitation to Tender Document (ITT) (Main Contractor Tenders above £2M only)** which Estates and Procurement staff will collaborate on to develop and submit to ETRP for review and approval prior to being issued via Public Contract Scotland Tenders (PCS-T). The ITT document will be accompanied by a standard project summary report (**Standard P19 Template must be used**).
5. **Recommendation for contract award** for all Goods, Services and Works above £50k following conclusion of the ITT evaluation. This includes reviewing and approving: -
  - ITT evaluation scoring and consensus information
  - Tender Reports e.g. QS
  - Bidder communications and clarifications
  - Any relevant supporting Evidence
  - ITT Contract Award letter(s) and Unsuccessful debrief letter(s)
  - Recommendation for Contract Award Report (**Standard P4 Template must be used**)
6. **Retrospective approval for emergency, unforeseeable procurements** for all Goods and Services above £50K and Works above £2m only where previously approved by the Director of Estates at the time of initiating the emergency procurement.
7. **NCA's (Non-Competitive Action) requests for Goods, Services and Works:**
  - **Below £5k** – NCA request form not required. If 3 quotes can't be obtained, details are recorded of attempts/market research and justification for having fewer than 3 on the Goods/Services/Works "3 Quotes" Below £50k Recommendation Summary Report Template (see P6 Templates).
  - **£5k - £20k** – NCA1 Form to be completed and submitted to Director of Estate Development or Director of Estates Operations dependent upon from which section the request arises.

- **£20k - £50k (Goods & Services) and £20k - £2M (Works)** – NCA1 Form to be completed and submitted to ETRP for review and approval.
- **£50k - £181k (Goods & Services) and £2M - £4.5M (Works)** – NCA2 Form to be completed and submitted along with P1 Strategy document to ETRP for review and approval. If ETRP approve strategy, NCA2 to be submitted to the Director of Procurement for authorisation before proceeding with procurement process.
- **£181k and above (Goods & Services) and £4.5M and above (Works)** – NCA3 Form to be completed and submitted along with P1 Strategy document to ETRP for review and approval. If ETRP approve strategy, NCA3 to be submitted to the Director of Procurement for authorisation before proceeding with procurement process.

## 2.3 Guidance and Advice

The Director of Estates Development and the Head of Estates Business Services, together with the Estates Procurement team can provide guidance and advice wherever required on procedural and procurement queries at any stage in the procurement process. This will ensure consistent handling of questions which arise from tenderers or after contract award from unsuccessful tenderers.

## 2.4 Procurement Office

The Procurement Office forms part of Corporate Services and is led by the Director of Procurement. The team are professional Members of the Chartered Institute of Procurement and Supply (MCIPS) and provide help and advice on all aspects of buying Goods, Works and Services for the University. They are fully qualified and trained in e-procurement tools such as PCS, PCS-T and Award.

The Procurement Office is responsible for providing expert guidance to the Estates Department on all aspects of procurement. The Procurement Office will also lead on establishing or joining collaborative (e.g. APUC) Framework Agreements which will be of benefit to the University. Procurement colleagues can, where necessary, also call upon specialised legal advice provided by the University's Legal Services.

For more information: <http://www.ed.ac.uk/procurement>

The Procurement Team's contact details can be found at the following web link:-  
<https://www.ed.ac.uk/procurement/about/contact-us>

Should a member of Estates staff be unsure who specifically to contact, then please get in touch via the following email address and your query will be directed to the most appropriate person within the procurement team:- [Procurement.Central\\_Estates@ed.ac.uk](mailto:Procurement.Central_Estates@ed.ac.uk)

## Section 3: How to Procure - An Overview

### 3.1 Key Principles of Procurement at the University of Edinburgh

**Equal Treatment and Non Discrimination:** The University will enter into contracts for supply of goods, services and works through a competitive process, treating all potential bidders fairly, equally and without discrimination

**Value for Money:** The University will achieve value for money which is defined as the optimum combination of whole life cost and quality to meet the University's requirements

**Transparency and Proportionality:** The University shall act in a transparent and proportionate manner

**Compliance:** The University shall fully comply with international and national obligations including the Public Contracts (Scotland) Regulations 2015 and the Procurement Reform (Scotland) Act 2014

**Sustainability:** The University shall carry out its procurements to the highest ethical standards, taking into account social, economic and environmental considerations

# Scottish Procurement



## Scottish Model of Procurement



### 3.2 Simple Procurement Guide

The procurement process can be complicated and it is essential to identify the appropriate procurement route to ensure the University meets its legal obligations as well as achieving the most effective outcome to successfully fulfill the needs of the particular project. The following table provides an overview of the different procurement route options available and the circumstances in which they apply when buying on behalf of the University.

Option	Description	Value	Process	Typical timescales	Professional procurement advice required
1	Obtain from an internal department	Limited by your delegated approval level	Contact internal department - place a Purchase Order using PECOS, SciQuest or e-financials	Approval by appropriate authorised signatory	No
1	Buy from a contracted supplier <sup>4</sup> (below £50K)		See instructions on Buy@Ed	2-4 weeks	Yes
2	Purchase of goods or services below £50,000	£0-£50k	Procurement Journey Route 1	2 weeks	No (but training and help available if required)
2	Purchase of works below £2m	£0-£2m	Procurement Journey Route 1	6-8 weeks	No (but training and help available if required)
3	Scottish regulated procurement	Goods or Services £50k - £181k - Works £2m-£4,551k	Procurement Journey Route 2	1-3 months	Yes
3	EU regulated procurement	Goods or services over £181,302 - Works over £4,551,413	Procurement Journey Route 3	3-12 months	Yes

### 3.3 Short description of options described above

**OPTION 1 - Buy from an internal department, from one of the University's wholly owned subsidiaries or a supplier already contracted with under an existing framework agreement.**

When the University purchases goods, services or works from an internal department or a wholly owned subsidiary, it is not required to conduct a full procurement exercise. The University can buy from **its internal departments or wholly owned subsidiaries** without any procurement formalities.

<sup>4</sup> Contracted suppliers: <http://www.ed.ac.uk/procurement/buy-at-ed>

The University can also purchase goods, services and works from an **existing, live contract** if the scope of that existing contract allows for such purchases. **Framework Agreements** set up by the University or other procurement consortia on behalf of the University are the most commonly used route to purchase from existing contracts. The Procurement Office can advise whether any such contracts are available and how to make use of them (eg. by conducting a mini tender). Staff can also search the Buy@Ed tool (the University's Supplier and Contracts Database): <http://www.ed.ac.uk/procurement/buy-at-ed>



## **OPTION 2 - Contracts for goods and services below £50k or contracts for works below £2m - Procurement Journey: Route 1**

Any contract with a total estimated value below £50k (goods or services) or £2m (works)<sup>5</sup> is regarded as a non-regulated contract. This means that the University doesn't have to comply with the detailed public procurement legislation but irrespective of value, any procurement must be conducted in accordance with the University's Procurement Strategy and comply with EU public procurement principles. All procurement must therefore :

- a) treat suppliers equally and without discrimination;
- b) act in a transparent and proportionate manner;
- c) take mutual recognition into account; and
- d) follows its own internal policies.

Section 4 of this Procurement Protocol provides a detailed overview of the steps which need to be followed for the procurement of these contracts in accordance with the University's policies.

## **OPTION 3 - Contracts for goods and services above £50k or contracts for works above £2m ("REGULATED PROCUREMENTS") - Procurement Journey: Routes 2 and 3**

From 18 April 2016 onwards, public procurement law recognises 2 types of regulated procurements:

- a) Scottish Regulated Contracts: above £50k (goods or services) or above £2m (works) BUT below EU thresholds – the process to be followed in the Procurement Journey is referred to as ROUTE 2
- b) EU Regulated Contracts: above £181,302 (goods or services) or £4,551,413 (works) – the process to be followed in the Procurement Journey is referred to as ROUTE 3.

Some legal rules apply only to Scottish Regulated Procurements, some only to EU Regulated Procurements and others to both Scottish and EU Regulated Procurements. Following this protocol and the approved templates will ensure that all the legal obligations are complied with for the appropriate contracts.

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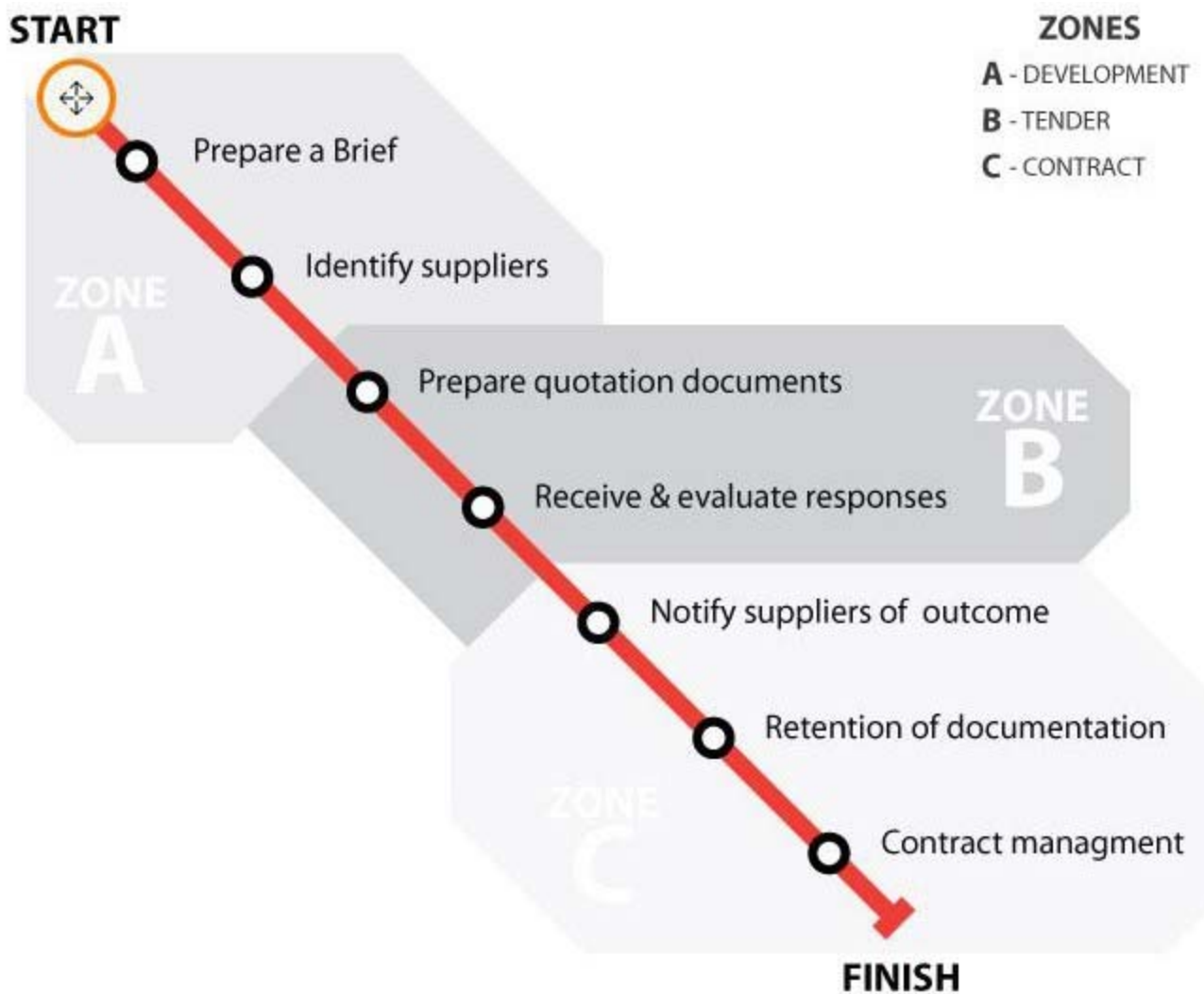
<sup>5</sup> For calculation methods on threshold see [FAQ 1](#)

## Section 4: Detailed Protocol for Procurement Journey – Route 1

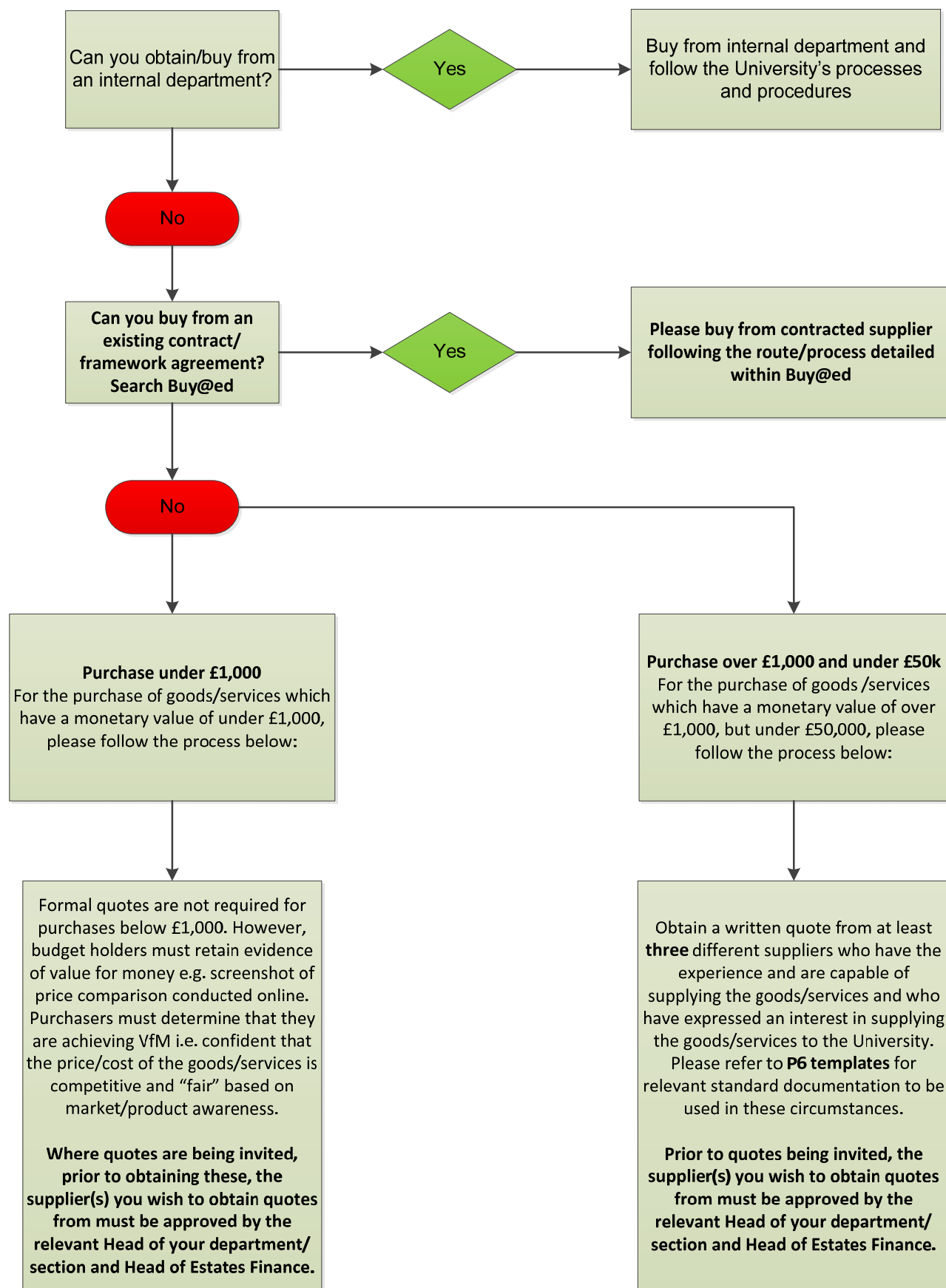
Route 1 of the Procurement Journey provides guidance for non-regulated procurements and is applicable for spend within the following thresholds:

**Goods and Services £0 to £50k**

**Works £0 to £2m**



## Goods or Services below £50k





## **Procurement Journey Route 1 - Goods and Services £1K to £50k where quotes are required to be obtained:**

Please refer to the workflow detailed within page 12.

The University maintains numerous contracts with suppliers for regularly purchased goods and services. If it is not possible to purchase from an existing contract/framework agreement or an internal department and the value is above £1k but below £50k, the process outlined below should be followed.

Please refer to P6 templates for relevant standard documentation to be used in these circumstances.



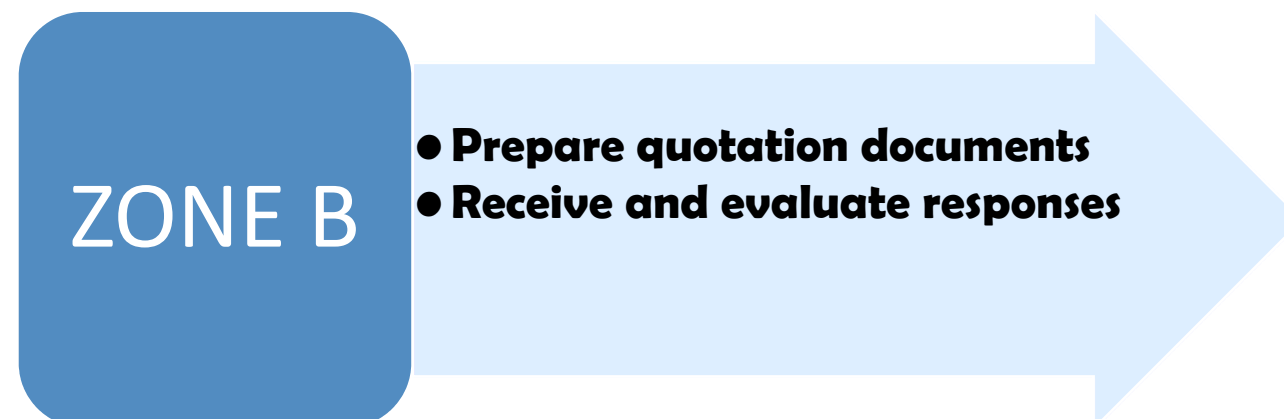
### **○ Prepare Brief**

Prepare a written brief which reflects your requirements. As a minimum, the brief should identify the key requirements/outputs, consider how the responses will be objectively evaluated and include timescales for the requirement. Consideration should also be given at this point to how the contract will be managed in terms of quality, service, cost and delivery, where relevant.

Note: - The level of detail in the ITQ and specification should be proportionate to the value and complexity of your requirement.

### **○ Identify suppliers**

Seek quotations from a minimum of 3 suppliers who have the experience and expertise to meet your requirements. Use your knowledge of the market to determine which suppliers can meet your requirements but also conduct market research as you should endeavour not to restrict your selection to existing known suppliers. This will help suppliers who have not previously bid for University work gain access to opportunities. This will also facilitate competition, encourage innovation and ensure best value in future service delivery.



## ○ Prepare quotation documents

### Prepare Invitation to Quote Documents (ITQ)

For less complex, lower value requirements, request quotes by email and record your purchase justification using the Goods/Services/Works: “3 Quotes” Below £50k Recommendation Summary Report Template (**see P6 Templates**)

For more complex or higher value requirements use the Goods and Services Invitation to Quote (ITQ) Template to formally request quotes from suppliers and the Goods/Services/Works: “3 Quotes” Below £50k Recommendation Summary Report template to record your purchase justification (**see P6 Templates**). The ITQ should be issued along with a completed brief and the University’s Terms & Conditions. It is important to ensure that any evaluation criteria, including weightings is included in the ITQ documents, where relevant.

Suppliers may ask questions about the ITQ documents and as a result you may wish to issue further information or clarification not contained within the original document. It is important to communicate all questions, answers and clarifications in writing to all suppliers. Care should be taken to remove all commercially sensitive information in this process e.g. names of suppliers.

Specify required response timescales in the documentation, which should reflect the complexity of the requirement and should be sufficient for the supplier to make a considered response. Keep to these timescales but in exceptional circumstances you may choose to extend the deadline for receipt of quotations. This must be communicated to all suppliers if it occurs. Contact the Procurement Office for guidance on this, where required.

## ○ Receive and evaluate responses

Evaluate the responses to determine which proposal best meets your requirements. Quotation responses should be formally recorded along with confirmation of the successful quote and your reasons for the decision via the Goods/Services/Works “3 Quotes Below £50K Recommendation Summary Report” Template (**See P6 Templates**).

**Note:** - For more complex or higher value requirements where the Goods and Services: Invitation to Quote (ITQ) Template is being used to formally request quotes from suppliers, then a **P2 Below £50k Tender Opening Form** should be used to formally witness and record the receipt and opening of responses. In the event that one of the electronic procurement systems i.e. PCS Quick Quotes or PCS-T Tendering System is used to obtain quotes then this P2 form is NOT required to be completed (**See P2 Template**).

When evaluating responses, any quote which shows an abnormally low price out of context may be queried with the supplier to identify the reason for this. If this is due to a mistake by the supplier, or you have any concerns regarding the potential to effectively deliver the contract at the price quoted, Estates staff should consult the Procurement Office for further advice.

If quotations are received with alternative T&Cs of contract to the University’s T&Cs issued with the ITQ, then the supplier must be informed in writing that the T&Cs of contract as originally identified will apply to the requirement and ask for the supplier’s acknowledgement that this is the case (unless for some reason it is appropriate to accept the supplier’s T&Cs). If the supplier continues to challenge the T&Cs, Estates staff should seek advice from Legal Services/Procurement Office.

If you need to seek clarification on any or all quotation responses, this should be done in writing and a specific timeframe for responses to your clarification questions should be given. Take care to treat all suppliers on an equal basis in this process.

Please refer to P6 Templates for Cost and Quality Evaluation spreadsheets to be used as required for more complex or higher value requirements.

## ZONE C

- **Notify suppliers of outcome**
- **Retention of documentation**
- **Contract management**

### ○ **Notify suppliers of outcome**

Once the evaluation has been completed and the successful supplier identified, Estates staff should seek approval to award the contract in accordance with the Delegated Authority Schedule (DAS).

The successful supplier should be notified by Estates in writing using the standard Award Letter template. At the same time as the successful supplier being notified, the unsuccessful suppliers should be notified using the Unsuccessful Quotation Letter template (**See P6 Templates**)

A supplier is entitled to ask for reasons why their quotation was unsuccessful. It is essential that all feedback is documented for audit purposes and based on the objective criteria used to evaluate the quotation. The level of information available will of course be proportionate to the value and complexity of the requirement.

**Note:** - The Award letter and Unsuccessful letters must be signed by a person with the delegated authority to procure and commit the University to the contract.

Once letters have been issued to suppliers, a purchase order should be raised in accordance with Estates' procedures. The purchase order must include specific reference to the contract award Letter which the purchase order relates to and that the T&Cs governing that contract award apply to ensure the basis upon which the two parties are trading in relation to that purchase order is clear and can be called upon should the need arise. An instruction must also be given to the Purchase Order recipient that any invoices for payment must include the purchase order number.

### ○ **Retention of documentation**

All documentation relating to the quotation process must be retained to ensure a full audit trail.

In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>6</sup> from the end of the project: -

- ITQ documents issued to suppliers
- Supplier ITQ responses submitted (successful and unsuccessful)
- Quote evaluation including reasons for decision (particularly in higher value requirements)
- All communications and clarifications with suppliers including any feedback which may have been provided
- Copy of the Purchase Order

### ○ **Contract management**

The supplier's performance should be managed throughout the lifetime of the contract & Estates staff should ensure that the goods/services are delivered in line with the performance or service level expectations i.e. quality/service/cost/delivery identified in the quotation which formed the basis upon which a contract award was made.

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<sup>6</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

Variations to the Brief or extensions to the period of the original quotation may result in a situation where a new procurement process becomes necessary. Variations/extensions should be an exception and kept to a minimum. They should only take place where the changes that are made would not materially alter the original contract. Where a significant change to the contract scope, value or duration is proposed, Estates staff should contact the Procurement Office for advice.

Estates may wish to conduct a review of the contract upon its completion or a “lessons learned” process to identify what went right and what could be improved for future quotation processes. It is worthwhile involving the supplier in this review, however it must be recognised that any such information could be subject to an FOI request. Care should be taken to ensure any information held is entirely objective in its nature.

**Note:** - As per all other stages of the ITQ process, the level of Contract Management should be proportionate to the value and complexity of the goods/services being purchased.

## Guidance for “3 Quotes” Process

- 3 quotes are a minimum, more can be obtained;
- You are NOT obligated to select the cheapest quote. In all cases, please record the decision justification and how it represents best value;
- If you can't obtain 3 quotes, record details of your attempts/market research and justification for having fewer than 3;
- Efforts involved in obtaining, evaluating and recording quotations, together with any contract management, should all be relevant and proportional to the value and complexity of your requirement;
- Justifications may be concise, however, the higher the value, the more robust the justification must be;
- Be aware that external funding requirements may impose additional conditions. See Research Grants Office website for a [list of funders' T&Cs](#);
- If engaging personal service providers (e.g. certain consultants, project managers or training providers etc.), please see info on how recent [HMRC IR35 tax changes](#) may affect these appointments;
- Ensure you are comparing like-for-like costs across quotes. For instance, some quotes are VAT inclusive, while others are not;
- Ensure that all relevant costs are accounted for in your ITQ e.g. shipping costs, insurance costs, service/warranty;
- As a default, you should request compliance with the [University's standard Terms and Conditions](#);
- Be aware of terms that are not in the best interests of the University, e.g. automatic renewals of subscription services;
- If procuring consultancy type services or personnel, please see [the Procurement Office guidance on procuring Consultants and other “Personal Service Providers”](#) and ensure that you follow any central or local HR policies where people are being engaged;
- Make sure you request Quotes and not Estimates in your ITQ. What's the difference?
  - A **Quote** is an official costing/price given by a supplier. Buyers hold suppliers to prices and terms for the period for which they are valid.
  - **Estimates** provide an approximate costing only, which can be useful for budgeting purposes. However, suppliers are not obligated to hold themselves to these prices or terms.

## Key Commercial Policies

Purchasers must be aware of any responsibilities they have under relevant University policies. Information regarding the [Key Commercial Policies](#) when making purchases can be found on the Procurement Office webpages.

For information: From 2017, University budget holders are required to confirm that they understand the University's Key Commercial Policies. This is an initiative by the Director of Finance to provide the Risk Management Committee, Audit and Risk Committee and Court with the required assurance that key financial risk areas in the University are reviewed and any issues addressed. The Key Commercial Policies confirmation is annual and is now part of the year end returns process.

Please also be aware of the University Policies regarding Research Integrity:

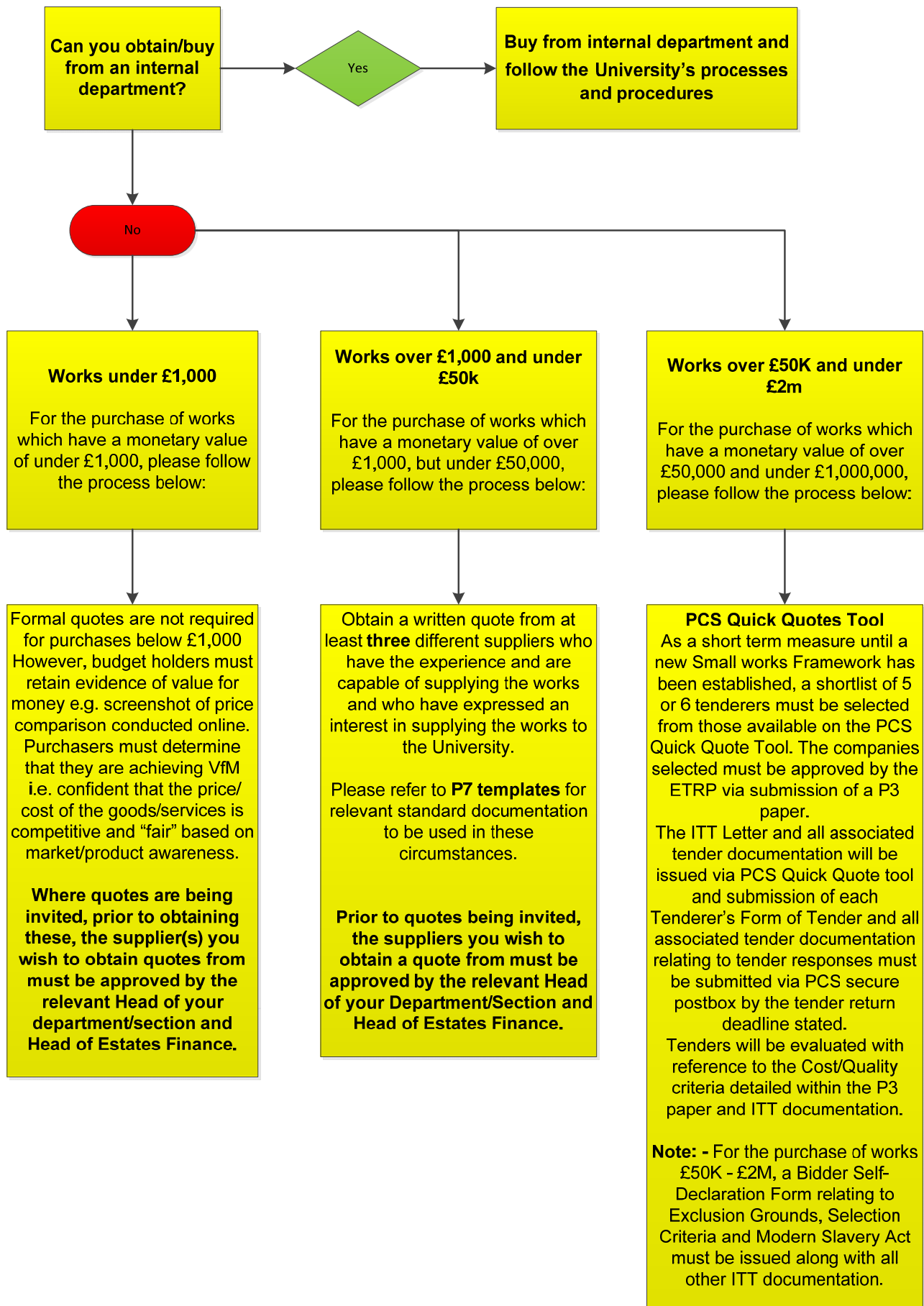
[Research, Finance and Sustainability Policies](#) including information about [Procurement for Research and External Funding](#)

## **Mandatory Exclusion Grounds and Modern Slavery**

Additionally, as part of the supplier enablement process prior to placing a Purchase Order, non-contracted suppliers are required to confirm that they do not meet any [mandatory exclusion criteria](#) as listed in the Public Contracts Regulations (regarding bribery, human trafficking, and other areas). Suppliers with a turnover of £36,000,000 p.a. and over are also required by the [Modern Slavery Act 2015](#) to produce a [Modern Slavery Statement](#).

If you have any queries about University procurement policies, please contact the procurement policy officer, [Peter Hayakawa](#) 651 4380. Please email any issues, questions or queries about Key Commercial Policies to [Finance@ed.ac.uk](mailto:Finance@ed.ac.uk).

## Works £0 to £2m



## **Procurement Journey Route 1 - Works £1K to £50k where quotes are required to be obtained:**

Please refer to the workflow detailed within page 18.

If it is not possible to purchase from an internal department or from an existing contract/framework agreement and the value is above £1k but below £50k where formal quotes are required to be obtained, the process outlined below should be followed.

Please refer to P7 templates for relevant standard documentation to be used in these circumstances



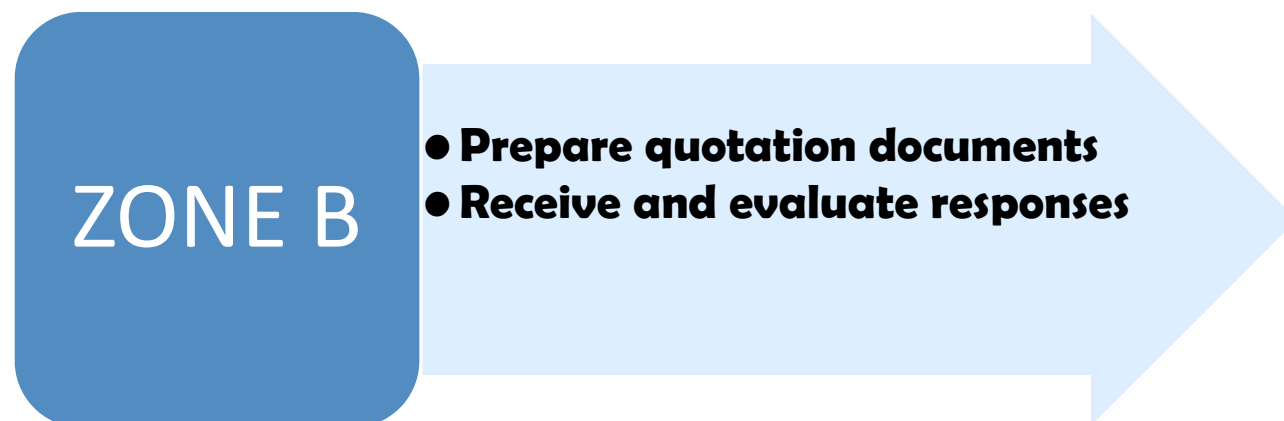
### **○ Prepare Brief**

Prepare a written brief which reflects your requirements. As a minimum, the brief should identify the key requirements/outputs, consider how the responses will be objectively evaluated and include timescales for the requirement. Consideration should also be given at this point to how the contract will be managed in terms of quality, service, cost and delivery, where relevant.

Note: - The level of detail in the ITQ and specification should be proportionate to the value and complexity of your requirement.

### **○ Identify suppliers**

Seek quotations from a minimum of 3 suppliers who have the experience and expertise to meet your requirements. Use your knowledge of the market to determine which suppliers are able to meet your requirements but also conduct market research as you should endeavour not to restrict your selection to existing known suppliers. This will help suppliers who have not previously bid for University work gain access to opportunities. This will also facilitate competition, encourage innovation and ensure best value in future service delivery.



## ○ Prepare quotation documents

For less complex, lower value requirements, request quotes by email and record your purchase justification using the Goods/Services/Works: “3 Quotes” Below £50k Recommendation Summary Report Template (**see P7 Templates**)

For more complex or higher value requirements use the Goods and Services Invitation to Quote (ITQ) Template (**see P7 Templates**) to formally request quotes from suppliers and the Goods/Services/Works: “3 Quotes” Below £50k Recommendation Summary Report template to record your purchase justification. The ITQ should be issued along with a completed brief and the University’s Terms & Conditions. It is important to ensure that any evaluation criteria, including weightings is included in the ITQ documents, where relevant.

Suppliers may ask questions about the ITQ documents and as a result you may wish to issue further information or clarification not contained within the original document. It is important to communicate all questions, answers and clarifications in writing to all suppliers. Care should be taken to remove all commercially sensitive information in this process e.g. names of suppliers.

Specify required response timescales in the documentation, which should reflect the complexity of the requirement and should be sufficient for the supplier to make a considered response. Keep to these timescales but in exceptional circumstances you may choose to extend the deadline for receipt of quotations. This must be communicated to all suppliers if it occurs. Contact the Procurement Office for guidance on this, where required.

## ○ Receive and evaluate responses

Evaluate the responses to determine which proposal best meets your requirements. Quotation responses should be formally recorded along with confirmation of the successful quote and your reasons for the decision via the Goods/Services/Works “3 Quotes Below £50K Recommendation Summary Report” Template (**See P7 Templates**).

Note: - For more complex or higher value requirements where the Goods and Services: Invitation to Quote (ITQ) Template is being used to formally request quotes from suppliers, then a P2 Below £50k Tender Opening Form should be used to formally witness and record the receipt and opening of responses. In the event that one of the electronic procurement systems i.e. PCS Quick Quotes or PCS-T Tendering System is used to obtain quotes then this P2 form is NOT required to be completed (See P2 Template).

When evaluating responses, any quote which shows an abnormally low price out of context may be queried with the supplier to identify the reason for this. If this is due to a mistake by the supplier, or you have any concerns regarding the potential to effectively deliver the contract at the price quoted, Estates staff should consult the Procurement Office for further advice.

If quotations are received with alternative T&Cs of contract to the University’s T&Cs issued with the ITQ, then the supplier must be informed in writing that the T&Cs of contract as originally identified will apply to the requirement and ask for the supplier’s acknowledgement that this is the case (unless for some reason it is appropriate to accept the supplier’s T&Cs). If the supplier continues to challenge the T&Cs, Estates staff should seek advice from Legal Services/Procurement Office.

If Estates need to seek clarification on any or all quotation responses, this should be done in writing and a specific timeframe for responses to your clarification questions should be given. Take care to treat all suppliers on an equal basis in this process.

Please refer to P7 Templates for Cost and Cost + Quality Evaluation spreadsheets to be used as required for more complex or higher value requirements.



## ZONE C

- **Notify suppliers of outcome**
- **Retention of documentation**
- **Contract management**

### ○ **Notify suppliers of outcome**

Once the evaluation has been completed and the successful supplier identified, Estates staff should seek approval to award the contract in accordance with the Delegated Authority Schedule (DAS).

The successful supplier should be notified by Estates in writing using the standard Award Letter template. At the same time as the successful supplier being notified, the unsuccessful suppliers should be notified using the Unsuccessful Quotation Letter template (**See P7 Templates**).

A supplier is entitled to ask for reasons why their quotation was unsuccessful. It is essential that all feedback is documented for audit purposes and based on the objective criteria used to evaluate the quotation. The level of information available will of course be proportionate to the value and complexity of the requirement.

**Note:** - The Award letter and Unsuccessful letters must be signed by a person with the delegated authority to procure and commit the University to the contract.

### → **Raise a Purchase Order**

Once letters have been issued to suppliers, a purchase order should be raised in accordance with Estates' procedures. The purchase order must include specific reference to the Contract Award Letter which the purchase order relates to and that the T&Cs governing that contract award apply to ensure the basis upon which the two parties are trading in relation to that purchase order is clear and can be called upon should the need arise. An instruction must also be given to the Purchase Order recipient that any invoices for payment must include the purchase order number.

### ○ **Retention of documentation**

All documentation relating to the quotation process must be retained to ensure a full audit trail.

In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>7</sup> from the end of the project: -

- ITQ documents issued to suppliers
- Supplier ITQ responses submitted (successful and unsuccessful)
- Quote evaluation including reasons for decision (particularly in higher value requirements)
- All communications and clarifications with suppliers including any feedback which may have been provided
- Copy of the Purchase Order

### ○ **Contract management**

The supplier's performance should be managed throughout the lifetime of the contract & Estates staff should ensure that the works are delivered in line with the performance or service level expectations i.e.

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<sup>7</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

quality/service/cost/delivery identified in the quotation which formed the basis upon which a contract award was made.

Variations to the Brief or extensions to the period of the original quotation may result in a situation where a new procurement process becomes necessary. Variations/extensions should be an exception and kept to a minimum. They should only take place where the changes that are made would not materially alter the original contract. Where a significant change to the contract scope, value or duration is proposed, Estates staff should contact the Procurement Office for advice.

Estates may wish to conduct a review of the contract upon its completion or a “lessons learned” process to identify what went right and what could be improved for future quotation processes. It is worthwhile involving the supplier in this review, however it must be recognised that any such information could be subject to an FOI request. Care should be taken to ensure any information held is entirely objective in its nature.

Note: - As per all other stages of the ITQ process, the level of Contract Management should be proportionate to the value and complexity of the works being purchased.

### **Guidance for “3 Quotes” Process**

Please refer to the information detailed within page 16.

### **Key Commercial Policies**

Please refer to the information detailed within page 16.

### **Mandatory Exclusion Grounds and Modern Slavery**

Please refer to the information detailed within page 16.

## **Procurement Journey Route 1 - Works £50K to £2 million issued via Quick Quote:**

### **○ Prepare Brief**

Prepare a written brief which reflects your requirements. As a minimum, the brief should identify the key requirements/outputs, consider how the responses will be objectively evaluated and include timescales for the requirement. Consideration should also be given at this point to how the contract will be managed in terms of quality, service, cost and delivery, where relevant.

Note: - The level of detail in the ITT and specification should be proportionate to the value and complexity of your requirement.

### **○ Identify Suppliers**

A shortlist of 5 or 6 suppliers must be selected from those registered on Public Contracts Scotland (PCS) Quick Quote tool who Estates consider have the experience and capability to perform the works required.

### **→ Head of Estates Finance Approval**

Following the identification of suppliers proposed to be invited to tender, the Estates Project Manager/Operations Lead will provide the Head of Estates Finance with the relevant company information to allow a financial assessment to be conducted. The Head of Estates Finance will confirm the outcome of the financial assessment.

### **→ Prepare & Submit Shortlist Recommendation Report to ETRP (see P3 Template)**

A report seeking approval from ETRP to proceed with an Invitation to Tender (ITT) to the proposed shortlisted suppliers should be prepared by the Estates Project Manager/Operations Lead using the standard P3 template document and submitted to the Head of the relevant Estates department at least 2 working days before the scheduled ETRP meeting. The Head of the Estates department will, if satisfied with the content, email the P3 document to the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to ensure sufficient time is given to consider the recommendations in preparation for the meeting.

The ETRP Administrative secretary will communicate the decision made by the ETRP to the Estates Project Manager/Operations Lead.

Where minor amendments are required, these will be made by the Project Manager/Operations Lead and then return the amended P3 to the ETRP Administrative Secretary, where appropriate (i.e. P3 was approved by ETRP members based upon specific minor amendments being made). Once the amended P3 has been signed by ETRP members, the ETRP Administrative Secretary will notify the project Manager/Operations Lead.

In the case of the P3 being rejected, the Estates Project Manager/Operations Lead will action as required, draft a revised version 2 and email the revised version to the Head of the relevant Estates department at least 2 working days before the next scheduled ETRP meeting. The Head of the Estates department will, if satisfied with the revisions, email the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to have the P3 reconsidered by the ETRP members.

If a P3 Recommendation Report is approved by the ETRP members, the ETRP Administrative Secretary will, at the time of notifying the Estates Project Manager/Operations Lead, provide the url link where the signed copy of the P3 document is stored and can be viewed.

### **○ Prepare Invitation to Tender (ITT) documents**

The Invitation to Tender covering letter for Works (**see P7 templates**) should be issued along with all relevant technical documentation such as the Brief, Drawings, Bill of Quantities etc. It is important to ensure that the evaluation criteria, including weightings is stated. Specify required response timescales within the documentation, which should reflect the value and complexity of the requirement and should be sufficient for the supplier to make a considered response.

In addition to the above ITT documents, the following documents must also be included: -

- The University's Terms and Conditions

- Bidder Declaration Form – Exclusion Grounds, Selection Criteria and Modern Slavery Act (**See P5 Template P**)

All ITT documentation should be issued via Public Contract Scotland (PCS) Quick Quote tool.

Suppliers may ask questions about the ITT and as a result, the Estates Project Manager/Operations Lead may wish to issue further information or clarification not contained within the original document(s). It is important that suppliers submit any questions via PCS and Estates (or external consultant acting on behalf of the University e.g. QS) must communicate all questions, answers and clarifications in writing via PCS to all suppliers.

## ○ Receive and evaluate responses

Tender responses should be evaluated against the published evaluation criteria to determine which proposal best meets your requirements. Please refer to P7 Templates for Cost only / Cost + Quality Evaluation spreadsheets to be used for evaluation purposes.

When evaluating responses, any quote which shows an abnormally low price out of context may be queried with the supplier to identify the reason for this. If this is due to a mistake by the supplier or you have any concerns regarding the potential to effectively deliver the contract at the price quoted, the Estates Project Manager/Operations Lead should consult the Procurement Office for further advice.

If tender responses are received with alternative T&Cs of contract to those issued with the ITT, then the supplier must be informed, at the evaluation stage, in writing that the T&Cs of contract as originally identified apply to the requirement and ask for the supplier's acknowledgement that this is the case i.e. withdraw their own T&Cs (unless for some reason it is appropriate to accept the supplier's T&Cs or a proposed variation to the University's stipulated terms and conditions). If the supplier continues to challenge the T&Cs and a satisfactory outcome cannot be reached, the Estates Project Manager/Operations Lead should seek advice from Legal Services/Procurement Office as appropriate before proceeding to the conclusion of the evaluation stage.

If Estates need to seek clarification on any or all quotation responses, this should be done in writing and a specific timeframe for responses to your clarification questions should be given. Take care to treat all suppliers on an equal basis in this process.

## ➔ Bidder Declaration Form – Exclusion Grounds, Selection Criteria and Modern Slavery Act (See Template P5)

This declaration form must be issued to suppliers along with all other ITT documentation, completed by suppliers (**\*see Note below**) and submitted along with all other relevant tender documents as part of their ITT response. The form is used to confirm that suppliers meet their obligations under the Modern Slavery Act, comply with the selection criteria (without prejudice to additional requirements listed in the tender documentation) and don't breach any grounds for exclusion, or if any exclusion grounds apply, can demonstrate reliability through adequate self-cleansing measures. Suppliers must evidence upon request any information submitted on this form.

The Estates Project Manager/Operations Lead must review the completed form alongside all other tender evaluation documents to ensure that it has been completed and in the event of the following circumstances, contact the Procurement Office for advice and assistance: -

- Incomplete Bidder Declaration Form
- Supplier Details in the "Identification" section (e.g. Name, Registration Number, VAT Number) does not match with details provided elsewhere within the supplier's tender response
- Supplier has responded to any of the exclusion grounds to indicate that they have breached one or more of these
- Supplier has responded to any of the selection criteria to indicate they cannot meet one or more of these
- Supplier has indicated that they have not met Modern Slavery obligations

**\*Note:** - It should be noted that a supplier does not have to complete a Bidder Declaration form each and every time they submit an ITT response. Where a supplier's circumstances have not changed, and they

have previously submitted a completed Supplier Declaration Form within the last 6 months immediately preceding the ITT being currently evaluated, then the box on the front page should be ticked to indicate that this is the case. The Estates Project Manager/Operations Lead can accept this as completed providing they are satisfied that there is in fact a completed Self Declaration Form on record for the relevant supplier which demonstrates that they can comply with all requirements stated.

### → **Head of Estates Finance Approval**

Following the evaluation of tender responses and identification of the proposed successful supplier(s), the Estates Project Manager/ Operations Lead will provide the Head of Estates Finance with the relevant company information to allow a financial assessment to be conducted to ensure there has been no changes in circumstances in the period between shortlisting the supplier to be invited to tender and the contract award stage. At this time, supporting documentation should be obtained from the proposed successful supplier(s) to evidence the selection criteria can be met (unless this documentation is already on record within Estates and up to date). The Estates Project Manager/Operations Lead should provide a url link where a copy of the relevant completed "Bidder Declaration Form – Exclusion Grounds, Selection Criteria and Modern Slavery Act" is stored and can be viewed. The Head of Estates Finance will confirm the outcome of the financial assessment.

### ○ **Notify supplier of the outcome**

### → **Prepare & Submit Recommendation of Award Report to ETRP (see P4 Template)**

Upon completion of the evaluation process, a Recommendation for Contract Award Report seeking approval from ETRP to proceed with the Award of Contract must be prepared by the Estates Project Manager/ Operations Lead using the standard P4 template document and submitted to the Head of the relevant Estates department at least 2 working days before the scheduled ETRP meeting. The Head of the Estates department will, if satisfied with the content, email the P4 document to the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to ensure sufficient time is given to consider the recommendations in preparation for the meeting.

Prior to the ETRP meeting and in accordance with the timescales detailed above, the following documents must be available for review and approval by the ETRP members prior to any further action being taken. The information must be uploaded by the Estates Project Manager/ Operations Lead via folder: - EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then the applicable ETRP weekly meeting folder:

- ITT Documentation
- Evaluation scoring and consensus results
- Tender Reports (e.g. QS Report)
- Any supporting evidence (including further communications/clarifications)
- Completed Bidder Declaration Form – Exclusion Grounds, Selection Criteria and Modern Slavery Act
- Contract Award Letter(s)
- Unsuccessful Debrief Letters
- Recommendation for Contract Award Report (P4)

### → **Preparing and issuing debrief letters and award letters (see *Templates P8 and P9*)**

The successful tenderer(s) should be notified and all other tenderers should be informed in writing simultaneously that they have been unsuccessful. Standard templates for contract award and debriefing letters must be used (**See Templates P8 and P9**).

The debrief letters must contain as a minimum:

- The name of the successful tenderer
- The criteria used to award the contract
- The score obtained by the successful tenderer
- The score of the unsuccessful tenderer together with feedback in relation to the evaluation criteria based on the areas which had a material effect on the outcome (where Quality criteria have been included). Please refer to the Estates Evaluation Training Guidance document for more information on this or contact the Procurement Office for further assistance where required.

The letters will be prepared by the Estates Project Manager/ Operations Lead and submitted to ETRP along with all other relevant P4 stage documentation as indicated in the previous section for review and approval by all ETRP members.

The ETRP Administrative secretary will communicate the decision made by the ETRP to the Estates Project Manager/ Operations Lead.

If the P4 is approved subject to any minor amendments, these will be made by the Project Manager/ Operations Lead and then return the amended P4 to the ETRP Administrative Secretary. Once the amended P4 has been signed by ETRP members, the ETRP Administrative Secretary will notify the project Manager/ Operations Lead.

In the case of the P4 being rejected, the Estates Project Manager/ Operations Lead will action as required, draft a revised version 2 and email the revised version to the Head of the relevant Estates department at least 2 working days before the next scheduled ETRP meeting. The Head of the Estates department will, if satisfied with the revisions, email the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to have the P4 reconsidered by the ETRP members.

If a P4 Recommendation Report is approved by the ETRP members, the ETRP Administrative Secretary will, at the time of notifying the Estates Project Manager/Operations Lead, provide the url link where the signed copy of the P4 document is stored and can be viewed.

Following confirmation of approval from ETRP, it is the responsibility of the Estates Project Manager/ Operations Lead to obtain DAS sign off on the Contract Award and Unsuccessful Debrief letters. All signed letters must then be submitted to the designated Estates PCS Quick Quote Administrator who will then issue all the letters via PCS.

## → **Raise Purchase Order**

A University Purchase Order must be raised at the time of appointing suppliers, consultants and contractors or service providers. The Purchase Order must include information advising the Procurement Contract Reference Number (Quick Quote) and Title, the Estates Project Reference Number and a statement to the effect that the T&Cs governing that Contract Award apply to this Order to ensure the basis upon which the two parties are trading in relation to that Purchase Order is clear and can be called upon should the need arise. An instruction must also be given to the Purchase Order recipient that any invoices for payment must include the purchase order number.

## ○ **Retention of documentation**

All documentation relating to the quotation process must be retained to ensure a full audit trail.

In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>8</sup> from the end of the project: -

- ITT documents issued to suppliers
- Supplier ITT responses submitted (successful and unsuccessful)
- Completed Bidder Declaration Form – Exclusion Grounds, Selection Criteria and Modern Slavery Act
- ITT evaluation including reasons for decision
- All communications and clarifications with suppliers including any feedback which may have been provided
- Copy of the Purchase Order

## ○ **Contract management**

The supplier's performance should be managed throughout the lifetime of the contract & appropriate Estates staff i.e. Project Manager/Operations Lead should ensure that the works are delivered in line with the performance or service level expectations i.e. quality/service/cost/delivery identified in the quotation which formed the basis upon which a contract award was made.

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<sup>8</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

Variations to the Brief or extensions to the period of the original quotation may result in a situation where a new procurement process becomes necessary. Variations/extensions should be an exception and kept to a minimum. They should only take place where the changes that are made would not materially alter the original contract. Where a significant change to the contract scope, value or duration is proposed, Estates staff should contact the Procurement Office for advice.

Estates may wish to conduct a review of the contract upon its completion or a “lessons learned” process to identify what went right and what could be improved for future quotation processes. It is worthwhile involving the supplier in this review, however it must be recognised that any such information could be subject to an FOI request. Care should be taken to ensure any information held is entirely objective in its nature.

**Note:** - As per all other stages of the ITT process, the level of Contract Management should be proportionate to the value and complexity of the works being purchased.



## Section 5: Detailed Protocol for Procurement Journey – Route 2

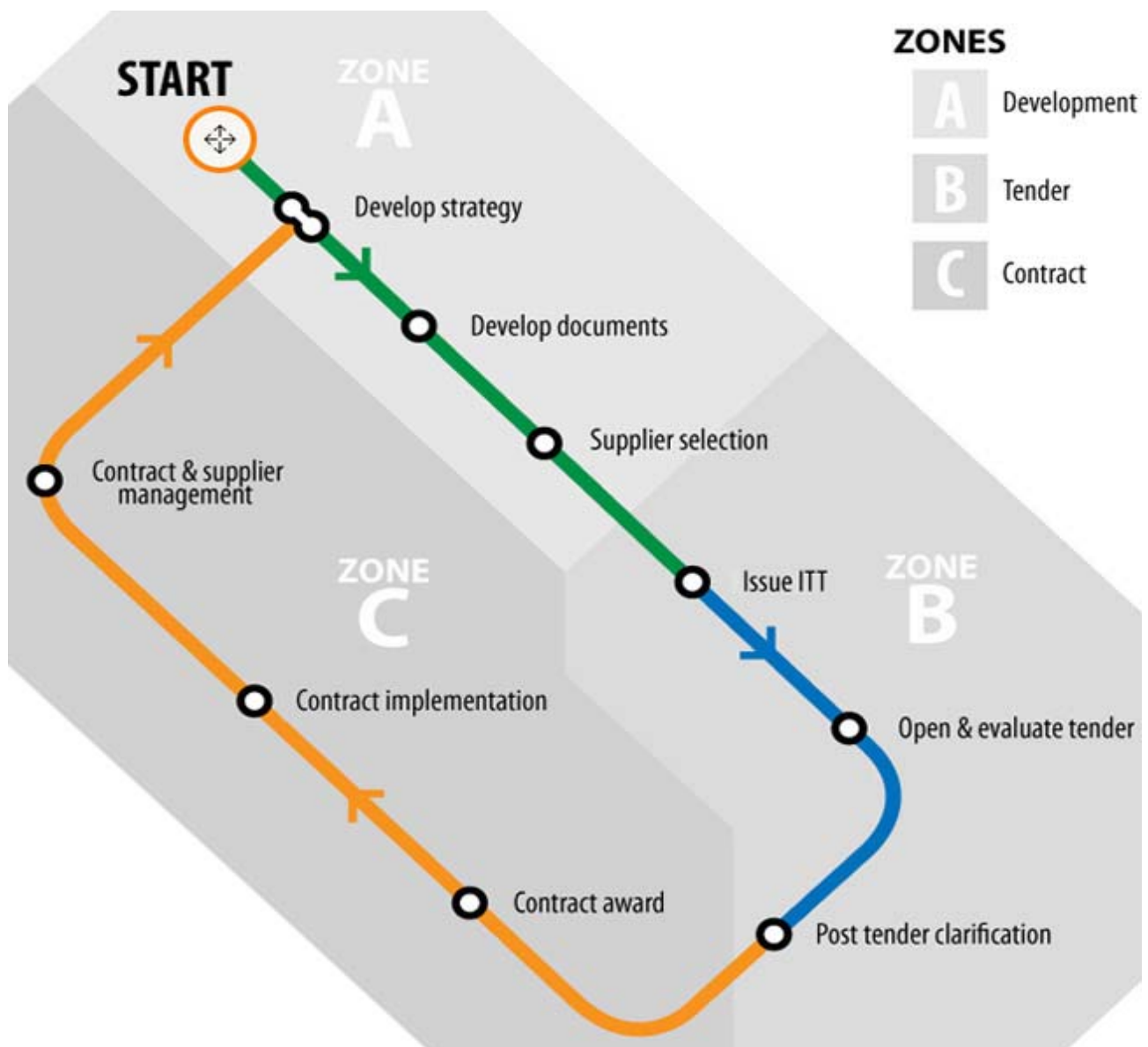
Route 2 of the Procurement Journey provides guidance for regulated procurements as defined in the Procurement Reform (Scotland) Act 2014 but below OJEU thresholds which are as follows: -

**Goods and Services £50k - £181k**

**Works £2m - £4.5m**

The detailed templates which have been created are based on the two-stage (restricted process) as this is most frequently used by the Estates department. Other procedures are available and may be more suited to some requirements and this is dependent on several factors which should be discussed with the Procurement team as part of the initial strategy development stage. Please refer to Appendix C: Frequently Asked Questions No. 3 for more information.

### 5.1 Overview



#### **PLEASE NOTE**

**LEGISLATION HAS BEEN ISSUED BY THE SCOTTISH GOVERNMENT WHICH SIGNIFICANTLY CHANGES THE WAY WE PROCURE REGULATED CONTRACTS \* IN FORCE FROM 18 APRIL 2016 \***

Where an existing contract or framework agreement is in place, the procurement should be undertaken in accordance with the relevant contract or framework terms and conditions.



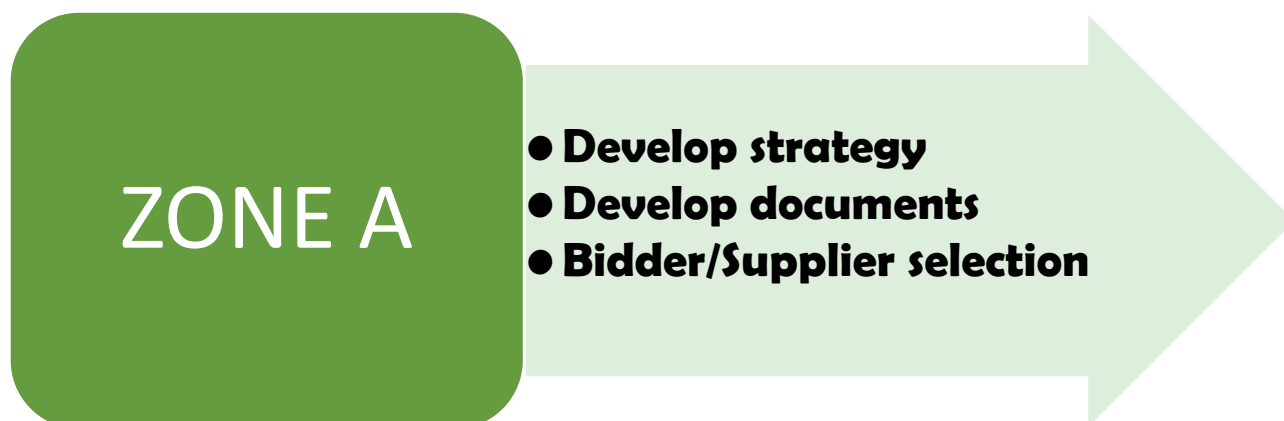
If an existing contract or framework agreement or an in-house provider cannot be utilised – this **Section 5** outlines the process for procurement of services and goods (£50k - £181k<sup>9</sup>) and works (£2m - £4.5m<sup>10</sup>).

## 5.2 Templates

Standard templates are available for the various stages of procurement in this category.

## 5.3 Process

### Procurement Journey – Route 2 – ZONE A – Development



#### ○ Develop strategy

Develop Procurement Strategy (**See P1 Template**) – Who, what, when and how.

#### → Contact Procurement Office

A member of the University's Procurement Office needs to be involved at the different stages throughout the Procurement Journey of a regulated procurement.

Please e-mail [Procurement.Central\\_Estates@ed.ac.uk](mailto:Procurement.Central_Estates@ed.ac.uk) to request the allocation of a member of the Procurement Office to your project. Procurement involvement at the earliest opportunity is essential to maximise the potential of achieving the best possible procurement outcome for the project. The sooner the Procurement team are aware of the project, the better they will be able to assist.

#### → Complete Strategy P1 Template

For all procurements between £50k-£181k (Goods and Services) and £2M - £4.5M (Works), a procurement strategy must be created which details the “who, what, when and how” of your procurement. Estates and Procurement will collaborate to develop an appropriate procurement strategy to reflect the needs of the project and ensure all relevant factors are taken into consideration, particularly including areas required to meet current legal compliance following the changes in legislation which came into effect in April 2016. Procurement will provide advice and support throughout the strategy development process.

Estates and Procurement will refer to the P1 Strategy template document to inform strategy development discussions. Once the strategy has been agreed, the Procurement Officer/Manager will complete a first draft of the P1 document and forward this to the Estates Project Manager/Operations Lead for review and to populate any outstanding areas indicated by the Procurement Officer/Manager as required. Once the Estates Project Manager/Operations Lead has completed the areas indicated, the P1 document must be returned to the Procurement Officer/Manager for review and any final amendments agreed. The Procurement Officer/Manager will sign the P1 template document to confirm that internal procurement procedures have been followed and the strategy is complete. The signed copy will be returned to the Estates Project Manager/Operations Lead for submission (see below “Submit P1 to ETRP”).

<sup>9</sup> £181,302

<sup>10</sup> £4,551,413

## → Sustainable Procurement Duty

From 1 June 2016, the University must comply with the "sustainable procurement duty", which requires that, before carrying out a regulated procurement, the University considers how in conducting the procurement it can:

- improve the economic, social, and environmental wellbeing of the area in which the University operates;
- facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process; and
- promote innovation.

The Sustainable Procurement Duty exemplifies the Scottish Model of Procurement (see page 8) and places sustainable and socially responsible procurement at the heart of the process.

This duty will be met through consultation between Estates, Procurement and, where appropriate, other relevant University staff, through the application of fair work practices consideration, Community Benefits requirements and other environmental and socio-economic measures as identified, agreed and actioned through the T46 or equivalent process (in the case of capital Estates projects) and the sustainable procurement Prioritisation Tool and Test Tool processes (in the case of operational Estates projects). Information about actions planned and subsequently taken forward in the procurement process in any of these areas should be captured and reflected in the P1 Strategy template and subsequent P4 Recommendation for Award Report.

### Fair Work Practices

The Scottish Government believes that employers whose staff are treated fairly, who are well rewarded, well-motivated, well-led, have access to appropriate opportunities for training & skills development, and who are a diverse workforce are likely to deliver a higher quality of service. Further, it is considered that good relationships between employers and their workers contribute to productivity and ultimately sustainable economic growth.

Public procurement is a key driver of policy development and service delivery which supports sustainable economic growth and as such is committed to sustainable procurement policies that deliver positive outcomes. Statutory Guidance on "the Selection of Tenderers and Award of Contracts - Addressing Fair Work Practices, including the Living Wage, in Procurement"<sup>11</sup> states that, before undertaking a regulated procurement, the University must consider how in conducting the procurement process it can contribute to improving the social wellbeing of the local area by promoting fair working practises in relevant public contracts. The University must consider whether it is relevant and proportionate to include a question on fair work practices, which would be evaluated along with other relevant criteria, while ensuring the appropriate balance between quality and cost of the contract.

Any decision to include a question on fair work practices should be made on a case by case basis and the Procurement Office will provide assistance on the basis of the latest legal advice in this field. As a Living Wage accredited institution with a strong commitment to promoting fair work through its activity, the University should use best efforts to promote living wage in its contracts and address fair work issues as widely as possible. In doing so, reference should be made to the University's "Addressing Fair Work Practices in Procurement" guidance document (available via the Procurement Office) which includes adaptable scored and non-scored versions of the fair works question and accompanying advice for evaluation of responses.

### Community Benefits

**MANDATORY obligation for any contract at the threshold value of £4m and above (Goods, Services, Works). MUST be considered for any contract £50k and above (Goods and Services) and £2m and above (Works)**

The University's vision is to make a significant, sustainable and socially responsible contribution to the world, including through its procurement and the continuing development of its Estate. The University of Edinburgh's strategic plan [Delivering Impact for Society 2016](#) includes "contributing locally" to the Edinburgh region as one of its four development themes (defined as "key areas for change").

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<sup>11</sup> <http://www.gov.scot/Resource/0048/00486741.pdf>

Community Benefits in procurement are being explored as a means to support the University's vision and mission, the strategic plan themes, as well as the work streams of the University's different strategies, in particular the [Community Engagement Strategy](#), [Widening Participation](#), [Youth and Student Employment Strategy](#), [Zero by 2040 Climate Strategy](#), [Global Engagement Plan](#), and [Equality and Diversity Strategy](#).

The University has developed a Community Benefits in Procurement Policy and related Community Benefits Procedure Templates for each stage of the procurement. This policy commits the University to work in partnership with the Qualified Bidder(s) in its major contracts to identify appropriate community benefits which are intended to improve the economic, social or environmental wellbeing of Edinburgh city, the region and beyond.

The Policy states that robust, relevant and proportionate Community Benefits will be incorporated in all procurements £4M and above and will be considered for inclusion wherever appropriate in regulated procurements below £4M at contract strategy development stage. If included, Community Benefits will be subject to a Community Benefits plan (see CB Procedure Templates document) that will capture responsibilities for delivery and review at each stage of the procurement process, to ensure that benefits are realised and recorded over the life of the contract.

Community Benefits will be included in the tender process on either a scored or non-scored basis. In both cases, the University should follow Procurement Journey guidance to negotiate or clarify proposed benefits on a post-tender basis to ensure they are achievable, represent genuine impact and align with University priorities.

Please note that Community Benefits can often be achieved in procurements under the £4M threshold. Many contractors increasingly adopt Community Benefit activities into their business as standard practice. Under the Procurement Reform (Scotland) Act 2014 and accompanying statutory guidance, consideration of Community Benefit requirements is encouraged for all regulated procurements below £4M level.

Estates and Procurement will work together with the support of partners within the University e.g., the Social Responsibility and Sustainability Department, to identify and implement appropriate Community Benefits.

#### → **Submit P1 Strategy to the ETRP and obtain approval**

The Estates Project Manager/Operations Lead shall ensure that the final P1 Strategy document is first reviewed and approved by the Procurement Officer/Manager designated to the Project as outlined above in "Complete Strategy P1 Template" section.

Following receipt of the signed P1 Strategy document from the Procurement Officer/Manager, the Estates Project Manager/Operations Lead shall email the P1 Strategy Document for review to the Head of the relevant Estates department at least 2 working days before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P1 Strategy Document to the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the P1 subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the P1 Strategy document and forward to the Estates Project Manager/Operations Lead for review and return of the amended P1 to the ETRP Administrative Secretary. Once the amended P1 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the P1 Strategy document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P1 Strategy document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operations Lead will email the signed version 2 to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P1 submissions detailed above.

If a P1 Strategy document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P1 Strategy document is stored and can be viewed.

### → Regulated procurement process – choose the right procedure

The identification of Bidders to be invited to bid for procurements at this value can either involve a two-stage process (restricted) or a single process (open). Careful consideration should be given to the most appropriate procedure to suit the project as part of the strategy development phase. The guidance below assumes a two-stage process as this is currently the more frequently used approach by the Estates department. The Procurement Office will advise on alternative procedures as required.

## ○ Develop documents

Following development and approval of the P1 Strategy document, the Estates Project Manager/Operations Lead and the Procurement Officer/Manager will collaborate to create the relevant documentation in readiness for the next stage of the procurement journey. This will entail the following:

- Specification
- Exclusion, selection and award criteria
- ESPD (Scotland)
- ITT (including T&Cs)

### → Specification

When setting out the specification and evaluation criteria, all tenderers must be treated on equal terms and care taken to avoid discrimination, whether positive or negative. The University must encourage fair participation and the specification must not be written in a way that distorts market competition or limits scope for entry to the procurement process by potential suppliers.

The specification must:

- Clearly describe what is required;
- Focus on outputs required without being prescriptive as to the method the bidder should use to provide it (output specification);
- Be sufficiently tight so that the product or service fits the University's needs, but not so explicit that it discourages the bidder from proposing innovative solutions that optimises Value For Money (VfM);
- Include performance targets or include criteria for acceptance of the products or services;
- Include service levels, a process for measuring ongoing performance and escalation routes for issues;
- Take account of any e-Commerce requirements;
- Take account of the Sustainable Procurement Duty<sup>12</sup> and Community Benefit Requirements<sup>13</sup>;
- Take into account suitability of design for all users;
- Take account of relevant legislation e.g. health and safety and equality and policies, e.g. fair trade, conflict minerals, carbon efficiency;
- Take account of all licensing and proportionate insurance requirements that a bidder must have to operate in a specific industry/sector and which are relevant to the performance of the contract;
- Not refer to brands or trade names but refer to the characteristics of the product required;
- Ensure that any requirements for limits, tolerances, deliverables timescales etc. are practical, proportionate and realistic;
- Consider commercial and ongoing performance management aspects of the contract throughout the supply chain e.g. payment terms including those to sub-contractors (30 day payment of invoices);
- Define testing and test methods including any certification that may be required as proof from regulatory authorities or equivalent proof to meet the standards required;
- May refer to factors of the production process, provision or trading even when the factors don't form part of the material substance of the product e.g. when technically describing the products or services, you may require that they don't involve toxic chemicals or are produced/provided using energy-efficient machines;
- Detail environmental and climate performance levels, where appropriate

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<sup>12</sup> See [FAQ 5](#)

<sup>13</sup> See [FAQ 6](#)

- Support a structured method of tender evaluation – the evaluation criteria must be linked to the specification;
- Be the basis of the formal contract between the University and the supplier

In addition, the technical specification may need to specify whether the transfer of Intellectual Property Rights (IPR) will be required. This may be important as potential suppliers are likely to find the contract much less attractive if they are being told that any intellectual property that they create would be the property of the University. This may prove to be an unnecessary barrier to competition to some potential suppliers who must supply similar goods or services to other customers. Also, in many cases the overall economic value of the IPR will be greater if left in the hands of a potential supplier which is able to exploit it commercially. The University may, however, legitimately ask for access to intellectual property which it requires.

If the specification is flawed the result might be:

- Failure by the University to meet its objectives
- Wasted money
- Unsuitable tenders
- Unsuitable bids
- Mis-interpretation of requirements
- Major difficulties in evaluating the bids
- Wrong or unsuitable products/services supplied
- Claims of unfair treatment being made by tenderers
- Difficult contract/project management
- Inability to resolve contract disputes

Once a contract is awarded the scope to make changes to the specification (e.g. asking the contractor to deliver more, or less of something that was not specified at the time of tendering) is limited and any significant changes may be challenged in the Courts. If it is not possible for the supplier to deliver the contract as originally intended, due to omissions or errors in the specification, the contract may have to be terminated and a new procurement undertaken.

## → Variants<sup>14</sup>

If you intend to award a contract based on best price/quality ratio, you may consider variants on the requirements, as long as this possibility has been specified in the Contract Notice and ITT. The minimum requirements to be met by the variant and any specific requirements for their representation and how the variant will be evaluated must also be stated in the contract documentation. Please contact the Procurement Office to guide you through the appropriate drafting and application of the variant assessment and evaluation.

## → Life Cycle Costing

You can apply life cycle costing as part of the specification and subsequent evaluation. Life cycle costing takes into account all of the identifiable costs attributable to a product or service from its acquisition through use, maintenance and end of life (recycling / disposal). These can be direct costs like scheduled maintenance and energy used through the life of a road sweeping vehicle but also include less apparent external environmental costs such as the cost of emissions of greenhouse gas based on the energy use of the road sweeping vehicle.

These costs can only be assessed when:

- They are based on objective criteria that don't favour or disadvantage any potential bidders;
- The assessment method is accessible to all interested parties;
- The data required can be provided with reasonable effort from all interested parties, including those from third countries.

If using a life-cycle costing approach to award a contract, the Procurement Documents must state:

- The data to be provided by bidders
- The method that will be used to determine the life-cycle cost on that basis.

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<sup>14</sup> See [FAQ 15](#)

It is important to differentiate between Whole Life Costing, Lifecycle Costing and Lifecycle Impact Mapping:

**Whole Life Costing:** Focuses solely on cost (£) of a product or service from cradle to grave. It takes into account acquisition, operation, ownership and disposal costs. It does not take into consideration any environmental or social costs.

**Lifecycle Costing:** Life-cycle costing covers part or all of the following costs over the life cycle of a product or service:

- (a) costs produced by the organisation or other users, such as:
  - i. costs relating to acquisition;
  - ii. costs of use, such as consumption of energy and other resources;
  - iii. maintenance costs;
  - iv. end of life costs, such as collection and recycling costs; and
- (b) costs attributed to environmental externalities linked to the product or service during its life cycle, provided their monetary value can be determined and verified. This may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.

**Lifecycle Impact Mapping:** Focuses on social and environmental impact rather than cost. Life cycle impacts help the user identify and assess impacts. For example, it may help to focus attention on the disposal phase before the procurement is carried out, allowing the organisation to build end-of-life management requirements into both its performance clauses for successful contractors and its own internal management procedures.

Please note: Life cycle impact mapping can be used alongside life cycle costing as part of the procurement process.

## → **Exclusion, Selection & Award Criteria**

All exclusion, selection and award criteria must be relevant and proportionate to the subject matter of the contract. Exclusion grounds, selection and award criteria must be clearly defined in the contract notice and procurement documents, to ensure a common understanding of the requirements by all bidders and must not be changed or waived during the procurement process.

- **Exclusion Criteria**

Some grounds for exclusion are circumstances in which a bidder must be excluded from the procurement process. Some other grounds for exclusion are circumstances in which the University may determine on a case by case basis whether a bidder should be excluded. These are referred to as mandatory and discretionary exclusion grounds respectively. In all cases the bidder must be given the opportunity to provide evidence which proves that it has taken sufficient and appropriate remedial action to demonstrate that they have “self-cleansed” (i.e. that the problem will not occur and that the bidder can be regarded as reliable). The exclusion and selection questions are contained within the ESPD (Scotland) document and must be used in conjunction with the standardised statements.

- **Selection and Award Criteria**

The distinction between selection and award criteria is important and the clear distinction should be made throughout the procurement process. At the pre-qualification (or selection) stage, before an ITT is issued, the University is focused on the evaluation of the bidders whereas the award criteria at ITT stage is focused on the merits of the bid. The selection stage involves an examination of the suitability and capability of the bidders to perform the contract. This will ensure that only bidders which are competent to perform the proposed contract are taken forward in the procurement process to the ITT stage. The award stage will identify which of the eligible bidders will deliver best value for money for the University based on the most economically advantageous tender.

Issues/questions which are appropriate to the selection criteria should be addressed at the selection stage and should not form part of the award stage (even if they were omitted from the selection stage in error) and vice versa. However, you can apply different aspects at selection and award if relevant.



To meet obligations of transparency, the University must publish details of the evaluation criteria to be used to either select the suppliers to be invited to bid for the contract or the evaluation criteria to be used to identify the bidder to whom the contract will be awarded. The selection or award criteria (depending upon the stage of the procurement process) sub-criteria, weightings, minimum standards, pass marks etc. should be published in the contract notice and procurement documentation.

**NOTE: - A pass mark threshold of 50% should be applied to the selection process at ESPD stage as agreed with Estates and Procurement.**

## → European Single Procurement Document (ESPD)

The University must use the ESPD (Scotland) document for all selection stage questions and only the most up to date approved ESPD (Scotland) document template must be used.

The ESPD (Scotland) replaces the requirement for bidders to provide up-front evidence or certificates by allowing them to self-declare that they:

- Do not fall within an exclusion clause (or if they do, they can demonstrate they have taken self-cleansing measures where relevant);
- Meet the relevant selection criteria;
- Fulfil the objective rules and criteria for reduction of bidders (where applicable)

The ESPD (Scotland) contains the standard set of questions in line with the ESPD requirements and this means that the questions in the ESPD (Scotland) cannot be amended and new questions cannot be added. A set of standardised statements accompanies the ESPD (Scotland) document to assist in the setting out of selection criteria and minimum standards in a consistent way, providing a clear link between the selection criteria set out in the contract notice and the questions which bidders will be required to respond to in the ESPD (Scotland). These statements are not a definitive list of all potential selection criteria that Estates may require, and as such professional judgement must be used on a case by case basis when selecting, which if any, of these statements are relevant and proportionate to the procurement being undertaken. When selected, some of the statements require further editing to make them meaningful and relevant to the procurement. Unlike the ESPD (Scotland) document, it is possible to amend and/or add additional procurement exercise specific statement(s). These must reflect the selection criteria and minimum standards of the procurement being undertaken and need to be included in the contract notice. However, this should only occur if the relevant standardised statements are not suitable. Any statements used must relate to a specific question in the ESPD (Scotland) document. The Procurement Officer/Manager will provide guidance and support throughout the preparation of the ESPD.

**Note: - Any standardised ESPD (Scotland) document templates developed by Estates in collaboration with Procurement for each of the disciplines and specific requirements must be used. Any change to the approved standard templates (and scoring mechanisms) must be agreed in advance with the Procurement Office, Estates Tender Review Panel and where appropriate, the relevant Project Board.**

## ESPD and Subcontractors

The University:

- Must request a separate ESPD response from subcontractors or consortium members, upon whose capability and capacity the main bidder relies in order to meet the selection criteria.<sup>15</sup> If the ESPD verifies that there are mandatory grounds for exclusion of any such subcontractor, the University must require the main contractor to replace that sub-contractor. The University may also require the replacement of such a subcontractor to which any of the discretionary grounds for exclusion apply;
- May request a separate ESPD response from subcontractors (on whose capability and capacity the main bidder does not rely on to meet the selection criteria) when deemed appropriate to safeguard the effective delivery of the contract, based on relevance and proportionality to the contract. If to be requested, this requirement must be specified in the Contract Notice. In such a case, the University must require the replacement of a subcontractor to which any of the

<sup>15</sup> Example: When appointing a Design Team to cover the whole project, some of the specialist expertise, capability and capacity may need to be subcontracted. The Lead (main bidder), usually the Architect, will heavily rely on these subcontractors in which case an ESPD must be obtained for any of these subcontractors.

mandatory grounds for exclusion are found to apply, and may require the replacement of a subcontractor to which any of the discretionary grounds for exclusion are found to apply.

### → **Invitation to Tender (ITT) Document**

The ITT will be developed using the range of standard templates which exist for each of the disciplines tailored to suit specific requirements. The ITT should include comprehensive information for potential tenderers about the requirements being tendered and include not only critical information relating to the requirement itself but also information relevant to ensure legal and procedural compliance. The ITT should clearly state the T&Cs under which the contract will be governed and administered. Any information requested from tenderers must be clearly aligned to the award criteria established in the contract notice and followed through to ITT stage. The Procurement Office will provide advice and support regarding the content of the ITT document.

### → **Drafting Documents**

The Procurement Officer/Manager allocated to the Estates project will draft the ESPD and ITT documentation following the collaborative work undertaken with the Estates Project Manager/Operations Lead to develop the information required. The Estates Project Manager/Operations Lead will be responsible for providing all technical information such as specification, drawings, QS documents etc.

Upon completion of the documents, the Procurement Officer/Manager will submit these to the Estates Project Manager/Operations Lead for review and approval. It is the responsibility of the Estates Project Manager/Operations Lead to obtain appropriate Estates authorisation to proceed with the issue of the ESPD/ITT depending upon the stage of the procurement process. The ESPD and ITT must be approved by the Head of the relevant Estates department.

Note: - The Procurement Officer/Manager must review and approve the final documentation prior to being issued and obtain a procurement peer review. The Procurement Officer/Manager will also need to draft the relevant contract notice to reflect the content of the final draft documentation. Project programmes must allow adequate time to undertake these steps effectively.

### → **Contract Notice**

Once the P1 Strategy document has been approved by ETRP and the ESPD document has been developed, reviewed and approved by both Estates and Procurement, the Procurement Officer/Manager will publish the required Contract Notice via the Public Contracts Scotland-Tender (PCS-T) Portal.

### → **Management of PCS-T Messages**

All communications and clarifications must be recorded via PCS-T to ensure full transparency of the process and that all critical information which may be relied upon to complete evaluations/form an award of contract is available. Instructions must be included within the tender documentation to advise suppliers that all questions must be asked via PCS-T, how to label any such questions and that these questions will be responded to by the relevant person as outlined below: -

- Procurement/procedural – Procurement Officer/Manager
- Technical/other clarification – Estates Project Manager/Operations Lead and/or external consultants such as QS, where appropriate.

Details of the deadline for the submission of any questions and the date by which all questions will be answered should be provided within the contract notice and ESPD documentation.

Any bidder messages received out-with PCS-T e.g. directly to Estates Project Manager/Operations Lead should be responded to only to the extent of stating that all questions should be submitted via PCS-T to obtain an appropriate response.



## ○ Bidder/Supplier selection

### → Appointment of evaluation panel – ESPD evaluation

To select bidders to proceed to the Invitation to Tender Stage, an evaluation panel must be appointed which will evaluate all the ESPD responses submitted. The panel must be constituted of at least 3 members from Estates and the Procurement Officer/Manager assigned to the project. The role of the Procurement Officer/Manager in the panel will be as follows: -

#### **For Estates Operations Tenders:**

- Attend all evaluation/shortlisting meetings to provide advice and support throughout the process but not participating in the actual scoring of responses.

#### **For Development/Estates Planning and Special Projects Tenders:**

- Attend initial meeting to provide advice and set the ground rules for the application of scoring rationale/procedures and to answer any queries;
- To review scores and rationale and advise on any specific queries arising from the shortlisting/evaluation process
- To confirm that the scores and rationale reflect the original criteria as advertised and advise on any areas where further review is recommended.

Membership of the evaluation panel should remain the same throughout this selection stage (ZONE A) and the later stage (ZONE B) unless exceptional circumstances dictate otherwise (e.g. conflict of interest).

### → Appointment of chair of the evaluation panel and conflict of interest declaration.

A designated Estates' staff member will act as Chair of the evaluation panel. He/she will obtain completed Conflict of Interest declarations (see Template P10) from all panel members, minute the responses obtained and the appropriate actions the Chair has taken to resolve any conflict of interest, should these arise. These forms and all minutes must be filed by the Estates Chair within the relevant EST: K drive: project/tender file.

### → Evaluate ESPD submissions.

For all tenders with a value of £50k or above, the AWARD tender evaluation tool will be used, and absolute scoring will apply.

The Procurement Officer/Manager will arrange access to the relevant project/tender for all Estates evaluation panel members. Note: - Any member of Estates staff who will require set up and training on AWARD to participate in the evaluation process should notify the Procurement Officer/Manager at the earliest possible stage of the procurement process (ideally right at the start of strategy development discussions) to enable sufficient time for this to be arranged well in advance of the deadline for the return of ESPD submissions.

At least 3 Estates evaluation panel members should evaluate the ESPD submissions independently and the scores, together with rationale should be noted against the relevant questions and input into the AWARD scoring model (please refer to the Estates Evaluation Guidance documents for further information relating to scoring and the level of information required as a rationale to support any scores allocated).

### → Consensus.

A consensus meeting will be organised by the Estates Chair of the evaluation panel. A member of Estates staff shall undertake the role of Moderator and the evaluation panel will review the scores entered by individual panel members for each ESPD submission and reach agreement on the final consensus scores and supporting rationale. Any rationale for discrepancies between individual panel member scores and/or final scores should be recorded. Based on the resultant scores and in accordance with the process set out in the Contract Notice, the evaluation panel will recommend to the ETRP which Bidders will be invited to tender.

### → Minimum number of Bidders invited to ITT

For all Estates Capital Development Services and Works there must be at least 6 Bidders invited to tender except in the circumstances where less than 6 Bidders meet the criteria for participation stated in the contract notice, in which case less bidders may be invited.

For Estates Operational Services and Works there must be at least 5 Bidders invited to tender except in the circumstances where less than 5 bidders meet the criteria for participation stated in the contract notice, in which case less bidders may be invited.

### → AWARD Reports

Upon completion of the evaluation consensus stage, the Estates Project Manager/Operations Lead should inform the Procurement Officer/Manager. The Procurement Officer/Manager will subsequently create the relevant AWARD report to produce an overview of the results, review the scores and rationale and advise on any areas where, if any, further review from the evaluation panel is recommended to ensure all scoring and rationale is consistent with the original criteria as advertised and sufficiently detailed to produce meaningful debrief information within the letters to the unsuccessful bidders. Once the evaluation panel and Procurement Officer/Manager are satisfied that the evaluation within AWARD is complete, the Procurement Officer/Manager will forward a copy of the finalised AWARD report to the Estates Project Manager/Operations Lead. **Note: - the evaluation on AWARD will not be “locked down” at this stage until ETRP approval has been granted.**

### → Head of Estates Finance approval

Once the AWARD evaluation report has been finalised as outlined above, the Procurement Officer/Manager will provide the Head of Estates Finance with the relevant financial and bidder information in relation to the proposed shortlisted bidders to allow the financial assessment to be carried out in accordance with the requirements detailed within the ESPD (Scotland) document. The Head of Estates Finance will confirm the outcome of the financial assessment to the Procurement Officer/Manager and this information will be entered on the Shortlist Recommendation Report (P3).

### → Submit P3 Shortlist Recommendation Report to ETRP for approval

A Shortlist Recommendation Report shall be drafted by the Procurement Officer/Manager using the P3 Template document and this will be forwarded to the Estates Project Manager/Operations Lead for review and to populate any outstanding areas indicated by the Procurement Officer/Manager, as required. Once the Estates Project Manager/Operations Lead has completed any areas indicated and are satisfied with the content of the report, the P3 document must be returned to the Procurement Officer/Manager for review and any final amendments agreed. The Procurement Officer/Manager will sign the P3 template document to confirm that internal procurement procedures have been followed and the report is complete. The signed copy will be returned to the Estates Project Manager/Operations Lead for submission.

Following receipt of the signed P3 Shortlist Report document from the Procurement Officer, the Estates Project Manager/Operations Lead shall email the P3 Document for review to the Head of the relevant Estates department at least 2 working days before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P3 Document to the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The following documents must be available for review and approval by ETRP members prior to action being taken. The information must be uploaded by the Estates Project Manager/Operations Lead via folder EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then into the applicable ETRP weekly meeting folder: -

- ESPD documentation
- Evaluation scoring and consensus results
- Any relevant supporting evidence
- Successful Shortlist and Unsuccessful debrief letters
- Shortlist Recommendation Report (P3)

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the P3 subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the P3 document and forward to the Estates Project Manager/Operations Lead who will return the amended P3 to the ETRP Administrative Secretary. Once the amended P3 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the P3 document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P3 document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operational point of contact will email the signed version 2 to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P3 submissions detailed above.

If a P3 document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P3 document is stored and can be viewed.

**Note:** - The Shortlist Recommendation Report P3 document must be submitted and approved by the ETRP members before any communication regarding the outcome of the ESPD evaluation process is sent to bidders **with the exception of where the circumstances described as follows occur:** -

Dependent upon the information provided by bidders within the exclusion and/or selection criteria (**qualification part only, not technical**) section of the ESPD, it may be necessary to contact a bidder(s) for clarification purposes to determine whether in fact the bidder meets the exclusion and/or qualification selection criteria. In the interests of fairness and transparency, the University must as soon as practicable notify bidders that they do not meet the exclusion and/or qualification selection criteria and their bid will therefore be given no further consideration. With this in mind, if Procurement has ascertained a bidder does not meet the mandatory/discretionary exclusion criteria and/or the qualification selection criteria (any decision to exclude on the basis of mandatory/discretionary exclusion criteria or qualification selection criteria must be discussed with the Estates Project Manager/Operations Lead and agreed with both the Director of Estate Development and Acting Director of Procurement), the Procurement Officer/Manager will follow up with an email to the Head of the Estates department, Director of Estate Development, Acting Director of Procurement and Estates Project Manager/Operations Lead to confirm and obtain formal approval to proceed with notification via PCS-T to any bidders who do not meet the exclusion and/or qualification selection criteria. The Procurement Officer/Manager will upon receipt of approval to proceed, from the Director of Estate Development and Acting Director of Procurement, issue notification to the affected bidder(s) via PCS-T as soon as this has been established. It is highly likely, if the University has had to ask for information for clarification purposes to determine that a bidder does not meet the exclusion criteria, the bidder will send a request to be advised of whether the information provided was sufficient to meet the exclusion and/or qualification selection criteria and there may be a significant amount of time between establishing that a bidder has been excluded and completing the evaluation to shortlist stage. In the meantime, the University will be required to respond to the bidder's query and advising the bidder at that stage their submission is not being considered further due to inability to meet the exclusion criteria is the most fair and transparent approach. Formal letters will also be drafted at the P3 stage and submitted to ETRP for approval along with all other successful shortlist and unsuccessful debrief letters.

### → **Preparing and issuing successful shortlist letters and unsuccessful debrief letters**

The University must, as soon as practicable after reaching a decision, notify bidders of such decision. The shortlisted bidder(s) should be notified and all other bidders informed in writing simultaneously that they have been unsuccessful (along with confirmation in writing, if applicable, to bidders already notified via PCS-T that they failed to meet the exclusion criteria and their bid was therefore given no further consideration). Standard templates for these letters must be used (See Templates P12 and P13).

#### **The unsuccessful debrief letters must contain as a minimum:**

- The names of the bidders who have not been excluded;
- The criteria used to shortlist the bidders;
- The scores of the unsuccessful bidder and the shortlisted bidder(s) together with feedback relating to the evaluation criteria and scores. Feedback should be based upon the areas which had a material effect on the outcome. (Please refer to the Estates Evaluation Guidance documents for more information on this).

The letters will be drafted by the Procurement Officer/Manager and submitted to the Estates Project Manager/Operations Lead for review. The Estates Project Manager/Operations Lead will upload the letters along with all other documents in the relevant EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then the applicable ETRP weekly meeting folder.

The ETRP members will be responsible for reviewing and approving the contents of all letters along with associated documentation submitted.

Following confirmation of approval from ETRP, it is the responsibility of the Estates Project Manager/Operations Lead to ensure all letters are signed by the appropriate authorised signatory according to the DAS. All signed letters must then be emailed to the Procurement Officer/Manager who will issue all letters via PCS-T.

Note: - A bidder may also request further information at different stages of the process – please agree with the Procurement Officer/Manager in advance who will respond on behalf of the University using the most appropriate mechanism i.e. e-procurement communication tools, debrief meetings etc.

### → **Retention of Documentation**

All documentation relating to the ESPD process must be retained to ensure a full audit trail.

In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>16</sup> from the end of the project: -

- ESPD documents issued via PCS-T
- Bidder ESPD responses submitted (successful and unsuccessful)
- Evaluation scores, rationale and notes (individual evaluators and consensus)
- Successful shortlist letters and unsuccessful debrief letters
- All communications and clarifications with suppliers including any additional feedback which may have been provided

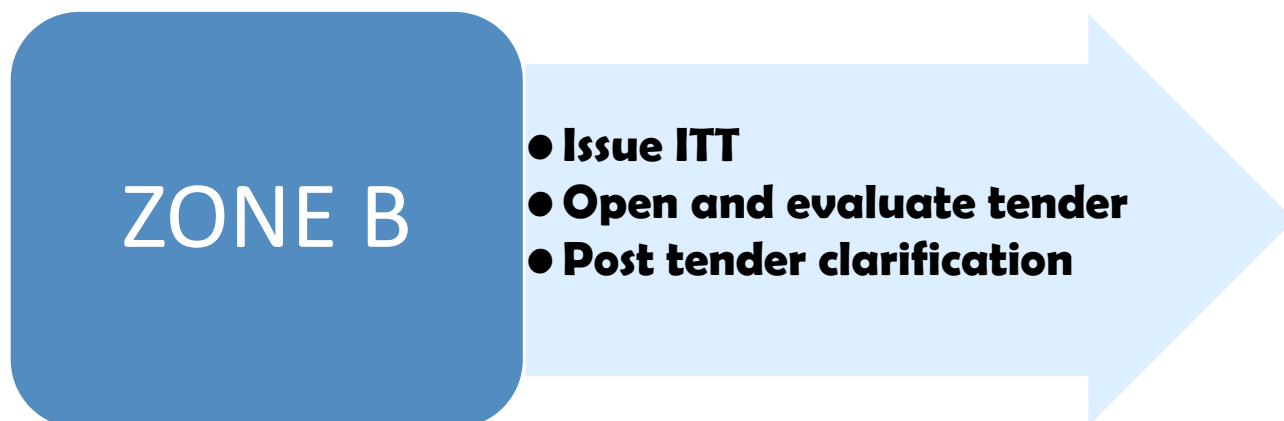
### → ***“What happens in pre-qualification, stays in pre-qualification”***

The Pre-qualification (this ZONE A) is a short-listing selection exercise and must remain entirely separate from the Invitation to Tender Stage (ZONE B). All scores obtained during the Pre-qualification (ZONE A) focused on assessing capacity must be set aside following short-listing and must not be used to influence the outcome of the tender award process (ZONE B), which is focused on forward looking and the proposed bid for the specific contract and its performance.

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<sup>16</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

## Procurement Journey – Route 2 – ZONE B – Tender



### ○ Issue ITT

#### → Obtain ETRP approval – ITT Documentation (Main Contractor Only)

As per the Briefing Note issued on behalf of the ETRP (4th October 2017), a review of the questions used in the ITT document is required for each regulated Main Contractor procurement to ensure that sufficient detail is clearly incorporated into the questions to cover aspects which require to be assessed. This review should be undertaken and approved by ETRP prior to the ITT being issued. The Procurement Officer/Manager and Estates Project Manager/Operations Lead will work collaboratively to develop the ITT document. Once the ITT is drafted to the satisfaction of the Estates Project Manager/Operations Lead, the final draft of the ITT must be returned to the Procurement Officer/Manager for review, any final amendments, if required and approval. The Procurement Officer/Manager will draft a covering project summary sheet (see Template P19) to attach to the ITT and sign this P19 to confirm that internal procurement processes have been followed and the ITT is complete. The signed P19 and final draft ITT document will be forwarded to the Estates Project Manager/Operations Lead for submission to ETRP as per the process indicated below.

Following receipt of the signed P19 project summary sheet and attached ITT document from the Procurement Officer/Manager, the Estates Project Manager/Operations Lead shall email the P19 and ITT Document for review to the Head of the relevant Estates department at least **2 working days** before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P19 and ITT Document to the ETRP Administrative Secretary by no later than 3pm, **2 working days** before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The following documents must be available for review and approval by ETRP members prior to action being taken. The information must be uploaded by the Estates Project Manager/Operations Lead via folder EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then into the applicable ETRP weekly meeting folder: -

- ITT Document
- Project summary sheet (P19)

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the ITT document subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the ITT document and forward to the Estates Project Manager/Operations Lead who will return the amended ITT document to the ETRP Administrative Secretary. Once the amended ITT document has been viewed and P19 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the ITT document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P19 and

ITT document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operations Lead will email the signed version 2 of the P19 along with the revised ITT to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P19 submissions detailed above.

If an ITT document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P19 document is stored and can be viewed.

#### → **Issue ITT documentation**

The Procurement Office will issue the ITT documentation (only once ETRP approval obtained in the case of Main Contractor tenders) via PCS-T.

#### → **Management of PCS-T Messages**

All communications and clarifications must be recorded via PCS-T to ensure full transparency of the process and that all critical information which may be relied upon to complete evaluations/form an award of contract is available. Instructions must be included within the tender documentation to advise suppliers that all questions must be asked via PCS-T, how to label any such questions and that these questions will be responded to by the relevant person as outlined below: -

- Procurement/procedural – Procurement Officer/Manager
- Technical/other clarification – Estates Project Manager/Operations Lead and/or external consultants such as QS, where appropriate.

Details of the deadline for the submission of any questions and the date by which all questions will be answered should be provided within the contract notice and ITT documentation.

Any bidder messages received out-with PCS-T e.g. directly to Estates Project Manager/Operations Lead should be responded to only to the extent of stating that all questions should be submitted via PCS-T to obtain an appropriate response.

#### → **Receipt of bids.**

Details of the deadline date and time for ITT submissions must be provided within the contract notice and ITT documentation. All ITT responses must be submitted to the University in the format detailed within the ITT documentation via the PCS-T system.

#### → **Timely submission of the tenders**

It is the bidder's responsibility to ensure that an ITT response is submitted in the correct format, via PCS-T, no later than the notified tender return date and time specified in the contract notice and ITT documentation.

Only in exceptional circumstances, and via formal sign off approval from the Acting Director of Procurement or Director of Procurement will tender responses received after the specified closing date and time be considered. An audit trail must be kept of the reason for accepting a late submission, the details of the authorised signatory who agreed to the late tender submission and the risk and impact for the project.

All enquiries from potential bidders (including telephone, fax or e-mail), in relation to the extension of return dates must be directed to PCS-T to submit any such request and the Head of Estates Development or Acting Director of Procurement and the Procurement Officer/Manager notified as soon as possible.

The Procurement Officer/Manager must obtain formal sign off approval from the Acting Director of Procurement or Director of Procurement prior to granting any extensions to the return dates. An audit trail must be kept of the reason for accepting an extension, the details of the authorised signatory who agreed to the extension and the risk and impact for the project.

The following steps will apply when agreement is given to extend the closing date for the submission of tenders:

- 1) all tenderers shall be notified of the revised closing date and time in writing via PCS-T;



- 2) the return instructions from the original ITT should be restated;
- 3) all ITT responses received after the new extended deadline will be excluded unless in exceptional circumstances approval is granted as per the process detailed above.

## ○ Post tender clarification

The objective of the clarification stage is to clarify, where required, the tenders as submitted.

Tender, or bid clarifications may become necessary during the evaluation of tender responses. For example, where there are aspects of the bids that are unclear or contain minor errors. The Procurement Office should consider whether, where a certain aspect of the bid seems anomalous, it might be prudent to request clarification. For example, if a bid appears especially low, or especially high on price, it may be that an arithmetical error has been made. Care needs to be taken for abnormally low bids, as specific processes need to be followed in that event. Clarification may also be sought from tenderers on matters of quality performance or specific terms and conditions of contracts.

**Clarifications should never be used to give information from one bidder to one or more other bidders.**

In seeking clarification, all communications with tenderers must be properly recorded so that an audit trail is maintained. This will be recorded on the PCS-Tender system in the messaging area. Negotiations in relation to price or other areas where improvements may be possible, are not permitted.

The Procurement Office should give all tenderers the same opportunity to engage in tender/bid clarification, where appropriate or relevant. Extreme caution and care must be exercised to avoid either unfairness to tenderers or the impression of unfairness to some tenderers.

**Where Quantity Surveyors or consultants are carrying out checks** and clarifications, all such communications and clarifications must be recorded via PCS-T to ensure full transparency of the process.

Please refer to the Estates Evaluation Guidance documents for further information regarding clarifications.

## → Computational Errors

Where errors are suspected in the make-up of a tender for a Works contract, these will be examined and adjusted in accordance with the rules set out in JCT Tendering Practice Note 2017 (Alternative 2)

1. The tenderer should be given details of the errors and afforded an opportunity of confirming or withdrawing his tender.
2. If the tenderer elects to stand by his tender and confirmation has been received from him, follow the procedures set out Correction of Errors – Alternative 1
3. If the tenderer elects to amend his tender figure and possibly certain rates in his documents, he should either amend the original tender and initial the changes or confirm the alterations in an electronic communication through PCS-T.
4. If the amended tender is still the lowest (or 'best value' as the case may be) and there are no other reasons for not recommending it then it should be recommended for acceptance.
5. If the amended tender is no longer the lowest (or 'best value' as the case may be) the offer that as a result has become the lowest (or 'best value') should be examined and the analysis of tenders process repeated for the alternative tender.

## ○ Open and evaluate tenders

The **AWARD** tender evaluation tool will continue to be used at the ITT evaluation stage. Absolute scoring will apply to all quality criteria and relative scoring will apply to commercial (price) criteria.

**Most Economically Advantageous Tender (MEAT) is now MANDATORY – cost only is no longer allowed**

The University must identify the Most Economically Advantageous Tender based on the best price/quality ratio, which must be assessed on criteria linked to the subject matter of the contract and must include the price or cost, using a cost-effectiveness approach. A cost effectiveness approach may include [life-cycle costing](#).

## → Interviews

If interviews are required, the University should determine whether the interview:

- is intended to evaluate a specific set of criteria that only appear in the interview. This means that the criteria to be assessed at interview are assigned a percentage of the overall score for that bid; OR
- will simply be used to clarify previously submitted written elements of the tender. In this case, the interview will not cover new evaluation criteria, and will not have a separate weighting. This option is commonly used where the interview allows for a demonstration of a process or item that has been described in the written submission.

*Transparency:* If an interview forms part of the tender evaluation process, the award criteria, questions/specific subject matter, weightings and sub weightings must be contained in the ITT.

*Equal treatment:* All tenderers must be invited for interview. This ensures equal treatment.

*Audit and transparency:* The overall assessment outcome should be clearly stated, and notes taken of attendees, any conflict of interest and how this is handled (e.g. removal of panel member), questions asked, answers and scores given, to ensure evidence of fair and equal treatment for audit.

*The choice of questions to be used at interview must be aligned to the evaluation criteria and answers handled consistently.*

**Note: - Interviews should not be used for Main Contractor procurement exercises**

*Please refer to the Estates Evaluation Guidance documents for further information regarding interviews.*

## → Evaluation Panel

A designated Estates staff member will continue to act as Chair throughout the process. Membership of the assessment panel should remain the same throughout the entire evaluation process, unless exceptional circumstances dictate otherwise, and records kept of who has participated.

At least 3 Estates evaluation panel members should evaluate the quality envelope of the ITT submissions independently and the scores, together with rationale should be noted against the relevant questions and input into the AWARD scoring model. Please note that answers to specific questions must be reviewed by the same evaluators for all submissions (please refer to the Estates Evaluation Guidance documents for further information relating to scoring and the level of information required as a rationale to support any scores allocated).

## → Consensus Meeting

Once the tenders have been individually scored, the chair of the evaluation panel will organise a consensus meeting to agree the final overall quality scores. A member of Estates staff shall undertake the role of Moderator and the evaluation panel will review the scores entered by individual panel members for each ITT submission and reach agreement on the final consensus scores and supporting rationale. Averaging scores is not acceptable. At the consensus meeting, questions with differences in scores will be discussed and if appropriate, individual scores may be changed (e.g. if something has been missed). Any rationale for discrepancies between individual panel member scores and/or final scores should be recorded.

The consensus quality scores should be agreed by all panel members and taken forward to the final Quality/Cost evaluation. The Chair will keep a formal record of the discussions and decisions taken at the meeting. Based on the resultant scores, the evaluation panel will recommend to the ETRP which bidder should be awarded the contract.

## → AWARD Reports

Upon completion of the evaluation consensus stage, the Estates Project Manager/Operations Lead should inform the Procurement Officer/Manager. The Procurement Officer/Manager will subsequently create the relevant AWARD report to produce an overview of the results, review the scores and rationale and advise on any areas where, if any, further review from the evaluation panel is recommended to ensure all scoring and rationale is consistent with the original criteria as advertised and sufficiently detailed to produce meaningful debrief information within the letters to the unsuccessful bidders. Once the evaluation



panel and Procurement Officer/Manager are satisfied that the evaluation within AWARD is complete, the Procurement Officer/Manager will forward a copy of the finalised AWARD report to the Estates Project Manager/Operations Lead. **Note: - the evaluation on AWARD will not be “locked down” at this stage until ETRP approval has been granted.**

#### → Head of Estates Finance approval

Once the AWARD evaluation report has been finalised as outlined above, the Procurement Officer/Manager will provide the Head of Estates Finance with the relevant financial and bidder information in relation to the proposed shortlisted bidders to allow a financial assessment to be carried out to ensure circumstances have not changed since ESPD stage. The Head of Estates Finance will confirm the outcome of the financial assessment to the Procurement Officer/Manager and this information will be entered on the Recommendation for Award Report (P4).

#### → Submit P4 Recommendation for Award Report to ETRP for approval

A Recommendation for Award Report shall be drafted by the Procurement Officer/Manager using the P4 Template document and this will be forwarded to the Estates Project Manager/Operations Lead for review and to populate any outstanding areas indicated by the Procurement Officer/Manager, as required. Once the Estates Project Manager/Operations Lead has completed any areas indicated and are satisfied with the content of the report, the P4 document must be returned to the Procurement Officer/Manager for review and any final amendments agreed. The Procurement Officer/Manager will sign the P4 template document to confirm that internal procurement procedures have been followed and the report is complete. The signed copy will be returned to the Estates Project Manager/Operations Lead for submission.

Following receipt of the signed P4 Recommendation for Award Report document from the Procurement Officer, the Estates Project Manager/Operations Lead shall email the P4 Document for review to the Head of the relevant Estates department at least 2 working days before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P4 Document to the ETRP Administrative Secretary by no later than 3pm, 2 working days before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The following documents must be available for review and approval by ETRP members prior to action being taken. The information must be uploaded by the Estates Project Manager/Operations Lead via folder EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then into the applicable ETRP weekly meeting folder: -

- Tender documentation
- Tender Reports e.g. QS
- Evaluation scoring and consensus results
- Any relevant supporting evidence
- Successful Award and Unsuccessful debrief letters
- Recommendation for Award Report (P4)

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the P4 subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the P4 document and forward to the Estates Project Manager/Operations Lead who will return the amended P4 to the ETRP Administrative Secretary. Once the amended P4 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the P4 document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P4 document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operations Lead will email the signed version 2 to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P4 submissions detailed above.

If a P4 document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P4 document is stored and can be viewed.

#### → **Approval by ETRP.**

The ETRP will review the content of the P4 paper and all supporting documentation including the letters and if acceptable this P4 paper will be approved unless further approval is required due to the nature of the project in which case the endorsement of the P4 paper will act as a gateway to recommend approval by the relevant Committee and Delegated Authorised Signatory.

#### → **Preparing successful appointment letters and unsuccessful debrief letters**

The successful bidder(s) should be notified and all other bidders should be informed in writing simultaneously that they have been unsuccessful. Standard templates for contract award and debriefing letters are to be used. **(See Templates P14 and P15).**

##### **The unsuccessful debrief letters must contain as a minimum:**

- The name of the successful bidder(s)
- The criteria used to award the contract
- The University's scoring against the criteria of the unsuccessful bidder and successful bidder(s)
- The reasons for the decision i.e. reasons the unsuccessful bidder was unsuccessful including the characteristics and relative advantages of the successful bidder. Feedback provided should be based upon the areas which had a material effect on the outcome (please refer to the Estates Evaluation Guidance for more information on this).

This increased level of information within the letters, for most tendering exercises, negates the requirement for a further de-briefing of unsuccessful tenderers in person and gives clarity and transparency in writing as to the decision taken. If approached for a personal debriefing, please seek advice from procurement staff.

#### → **Standstill period** - whilst not legally required for Route 2 regulated procurement, it is best practice to allow for a 10 days standstill period between communicating the award decision to all bidders and formally accepting an offer (i.e. confirming the award and then proceeding with the purchase) and this should be included unless there is a strong business case not to include.

It should be noted that the successful and unsuccessful letters which includes the standstill details must not be issued until the ETRP, the Procurement Office and the relevant University committee have given approval. No approaches should be made to the successful tenderer (through appointment letter, purchase order or start date given) unless the Procurement Office is satisfied that the award can proceed unchallenged and has confirmed that discussions with the successful tenderer can commence. Any standstill period should be exclusive of University holiday closures.

An initial Standstill Notification Letter will be issued to communicate the award decision and at the end of the standstill period a further contract award letter accepting the offer will be issued.

The letters will be drafted by the Procurement Officer/Manager and submitted to the Estates Project Manager/Operations Lead for review. The Estates Project Manager/Operations Lead will upload the letters along with all other documents in the relevant EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then the applicable ETRP weekly meeting folder.

The ETRP members will be responsible for reviewing and approving the contents of all letters along with associated documentation submitted.

## Procurement Journey – Route 2 – ZONE C – Contract



### ○ Contract award

#### → Send appointment letter(s) and unsuccessful debrief letters via PCS-T

Following confirmation of approval from ETRP, it is the responsibility of the Estates Project Manager/ Operations Lead to ensure all letters are signed by the appropriate authorised signatory according to the DAS. All signed letters must then be emailed to the Procurement Officer/Manager who will issue all letters via PCS-T.

As indicated in the [Standstill period](#) section in Zone B, this will be one stage or two stage process dependent upon the circumstances.

#### → Publish Contract Award Notice on PCS

The University must publish a contract award notice within 30 days of award of the contract unless a challenge is received. The Procurement Officer/Manager will publish the Contract Award Notice via PCS in the Official Journal of the EU. The Contract Award Notice contains details of the award of the contract including the successful tenderer and the price, or estimated price, to be paid.

### ○ Contract implementation

#### → Raise Purchase Order

A University Purchase Order must be raised at the time of appointing suppliers, consultants and contractors or service providers (subject to confirmation being obtained that the standstill period has concluded without any challenge and subsequent formal acceptance letter, where relevant being issued by the Procurement Officer/Manager via PCS-T). The Purchase Order must include information advising the Procurement Contract Reference Number and Title, the Estates Project Reference Number and a statement to the effect that the T&Cs governing that Contract Award apply to this Order to ensure the basis upon which the two parties are trading in relation to that Purchase Order is clear and can be called upon should the need arise. An instruction must also be given to the Purchase Order recipient that any invoices for payment must include the purchase order number.

#### → Payment for Goods, Works and Services

To maintain appropriate checks and balances, it is important that the approval of expenditure is kept separate from the process of shortlisting or appointing suppliers. Payments arising from commitments given in the appointment document, contract or Purchase Order are certified for payment by individual members of staff responsible for the project or budget; payments are then batched, and authorised for payment by one of the following delegated or sub delegated authorities below:

- Director of Estates
- Director of Estates Development
- Director of Estates Operations

- Head of Estates Planning
- Head of Small Projects & Minor Works
- Head of Construction
- Head of Estates Business Services

**It should be noted that the person who signs any of the documents which are used to appoint the supplier or certifies the invoice for payment may not approve the related batch payment. The University must pay its invoices within 30 days, so care needs to be taken that any internal processes do not delay payment.**

#### → **Emergencies – unforeseeable (i.e. not due to lack of planning)**

**Emergency commitments to any suppliers can only be made with the prior approval of the Director of Estates in consultation with the Director of Procurement/ Acting Director of Procurement.**

The Director of Procurement/ Acting Director of Procurement should be consulted as soon as possible so that the appropriate course of action is taken.

All such emergency purchases of this nature will be accompanied by an information note which should be completed by the originator and approved by the ETRP retrospectively.

#### → **Retention of Documentation**

All documentation relating to the ITT process must be retained to ensure a full audit trail.

In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>17</sup> from the end of the project: -

- ITT documents issued via PCS-T
- Bidder ITT responses submitted (successful and unsuccessful)
- Evaluation scores, rationale and notes (individual evaluators and consensus)
- Successful award letters and unsuccessful debrief letters (standstill and acceptance, where relevant)
- Recommendation of Award Report (P4)
- Tender Reports e.g. QS
- All communications and clarifications with suppliers including any additional feedback which may have been provided
- Purchase Order

### ○ **Contract and supplier management**

#### → **Importance**

Following the award of a contract, it is essential to manage the relationship with the contracted supplier to ensure that what has been contracted for is achieved and a constructive supplier-buyer relationship develops. Contract Management is about ensuring that all parties to a contract fully understand their obligations and responsibilities under that contract and continue to do so throughout the life of the contract until completion.

Managing the information and obligations contained in a contract during the whole contract lifecycle is of upmost importance. It safeguards the University should things go wrong and ensures that supplier performance is monitored at all times. It also provides the opportunity for continuous improvement. Please note that construction related contracts require tight contract management – for example, if complaint procedures contained in the contract are not followed, the University may unintentionally waive its right to complain at later stages.

The Procurement Journey provides a valuable resource on Contract and Supplier Management <https://www.procurementjourney.scot/route-2/route-2-contract-supplier-management>

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<sup>17</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

→ **Allocate Contract Manager/Project Manager**

Appropriate structures need to be in place with representatives of both the University and the supplier to manage the contract throughout its existence. The University must allocate a 'contract manager or project manager' i.e. the contact point for all relations with the supplier under that specific contract. The contract manager will also be responsible for reviewing and approving change requests within their delegated authority.

→ **Change Control – Modifications of Contracts**

Changes to services, processes or contracts may have an effect on service delivery, performance, costs, timescales, and on whether the contract still represents value for money. The specification and administration of change control is an important area of contract management.

Modifications of contracts during their term are regulated by well-defined legal rules and need to be properly incorporated into the contract to be valid – please see FAQ 9. If a specific change, or cumulative changes significantly increase or decrease the scale or scope of the original contract, then this may not be permitted under public procurement law.

**Certain contract modifications require the University to publish a notice to that effect in PCS or OJEU. Please consult the Procurement Office for further advice.**

## Section 6: Detailed Protocol for Procurement Journey – Route 3

Route 3 of the Procurement Journey provides guidance for regulated procurements which meet OJEU thresholds, and above which are as follows: -

**Goods and Services > £181k**

**Works > £4.5m**

The detailed templates which have been created are based on the two-stage (restricted process) as this is most frequently used by the Estates department. Other procedures are available and may be more suited to some requirements and this is dependent on several factors which should be discussed with the Procurement team as part of the initial strategy development stage. Please refer to Appendix C: Frequently Asked Questions No. 3 for more information.

### 6.1 Overview



Where an existing contract or framework is in place, the procurement exercise should be undertaken in accordance with the relevant contract terms or framework conditions.

If an existing contract or framework and or an in-house provider cannot be utilised – this **Section 6** outlines the process for procurement of services and goods (£181k and above) and works (£4.5M and above).

#### Overview of Minimum Timescales per Procedure<sup>18</sup>

Minimum Timeline	Open	Restricted	Competitive procedure with Negotiation	Competitive Dialogue	Innovation Partnership
Selection	N/A	30	30	30	30
Tender by Electronic Means	30	25	25	None	None
Tenders with use of PIN	15	10	10	None	None
Urgency	15	15/10	15/10	None	None

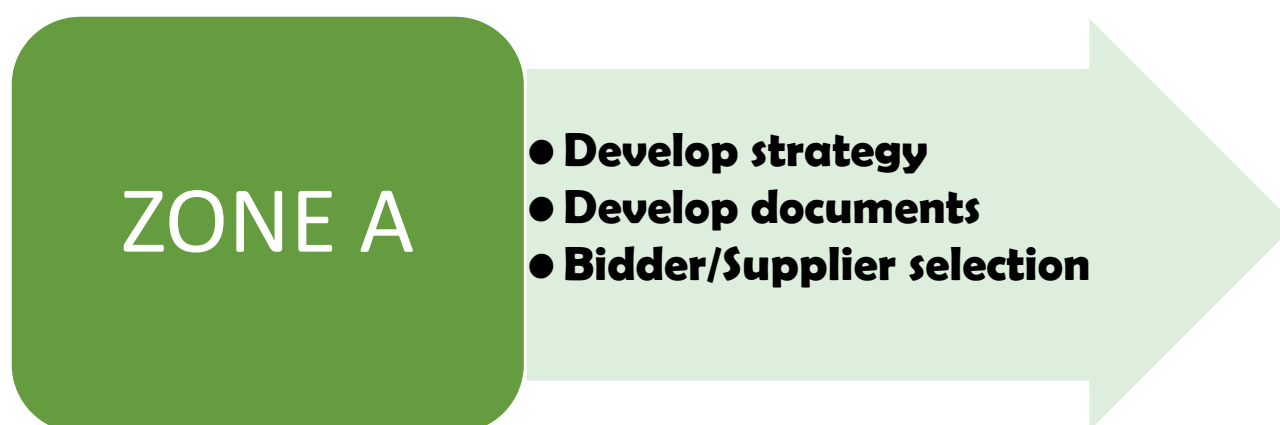
Timescales and content for OJEU projects must always comply with the legal duties (see table above), including standstill period from award recommendation to appointment/purchase order/start date (see [Standstill Period](#)).

## 6.2 Templates

Standard templates are available for the various stages of procurement in this category.

## 6.3 Process

### Procurement Journey – Route 3 – ZONE A – Development



#### ○ **Develop strategy**

Develop Procurement Strategy (See P1 Template) – Who, what, when and how.

#### ➔ **Contact Procurement Office**

A member of the University's Procurement Office needs to be involved at the different stages throughout The Procurement Journey of a regulated procurement.

<sup>18</sup> All days are calendar days, not working days.



Please e-mail [Procurement.Central.Estates@ed.ac.uk](mailto:Procurement.Central.Estates@ed.ac.uk) to request the allocation of a member of the Procurement Office to your project. Procurement involvement at the earliest opportunity is essential to maximise the potential of achieving the best possible procurement outcome for the project. The sooner the Procurement team are aware of the project, the better they will be able to assist.

## → Complete Strategy P1 Template

For all procurements above the OJEU threshold £181K (Goods and Services) and £4.5M (Works), a procurement strategy must be created which details the “who, what, when and how” of your procurement. Estates and Procurement will collaborate to develop an appropriate procurement strategy to reflect the needs of the project and ensure all relevant factors are taken into consideration, particularly including areas required to meet current legal compliance following the changes in legislation which came into effect in April 2016. Procurement will provide advice and support throughout the strategy development process.

Estates and Procurement will refer to the P1 Strategy template document to inform strategy development discussions. Once the strategy has been agreed, the Procurement Officer/Manager will complete a first draft of the P1 document and forward this to the Estates Project Manager/Operations Lead for review and to populate any outstanding areas indicated by the Procurement Officer/Manager as required. Once the Estates Project Manager/Operations Lead has completed the areas indicated, the P1 document must be returned to the Procurement Officer/Manager for review and any final amendments agreed. The Procurement Officer/Manager will sign the P1 template document to confirm that internal procurement procedures have been followed and the strategy is complete. The signed copy will be returned to the Estates Project Manager/Operations Lead for submission (see below “Submit P1 to ETRP”).

## → Sustainable Procurement Duty

From 1 June 2016, the University must comply with the “sustainable procurement duty”, which requires that, before carrying out a regulated procurement, the University considers how in conducting the procurement it can:

- improve the economic, social, and environmental wellbeing of the area in which the University operates;
- facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process; and
- promote innovation.

The Sustainable Procurement Duty exemplifies the Scottish Model of Procurement (see page 8) and places sustainable and socially responsible procurement at the heart of the process.

This duty will be met through consultation between Estates, Procurement and, where appropriate, other relevant University staff, through the application of fair work practices consideration, Community Benefits requirements and other environmental and socio-economic measures as identified, agreed and actioned through the T46 or equivalent process (in the case of capital Estates projects) and the sustainable procurement Prioritisation Tool and Test Tool processes (in the case of operational Estates projects). Information about actions planned and subsequently taken forward in the procurement process in any of these areas should be captured and reflected in the P1 Strategy template and subsequent P4 Recommendation for Award Report.

### Fair Work Practices

The Scottish Government believes that employers whose staff are treated fairly, who are well rewarded, well-motivated, well-led, have access to appropriate opportunities for training & skills development, and who are a diverse workforce are likely to deliver a higher quality of service. Further, it is considered that good relationships between employers and their workers contribute to productivity and ultimately sustainable economic growth.

Public procurement is a key driver of policy development and service delivery which supports sustainable economic growth and as such is committed to sustainable procurement policies that deliver positive outcomes. Statutory Guidance on “*the Selection of Tenderers and Award of Contracts - Addressing Fair Work Practices, including the Living Wage, in Procurement*”<sup>19</sup> states that, before undertaking a regulated procurement, the University must consider how in conducting the procurement process it can contribute

<sup>19</sup> <http://www.gov.scot/Resource/0048/00486741.pdf>



to improving the social wellbeing of the local area by promoting fair working practises in relevant public contracts. The University must consider whether it is relevant and proportionate to include a question on fair work practices, which would be evaluated along with other relevant criteria, while ensuring the appropriate balance between quality and cost of the contract.

Any decision to include a question on fair work practices should be made on a case by case basis and the Procurement Office will provide assistance on the basis of the latest legal advice in this field. As a Living Wage accredited institution with a strong commitment to promoting fair work through its activity, the University should use best efforts to promote living wage in its contracts and address fair work issues as widely as possible. In doing so, reference should be made to the University's "Addressing Fair Work Practices in Procurement" guidance document (available via the Procurement Office) which includes adaptable scored and non-scored versions of the fair works question and accompanying advice for evaluation of responses.

## **Community Benefits**

**MANDATORY obligation for any contract at the threshold value of £4m and above (Goods, Services, Works). MUST be considered for any contract £50k and above (Goods and Services) and £2m and above (Works)**

The University's vision is to make a significant, sustainable and socially responsible contribution to the world, including through its procurement and the continuing development of its Estate. The University of Edinburgh's strategic plan [Delivering Impact for Society 2016](#) includes "contributing locally" to the Edinburgh region as one of its four development themes (defined as "key areas for change").

Community Benefits in procurement are being explored as a means to support the University's vision and mission, the strategic plan themes, as well as the work streams of the University's different strategies, in particular the [Community Engagement Strategy](#), [Widening Participation](#), [Youth and Student Employment Strategy](#), [Zero by 2040 Climate Strategy](#), [Global Engagement Plan](#), and [Equality and Diversity Strategy](#).

The University has developed a Community Benefits in Procurement Policy and related Community Benefits Procedure Templates for each stage of the procurement. This policy commits the University to work in partnership with the Qualified Bidder(s) in its major contracts to identify appropriate community benefits which are intended to improve the economic, social or environmental wellbeing of Edinburgh city, the region and beyond.

The Policy states that robust, relevant and proportionate Community Benefits will be incorporated in all procurements £4M and above and will be considered for inclusion wherever appropriate in regulated procurements below £4M at contract strategy development stage. If included, Community Benefits will be subject to a Community Benefits plan (see CB Procedure Templates document) that will capture responsibilities for delivery and review at each stage of the procurement process, to ensure that benefits are realised and recorded over the life of the contract.

Community Benefits will be included in the tender process on either a scored or non-scored basis. In both cases, the University should follow Procurement Journey guidance to negotiate or clarify proposed benefits on a post-tender basis to ensure they are achievable, represent genuine impact and align with University priorities.

Please note that Community Benefits can often be achieved in procurements under the £4M threshold. Many contractors increasingly adopt Community Benefit activities into their business as standard practice. Under the Procurement Reform (Scotland) Act 2014 and accompanying statutory guidance, consideration of Community Benefit requirements is encouraged for all regulated procurements below £4M level.

Estates and Procurement will work together with the support of partners within the University e.g., the Social Responsibility and Sustainability Department, to identify and implement appropriate Community Benefits.

### **→ Submit P1 Strategy to the ETRP and obtain approval**

The Estates Project Manager/Operations Lead shall ensure that the final P1 Strategy document is first reviewed and approved by the Procurement Officer/Manager designated to the Project as outlined above in "Complete Strategy P1 Template" section.

Following receipt of the signed P1 Strategy document from the Procurement Officer/, the Estates Project Manager/Operations Lead shall email the P1 Strategy Document for review to the Head of the relevant Estates department at least **2 working days** before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P1 Strategy Document to the ETRP Administrative Secretary by no later than 3pm, **2 working days** before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the P1 subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the P1 Strategy document and forward to the Estates Project Manager/Operations Lead who will return the amended P1 to the ETRP Administrative Secretary. Once the amended P1 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the P1 Strategy document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P1 Strategy document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operations Lead will email the signed version 2 to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P1 submissions detailed above.

If a P1 Strategy document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P1 Strategy document is stored and can be viewed.

#### → **Regulated procurement process – choose the right procedure**

The identification of Bidders to be invited to bid for procurements can either involve a two- stage process (restricted) or a single process (open). Careful consideration should be given to the most appropriate procedure to suit the project as part of the strategy development phase. The guidance for Procurement Journey Route 3 within this document assumes a two-stage restricted process as this is currently the more frequently used approach by the Estates department.

#### → **Option for consideration: Publication of a Prior Information Notice (PIN) instead of Contract Notice**

Voluntary use of a PIN can stimulate market interest in advance of the commencement of the procurement process itself. It allows potential bidders to prepare themselves to bid in time of the contract opportunities being announced. It can also enable reductions in timescales for competitions. This may be useful in the event the University is expecting a large grant, needs to wait for allocation of the funding but then has reduced timescales to conduct any procurements using the grant funding once allocated.

#### → **Regulated procurement process – procedures**

The selection of the procurement route to be taken will be dependent on the value and nature of the requirement. It is essential to ensure the procurement route selected is consistent with the requirements of the Public Contracts (Scotland) Regulations 2015 before you embark on your procurement. Decisions on compliance with the Regulations may require specialist knowledge. If you are in any doubt you should seek specialist professional procurement or legal advice and guidance. The Procurement Officer/Manager will advise on procurement procedures as required as part of the strategy development stage.

##### **Procurement procedures available:**

- The restricted procedure
- The open procedure
- The competitive dialogue procedure
- The competitive procedure with negotiation
- An innovation partnership

For an overview of the procedures and when to use them – please see **FAQ 3**.

## ○ Develop documents

Following development and approval of the P1 Strategy document, the Estates Project Manager/Operational Lead and the Procurement Officer/Manager will collaborate to create the relevant documentation in readiness for the next stage of the procurement journey. This will entail the following: -

- Specification
- Exclusion, selection and award criteria
- ESPD (Scotland)
- ITT (including T&Cs)

### → Specification

When setting out the specification and evaluation criteria, all tenderers must be treated on equal terms and care taken to avoid discrimination, whether positive or negative. The University must encourage fair participation and the specification must not be written in a way that distorts market competition or limits scope for entry to the procurement process by potential suppliers.

The specification must:

- Clearly describe what is required;
- Focus on outputs required without being prescriptive as to the method the bidder should use to provide it (output specification);
- Be sufficiently tight so that the product or service fits the University's needs, but not so explicit that it discourages the bidder from proposing innovative solutions that optimise Value for Money (VfM);
- Include performance targets or include criteria for acceptance of the products or services;
- Include service levels, a process for measuring ongoing performance and escalation routes for issues;
- Take account of any e-Commerce requirements;
- Take account of the Sustainable Procurement Duty<sup>20</sup> and Community Benefit Requirements<sup>21</sup>;
- Take into account suitability of design for all users;
- Take account of relevant legislation e.g. health and safety and equality and policies, e.g. fair trade, conflict minerals, carbon efficiency;
- Take account of all licensing and proportionate insurance requirements that a bidder must possess to operate in a specific industry/sector and which are relevant to the performance of the contract;
- Not refer to brands or trade names but refer to the characteristics of the product required;
- Ensure that any requirements for limits, tolerances, deliverables timescales etc. are practical, proportionate and realistic;
- Consider commercial and ongoing performance management aspects of the contract throughout the supply chain e.g. payment terms including those to sub-contractors (30 days payment of invoices);
- Define testing and test methods including any certification that may be required as proof from regulatory authorities or equivalent proof to meet the standards required;
- May refer to factors of the production process, provision or trading even when the factors don't form part of the material substance of the product e.g. when technically describing the products or services, you may require that they don't involve toxic chemicals or are produced/provided using energy-efficient machines;
- Detail environmental and climate performance levels, where appropriate
- Support a structured method of tender evaluation – the evaluation criteria must be linked to the specification;
- Be the basis of the formal contract between the University and the supplier

In addition, the technical specification may need to specify whether the transfer of Intellectual Property Rights (IPR) will be required. This may be important as potential suppliers are likely to find the contract much less attractive if they are being told that any intellectual property that they create would be the property of the University. This may prove to be an unnecessary barrier to competition to some potential suppliers who must supply similar goods or services to other customers. Also, in many cases the overall economic value of the IPR will be greater if left in the hands of a potential supplier which is able to exploit it commercially. The University may, however, legitimately ask for access to intellectual property which it requires.

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<sup>20</sup> See [FAQ 5](#)

<sup>21</sup> See [FAQ 6](#)

If the specification is flawed the result might be:

- Failure by the University to meet its objectives
- Wasted money
- Unsuitable tenders
- Unsuitable bids
- Mis-interpretation of requirements
- Major difficulties in evaluating the bids
- Wrong or unsuitable products/services supplied
- Claims of unfair treatment being made by tenderers
- Difficult contract/project management
- Inability to resolve contract disputes

Once a contract is awarded the scope to make changes to the specification (e.g. asking the contractor to deliver more, or less of something that was not specified at the time of tendering) is limited and any significant changes may be challenged in the Courts. If it is not possible for the supplier to deliver the contract as originally intended, as a result of omissions or errors in the specification, the contract may have to be terminated and a new procurement undertaken.

## → Variants<sup>22</sup>

If you intend to award a contract based on best price/quality ratio, you may consider variants on the requirements, as long as this possibility has been specified in the Contract Notice and ITT. The minimum requirements to be met by the variant and any specific requirements for their representation and how the variant will be evaluated must also be stated in the contract documentation. Please contact the Procurement Office to guide you through the appropriate drafting and application of the variant assessment and evaluation.

## → Life Cycle Costing

You can apply life cycle costing as part of the specification and subsequent evaluation. Life cycle costing takes into account all of the identifiable costs attributable to a product or service from its acquisition through use, maintenance and end of life (recycling / disposal). These can be direct costs like scheduled maintenance and energy used through the life of a road sweeping vehicle but also include less apparent external environmental costs such as the cost of emissions of greenhouse gas based on the energy use of the road sweeping vehicle.

These costs can only be assessed when:

- They are based on objective criteria that don't favour or disadvantage any potential bidders;
- The assessment method is accessible to all interested parties;
- The data required can be provided with reasonable effort from all interested parties, including those from third countries.

If using a life-cycle costing approach to award a contract, the Procurement Documents must state:

- The data to be provided by bidders
- The method that will be used to determine the life-cycle cost on that basis.

It is important to differentiate between Whole Life Costing, Lifecycle Costing and Lifecycle Impact Mapping:

**Whole Life Costing:** Focuses solely on cost (£) of a product or service from cradle to grave. It takes into account acquisition, operation, ownership and disposal costs. It does not take into consideration any environmental or social costs.

**Lifecycle Costing:** Life-cycle costing covers part or all of the following costs over the life cycle of a product or service:

- (a) costs produced by the organisation or other users, such as:
- i. costs relating to acquisition;
  - ii. costs of use, such as consumption of energy and other resources;
  - iii. maintenance costs;
  - iv. end of life costs, such as collection and recycling costs; and

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<sup>22</sup> See [FAQ 16](#)

- (b) costs attributed to environmental externalities linked to the product or service during its life cycle, provided their monetary value can be determined and verified. This may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.

Lifecycle Impact Mapping: Focuses on social and environmental impact rather than cost. Life cycle impacts help the user identify and assess impacts. For example, it may help to focus attention on the disposal phase before the procurement is carried out, allowing the organisation to build end-of-life management requirements into both its performance clauses for successful contractors and its own internal management procedures.

Please note: Life cycle impact mapping can be used alongside life cycle costing as part of the procurement process.

## → **Exclusion, Selection & Award Criteria**

All exclusion, selection and award criteria must be relevant and proportionate to the subject matter of the contract. Exclusion grounds, selection and award criteria must be clearly defined in the contract notice and procurement documents, to ensure a common understanding of the requirements by all bidders and must not be changed or waived during the procurement process.

- **Exclusion Criteria**

Some grounds for exclusion are circumstances in which a bidder must be excluded from the procurement process. Some other grounds for exclusion are circumstances in which the University may determine on a case by case basis whether a bidder should be excluded. These are referred to as mandatory and discretionary exclusion grounds respectively. In all cases the bidder must be given the opportunity to provide evidence which proves that it has taken sufficient and appropriate remedial action to demonstrate that they have “self-cleansed” (i.e. that the problem will not occur and that the bidder can be regarded as reliable). The exclusion and selection questions are contained within the ESPD (Scotland) document and must be used in conjunction with the standardised statements.

- **Selection and Award Criteria**

The distinction between selection and award criteria is important and the clear distinction should be made throughout the procurement process. At the pre-qualification (or selection) stage, before an ITT is issued, the University is focused on the evaluation of the bidders whereas the award criteria at ITT stage is focused on the merits of the bid. The selection stage involves an examination of the suitability and capability of the bidders to perform the contract. This will ensure that only bidders which are competent to perform the proposed contract are taken forward in the procurement process to the ITT stage. The award stage will identify which of the eligible bidders will deliver best value for money for the University based on the most economically advantageous tender.

Issues/questions which are appropriate to the selection criteria should be addressed at the selection stage and should not form part of the award stage (even if they were omitted from the selection stage in error) and vice versa. However, you can apply different aspects at selection and award if relevant.

To meet obligations of transparency, the University must publish details of the evaluation criteria to be used to either select the suppliers to be invited to bid for the contract or the evaluation criteria to be used to identify the bidder to whom the contract will be awarded. The selection or award criteria (depending upon the stage of the procurement process) sub-criteria, weightings, minimum standards, pass marks etc. should be published in the contract notice and procurement documentation.

**NOTE: - A pass mark threshold of 50% should be applied to the selection process at ESPD stage as agreed with Estates and Procurement.**

## → **European Single Procurement Document (ESPD)**

The University must use the ESPD (Scotland) document for all selection stage questions and only the most up to date approved ESPD (Scotland) document template must be used.



The ESPD (Scotland) replaces the requirement for bidders to provide up-front evidence or certificates by allowing them to self-declare that they:

- Do not fall within an exclusion clause (or if they do, they can demonstrate they have taken self-cleansing measures where relevant);
- Meet the relevant selection criteria;
- Fulfil the objective rules and criteria for reduction of bidders (where applicable)

The ESPD (Scotland) contains the standard set of questions in line with the ESPD requirements and this means that the questions in the ESPD (Scotland) cannot be amended and new questions cannot be added. A set of standardised statements accompanies the ESPD (Scotland) document to assist in the setting out of selection criteria and minimum standards in a consistent way, providing a clear link between the selection criteria set out in the contract notice and the questions which bidders will be required to respond to in the ESPD (Scotland). These statements are not a definitive list of all potential selection criteria that Estates may require, and as such professional judgement must be used on a case by case basis when selecting, which if any, of these statements are relevant and proportionate to the procurement being undertaken. When selected, some of the statements require further editing to make them meaningful and relevant to the procurement. Unlike the ESPD (Scotland) document, it is possible to amend and/or add additional procurement exercise specific statement(s). These must reflect the selection criteria and minimum standards of the procurement being undertaken and need to be included in the contract notice. However, this should only occur if the relevant standardised statements are not suitable. Any statements used must relate to a specific question in the ESPD (Scotland) document. The Procurement Officer/Manager will provide guidance and support throughout the preparation of the ESPD.

**Note: - Any standardised ESPD (Scotland) document templates developed by Estates in collaboration with Procurement for each of the disciplines and specific requirements must be used. Any change to the approved standard templates (and scoring mechanisms) must be agreed in advance with the Procurement Office, Estates Tender Review Panel and where appropriate, the relevant Project Board.**

## **ESPD and Subcontractors**

The University:

- Must request a separate ESPD response from subcontractors and consortium members, upon whose capability and capacity the main bidder relies in order to meet the selection criteria.<sup>23</sup> If the ESPD verifies that there are mandatory grounds for exclusion of any such subcontractor, the University must require the main contractor to replace that sub-contractor. The University may also require the replacement of such a subcontractor to which any of the discretionary grounds for exclusion apply;
- May request a separate ESPD response from subcontractors (on whose capability and capacity the main bidder does not rely on to meet the selection criteria) when deemed appropriate to safeguard the effective delivery of the contract, based on relevance and proportionality to the contract. If to be requested, this requirement must be specified in the Contract Notice. In such a case, the University must require the replacement of a subcontractor to which any of the mandatory grounds for exclusion are found to apply, and may require the replacement of a subcontractor to which any of the discretionary grounds for exclusion are found to apply;

## **→ Invitation to Tender (ITT) Document**

The ITT will be developed using the range of standard templates which exist for each of the disciplines tailored to suit specific requirements. The ITT should include comprehensive information for potential tenderers about the requirements being tendered and include not only critical information relating to the requirement itself but also information relevant to ensure legal and procedural compliance. The ITT should clearly state the T&Cs under which the contract will be governed and administered. Any information requested from tenderers must be clearly aligned to the award criteria established in the contract notice and followed through to ITT stage. The Procurement Office will provide advice and support regarding the content of the ITT document.

## **→ Drafting Documents**

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<sup>23</sup> Example: When appointing a Design Team to cover the whole project, some of the specialist expertise, capability and capacity may need to be subcontracted. The Lead (main bidder), usually the Architect, will heavily rely on these subcontractors in which case an ESPD must be obtained for any of these subcontractors.

The Procurement Officer/Manager allocated to the Estates project will draft the ESPD and ITT documentation following the collaborative work undertaken with the Estates Project Manager/Operations Lead to develop the information required. The Estates Project Manager/Operations Lead will be responsible for providing all technical information such as specification, drawings, QS documents etc.

Upon completion of the documents, the Procurement Officer/Manager will submit these to the Estates Project Manager/Operations Lead for review and approval. It is the responsibility of the Estates Project Manager/Operations Lead to obtain appropriate Estates authorisation to proceed with the issue of the ESPD/ITT depending upon the stage of the procurement process. The ESPD and ITT must be approved by the Head of the relevant Estates department.

Note: - The Procurement Officer/Manager must review and approve the final documentation prior to being issued and obtain a procurement peer review. The Procurement Officer/Manager will also need to draft the relevant contract notice to reflect the content of the final draft documentation. Project programmes must allow adequate time to undertake these steps effectively.

### → **Contract Notice**

Once the P1 Strategy document has been approved by ETRP and the ESPD document has been developed, reviewed and approved by both Estates and Procurement, the Procurement Officer/Manager will publish the required Contract Notice via the Public Contracts Scotland-Tender (PCS-T) Portal.

### → **Management of PCS-T Messages**

All communications and clarifications must be recorded via PCS-T to ensure full transparency of the process and that all critical information which may be relied upon to complete evaluations/form an award of contract is available. Instructions must be included within the tender documentation to advise suppliers that all questions must be asked via PCS-T, how to label any such questions and that these questions will be responded to by the relevant person as outlined below: -

- Procurement/procedural – Procurement Officer/Manager
- Technical/other clarification – Estates Project Manager/Operations Lead and/or external consultants such as QS, where appropriate.

Details of the deadline for the submission of any questions and the date by which all questions will be answered should be provided within the contract notice and ESPD documentation.

Any bidder messages received out-with PCS-T e.g. directly to Estates Project Manager/Operations Lead should be responded to only to the extent of stating that all questions should be submitted via PCS-T to obtain an appropriate response.

## ○ **Bidder/Supplier selection**

### → **Appointment of evaluation panel – ESPD evaluation**

To select bidders to proceed to the Invitation to Tender Stage, an evaluation panel must be appointed which will evaluate all of the ESPD responses submitted. The panel must be constituted of at least 3 members from Estates and the Procurement Officer/Manager assigned to the project. The role of the Procurement Officer/Manager in the panel will be as follows: -

#### **For Estates Operations Tenders:**

- Attend all evaluation/shortlisting meetings to provide advice and support throughout the process but not participating in the actual scoring of responses.

#### **For Development/Estates Planning and Special Projects Tenders:**

- Attend initial meeting to provide advice and set the ground rules for the application of scoring rationale/procedures and to answer any queries;
- To review scores and rationale and advise on any specific queries arising from the shortlisting/evaluation process
- To confirm that the scores and rationale reflect the original criteria as advertised and advise on any areas where further review is recommended.

Membership of the evaluation panel should remain the same throughout this selection stage (ZONE A) and the later stage (ZONE B) unless exceptional circumstances dictate otherwise (e.g. conflict of interest).

→ **Appointment of chair of the evaluation panel and conflict of interest declaration.**

A designated Estates' staff member will act as **Chair** of the evaluation panel. He/she will obtain completed Conflict of Interest declarations (**see Template P10**) from all panel members, minute the responses obtained and the appropriate actions the Chair has taken to resolve any conflict of interest, should these arise. These forms and all minutes must be filed by the Estates Chair within the relevant EST: K drive: project/tender file.

→ **Evaluate ESPD submissions**

For all tenders with a value of £50k or above, the **AWARD** tender evaluation tool will be used, and absolute scoring will apply.

The Procurement Officer/Manager will arrange access to the relevant project/tender for all Estates evaluation panel members. Note: - Any member of Estates staff who will require set up and training on AWARD to participate in the evaluation process should notify the Procurement Officer/Manager at the earliest possible stage of the procurement process (ideally right at the start of strategy development discussions) to enable sufficient time for this to be arranged well in advance of the deadline for the return of ESPD submissions.

At least 3 Estates evaluation panel members should evaluate the ESPD submissions independently and the scores, together with rationale should be noted against the relevant questions and input into the AWARD scoring model (please refer to the Estates Evaluation Guidance documents for further information relating to scoring and the level of information required as a rationale to support any scores allocated).

→ **Consensus**

A consensus meeting will be organised by the Estates Chair of the evaluation panel. A member of Estates staff shall undertake the role of Moderator and the evaluation panel will review the scores entered by individual panel members for each ESPD submission and reach agreement on the final consensus scores and supporting rationale. Any rationale for discrepancies between individual panel member scores and/or final scores should be recorded. Based on the resultant scores and in accordance with the process set out in the Contract Notice, the evaluation panel will recommend to the ETRP which Bidders will be invited to tender.

→ **Minimum number of Bidders invited to ITT**

For all Estates Capital Development Services and Works there must be at least 6 Bidders invited to tender except in the circumstances where less than 6 Bidders meet the criteria for participation stated in the contract notice, in which case less bidders may be invited.

For Estates Operational Services and Works there must be at least 5 Bidders invited to tender except in the circumstances where less than 5 bidders meet the criteria for participation stated in the contract notice, in which case less bidders may be invited.

→ **AWARD Reports**

Upon completion of the evaluation consensus stage, the Estates Project Manager/Operations Lead should inform the Procurement Officer/Manager. The Procurement Officer/Manager will subsequently create the relevant AWARD report to produce an overview of the results, review the scores and rationale and advise on any areas where, if any, further review from the evaluation panel is recommended to ensure all scoring and rationale is consistent with the original criteria as advertised and sufficiently detailed to produce meaningful debrief information within the letters to the unsuccessful bidders. Once the evaluation panel and Procurement Officer/Manager are satisfied that the evaluation within AWARD is complete, the Procurement Officer/Manager will forward a copy of the finalised AWARD report to the Estates Project Manager/Operations Lead. **Note: - the evaluation on AWARD will not be “locked down” at this stage until ETRP approval has been granted.**



## → Head of Estates Finance approval

Once the AWARD evaluation report has been finalised as outlined above, the Procurement Officer/Manager will provide the Head of Estates Finance with the relevant financial and bidder information in relation to the proposed shortlisted bidders to allow the financial assessment to be carried out in accordance with the requirements detailed within the ESPD (Scotland) document. The Head of Estates Finance will confirm the outcome of the financial assessment to the Procurement Officer/Manager and this information will be entered on the Shortlist Recommendation Report (P3).

## → Submit P3 Shortlist Recommendation Report to ETRP for approval

A Shortlist Recommendation Report shall be drafted by the Procurement Officer/Manager using the P3 Template document and this will be forwarded to the Estates Project Manager/Operations Lead for review and to populate any outstanding areas indicated by the Procurement Officer/Manager, as required. Once the Estates Project Manager/Operations Lead has completed any areas indicated and are satisfied with the content of the report, the P3 document must be returned to the Procurement Officer/Manager for review and any final amendments agreed. The Procurement Officer/Manager will sign the P3 template document to confirm that internal procurement procedures have been followed and the report is complete. The signed copy will be returned to the Estates Project Manager/Operations Lead for submission.

Following receipt of the signed P3 Shortlist Report document from the Procurement Officer, the Estates Project Manager/Operations Lead shall email the P3 Document for review to the Head of the relevant Estates department at least **2 working days** before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P3 Document to the ETRP Administrative Secretary by no later than 3pm, **2 working days** before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The following documents must be available for review and approval by ETRP members prior to action being taken. The information must be uploaded by the Estates Project Manager/Operations Lead via folder EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then into the applicable ETRP weekly meeting folder: -

- ESPD documentation
- Evaluation scoring and consensus results
- Any relevant supporting evidence
- Successful Shortlist and Unsuccessful debrief letters
- Shortlist Recommendation Report (P3)

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the P3 subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the P3 document and forward to the Estates Project Manager/Operations Lead who will return the amended P3 to the ETRP Administrative Secretary. Once the amended P3 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the P3 document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P3 document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operations Lead will email the signed version 2 to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P3 submissions detailed above.

If a P3 document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P3 document is stored and can be viewed.

**Note:** - The Shortlist Recommendation Report P3 document must be submitted and approved by the ETRP members before any communication regarding the outcome of the ESPD evaluation process is sent to bidders **with the exception of where the circumstances described as follows occur:** -

Dependent upon the information provided by bidders within the exclusion and/or selection criteria (qualification part only, not technical) section of the ESPD, it may be necessary to contact a bidder(s) for clarification purposes to determine whether in fact the bidder meets the exclusion and/or qualification selection criteria. In the interests of fairness and transparency, the University must as soon as practicable notify bidders that they do not meet the exclusion and/or qualification selection criteria and their bid will therefore be given no further consideration. With this in mind, if Procurement has ascertained a bidder does not meet the mandatory/discretionary exclusion criteria and/or the qualification selection criteria (any decision to exclude on the basis of mandatory/discretionary exclusion criteria or qualification selection criteria must be discussed with the Estates Project Manager/Operations Lead and agreed with both the Director of Estate Development and Acting Director of Procurement), the Procurement Officer/Manager will follow up with an email to the Head of the Estates department, Director of Estate Development, Acting Director of Procurement and Estates Project Manager/Operations Lead to confirm and obtain formal approval to proceed with notification via PCS-T to any bidders who do not meet the exclusion and/or qualification selection criteria. The Procurement Officer/Manager will upon receipt of approval to proceed, from the Director of Estate Development and Acting Director of Procurement, issue notification to the affected bidder(s) via PCS-T as soon as this has been established. It is highly likely, if the University has had to ask for information for clarification purposes to determine that a bidder does not meet the exclusion criteria, the bidder will send a request to be advised of whether the information provided was sufficient to meet the exclusion and/or qualification selection criteria and there may be a significant amount of time between establishing that a bidder has been excluded and completing the evaluation to shortlist stage. In the meantime, the University will be required to respond to the bidder's query and advising the bidder at that stage their submission is not being considered further due to inability to meet the exclusion criteria is the most fair and transparent approach. Formal letters will also be drafted at the P3 stage and submitted to ETRP for approval along with all other successful shortlist and unsuccessful debrief letters.

### → **Preparing and issuing successful shortlist letters and unsuccessful debrief letters**

The University must, as soon as practicable after reaching a decision, notify bidders of such decision. The shortlisted bidder(s) should be notified and all other bidders informed in writing simultaneously that they have been unsuccessful (along with confirmation in writing, if applicable, to bidders already notified via PCS-T that they failed to meet the exclusion criteria and their bid was therefore given no further consideration). Standard templates for these letters must be used (See Templates P12 and P13)

#### **The unsuccessful debrief letters must contain as a minimum:**

- The names of the bidders who have not been excluded;
- The criteria used to shortlist the bidders;
- The scores of the unsuccessful bidder and the shortlisted bidder(s) together with feedback relating to the evaluation criteria and scores. Feedback should be based upon the areas which had a material effect on the outcome. (Please refer to the Estates Evaluation Guidance documents for more information on this).

The letters will be drafted by the Procurement Officer/Manager and submitted to the Estates Project Manager/Operations Lead for review. The Estates Project Manager/Operations Lead will upload the letters along with all other documents in the relevant EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then the applicable ETRP weekly meeting folder.

The ETRP members will be responsible for reviewing and approving the contents of all letters along associated documentation submitted.

Following confirmation of approval from ETRP, it is the responsibility of the Estates Project Manager/Operations Lead to ensure all letters are signed by the appropriate authorised signatory according to the DAS. All signed letters must then be emailed to the Procurement Officer/Manager who will issue all letters via PCS-T.

Note: - A bidder may also request further information at different stages of the process – please agree with the Procurement Officer/Manager in advance who will respond on behalf of the University using the most appropriate mechanism i.e. e-procurement communication tools, debrief meetings etc.

### → **Retention of Documentation**

All documentation relating to the ESPD process must be retained to ensure a full audit trail.

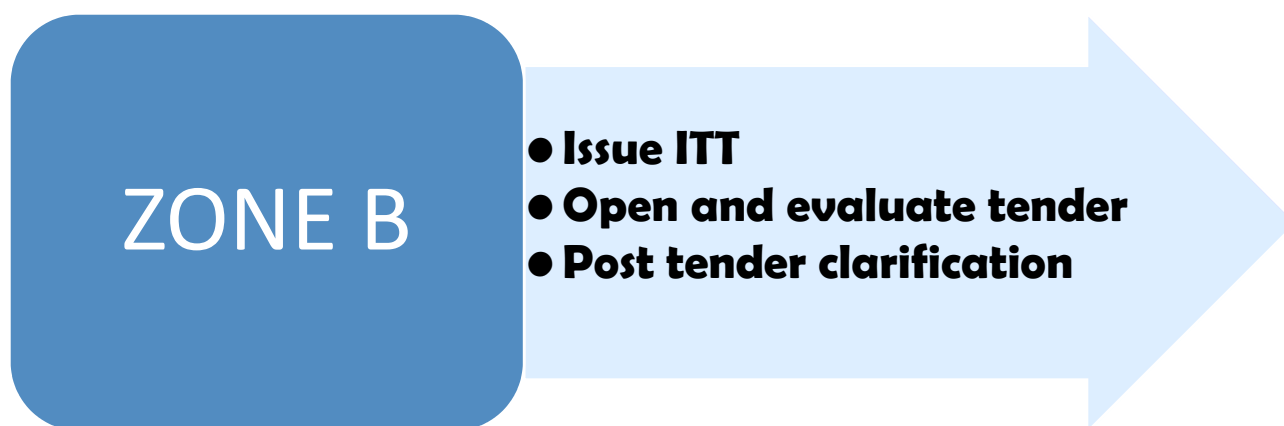
In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>24</sup> from the end of the project: -

- ESPD documents issued via PCS-T
- Bidder ESPD responses submitted (successful and unsuccessful)
- Evaluation scores, rationale and notes (individual evaluators and consensus)
- Successful shortlist letters and unsuccessful debrief letters
- All communications and clarifications with suppliers including any additional feedback which may have been provided

→ ***“What happens in pre-qualification, stays in pre-qualification”***

The Pre-qualification (this ZONE A) is a short-listing selection exercise and must remain entirely separate from the Invitation to Tender Stage (ZONE B). All scores obtained during the Pre-qualification (ZONE A) focused on assessing capacity must be set aside following short-listing and must not be used to influence the outcome of the tender award process (ZONE B), which is focused on forward looking and the proposed bid for the specific contract and its performance.

## Procurement Journey – Route 2 – ZONE B – Tender



### ○ Issue ITT

→ **Obtain ETRP approval – ITT Documentation (Main Contractor Only)**

As per the Briefing Note issued on behalf of the ETRP (4th October 2017), a review of the questions used in the ITT document is required for each regulated **Main Contractor** procurement to ensure that sufficient detail is clearly incorporated into the questions to cover aspects which require to be assessed. This review should be undertaken and approved by ETRP prior to the ITT being issued. The Procurement Officer/Manager and Estates Project Manager/Operations Lead will work collaboratively to develop the ITT document. Once the ITT is drafted to the satisfaction of the Estates Project Manager/Operations Lead, the final draft of the ITT must be returned to the Procurement Officer/Manager for review, any final amendments, if required and approval. The Procurement Officer/Manager will draft a covering project summary sheet (see Template P19) to attach to the ITT and sign this P19 to confirm that internal procurement processes have been followed and the ITT is complete. The signed P19 and final draft ITT document will be forwarded to the Estates Project Manager/Operations Lead for submission to ETRP as per the process indicated below.

Following receipt of the signed P19 project summary sheet and attached ITT document from the Procurement Officer/Manager, the Estates Project Manager/Operations Lead shall email the P19 and ITT Document for review to the Head of the relevant Estates department at least **2 working days** before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P19 and ITT Document to the ETRP Administrative Secretary by no later than 3pm, **2 working days**

<sup>24</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The following documents must be available for review and approval by ETRP members prior to action being taken. The information must be uploaded by the Estates Project Manager/Operations Lead via folder EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then into the applicable ETRP weekly meeting folder: -

- ITT Document
- Project summary sheet (P19)

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the ITT document subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operational point of contact will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the ITT document and forward to the Estates Project Manager/Operational point of contact who will return the amended ITT document to the ETRP Administrative Secretary. Once the amended ITT document has been viewed and P19 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operational point of contact and copy in the Procurement Officer/Manager.

In the case of the ITT document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operational point of contact will discuss and agree actions required. A revised version 2 of the P19 and ITT document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operational point of contact. The Estates Project Manager/Operational point of contact will email the signed version 2 of the P19 along with the revised ITT to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P19 submissions detailed above.

If an ITT document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operational point of contact and Procurement Officer/Manager, provide the k drive url link as to where the signed P19 document is stored and can be viewed.

#### → **Issue ITT documentation**

The Procurement Office will issue the ITT documentation (only once ETRP approval obtained in the case of Main Contractor tenders) via PCS-T.

#### → **Management of PCS-T Messages**

All communications and clarifications must be recorded via PCS-T to ensure full transparency of the process and that all critical information which may be relied upon to complete evaluations/form an award of contract is available. Instructions must be included within the tender documentation to advise suppliers that all questions must be asked via PCS-T, how to label any such questions and that these questions will be responded to by the relevant person as outlined below: -

- Procurement/procedural – Procurement Officer/Manager
- Technical/other clarification – Estates Project Manager/Operations Lead and/or external consultants such as QS, where appropriate.

Details of the deadline for the submission of any questions and the date by which all questions will be answered should be provided within the contract notice and ITT documentation.

Any bidder messages received out-with PCS-T e.g. directly to Estates Project Manager/Operations Lead should be responded to only to the extent of stating that all questions should be submitted via PCS-T to obtain an appropriate response.

#### → **Receipt of bids.**

Details of the deadline date and time for ITT submissions must be provided within the contract notice and ITT documentation. All ITT responses must be submitted to the University in the format detailed within the ITT documentation via the PCS-T system.

## → Timely submission of the tenders

It is the bidder's responsibility to ensure that an ITT response is submitted in the correct format, via PCS-T, no later than the notified tender return date and time specified in the contract notice and ITT documentation.

Only in exceptional circumstances, and via formal sign off approval from the Acting Director of Procurement or Director of Procurement will tender responses received after the specified closing date and time be considered. An audit trail must be kept of the reason for accepting a late submission, the details of the authorised signatory who agreed to the late tender submission and the risk and impact for the project.

All enquiries from potential bidders (including telephone, fax or e-mail), in relation to the extension of return dates must be directed to PCS-T to submit any such request and the Head of Estates Development or Acting Director of Procurement and the Procurement Officer/Manager notified as soon as possible.

The Procurement Officer/Manager must obtain formal sign off approval from the Acting Director of Procurement or Director of Procurement prior to granting any extensions to the return dates. An audit trail must be kept of the reason for accepting an extension, the details of the authorised signatory who agreed to the extension and the risk and impact for the project.

The following steps will apply when agreement is given to extend the closing date for the submission of tenders:

- 1) all tenderers shall be notified of the revised closing date and time in writing via PCS-T;
- 2) the return instructions from the original ITT should be restated;
- 3) all ITT responses received after the new extended deadline will be excluded unless in exceptional circumstances approval is granted as per the process detailed above.

## ○ Post tender clarification

The objective of the clarification stage is to clarify, where required, the tenders as submitted.

Tender, or bid clarifications may become necessary during the evaluation of tender responses. For example, where there are aspects of the bids that are unclear or contain minor errors. The Procurement Office should consider whether, where a certain aspect of the bid seems anomalous, it might be prudent to request clarification. For example, if a bid appears especially low, or especially high on price, it may be that an arithmetical error has been made. Care needs to be taken for abnormally low bids, as specific processes need to be followed in that event. Clarification may also be sought from tenderers on matters of quality performance or specific terms and conditions of contracts.

**Clarifications should never be used to give information from one bidder to one or more other bidders.**

In seeking clarification, all communications with tenderers must be properly recorded so that an audit trail is maintained. This will be recorded on the PCS-Tender system in the messaging area. Negotiations in relation to price or other areas where improvements may be possible, are not permitted.

The Procurement Office should give all tenderers the same opportunity to engage in tender/bid clarification, where appropriate or relevant. Extreme caution and care must be exercised to avoid either unfairness to tenderers or the impression of unfairness to some tenderers.

**Where Quantity Surveyors or consultants are carrying out checks** and clarifications, all such communications and clarifications must be recorded via PCS-T to ensure full transparency of the process.

Please refer to the Estates Evaluation Guidance documents for further information regarding clarifications.

## → Computational Errors

Where errors are suspected in the make-up of a tender for a Works contract, these will be examined and adjusted in accordance with the rules set out in JCT Tendering Practice Note 2017 (Alternative 2)

1. The tenderer should be given details of the errors and afforded an opportunity of confirming or withdrawing his tender.

2. If the tenderer elects to stand by his tender and confirmation has been received from him, follow the procedures set out Correction of Errors – Alternative 1
3. If the tenderer elects to amend his tender figure and possibly certain rates in his documents, he should either amend the original tender and initial the changes or confirm the alterations in an electronic communication through PCS-T.
4. If the amended tender is still the lowest (or `best value` as the case may be) and there are no other reasons for not recommending it then it should be recommended for acceptance.
5. If the amended tender is no longer the lowest (or `best value` as the case may be) the offer that as a result has become the lowest (or `best value`) should be examined and the analysis of tenders process repeated for the alternative tender.

## ○ Open and evaluate tenders

The **AWARD** tender evaluation tool will continue to be used at the ITT evaluation stage. Absolute scoring will apply to all quality criteria and relative scoring will apply to commercial (price) criteria.

**Most Economically Advantageous Tender (MEAT) is now MANDATORY – cost only is no longer allowed**

The University must identify the Most Economically Advantageous Tender based on the best price/quality ratio, which must be assessed on criteria linked to the subject matter of the contract and must include the price or cost, using a cost-effectiveness approach. A cost effectiveness approach may include [life-cycle costing](#).

### Interviews

If interviews are required, the University should determine whether the interview:

- is intended to evaluate a specific set of criteria that only appear in the interview. This means that the criteria to be assessed at interview are assigned a percentage of the overall score for that bid; OR
- will simply be used to clarify previously submitted written elements of the tender. In this case, the interview will not cover new evaluation criteria, and will not have a separate weighting. This option is commonly used where the interview allows for a demonstration of a process or item that has been described in the written submission.

*Transparency:* If an interview forms part of the tender evaluation process, the award criteria, questions/specific subject matter, weightings and sub weightings must be contained in the ITT.

*Equal treatment:* All tenderers must be invited for interview. This ensures equal treatment.

*Audit and transparency:* The overall assessment outcome should be clearly stated and notes taken of attendees, any conflict of interest and how this is handled (e.g. removal of panel member), questions asked, answers and scores given, to ensure evidence of fair and equal treatment for audit.

The choice of questions to be used at interview must be aligned to the evaluation criteria and answers handled consistently.

**Note: - Interviews should not be used for Main Contractor procurement exercises**

Please refer to the Estates Evaluation Guidance documents for further information regarding interviews.

## ➔ Evaluation Panel

A designated Estates staff member will continue to act as Chair throughout the process. Membership of the assessment panel should remain the same throughout the entire evaluation process, unless exceptional circumstances dictate otherwise, and records kept of who has participated.

At least 3 Estates evaluation panel members should evaluate the quality envelope of the ITT submissions independently and the scores, together with rationale should be noted against the relevant questions and input into the AWARD scoring model. Please note that answers to specific questions must be reviewed by the same evaluators for all submissions (please refer to the Estates Evaluation Guidance documents



for further information relating to scoring and the level of information required as a rationale to support any scores allocated).

### → Consensus Meeting

Once the tenders have been individually scored, the chair of the evaluation panel will organise a consensus meeting to agree the final overall quality scores. A member of Estates staff shall undertake the role of Moderator and the evaluation panel will review the scores entered by individual panel members for each ITT submission and reach agreement on the final consensus scores and supporting rationale. Averaging scores is not acceptable. At the consensus meeting, questions with differences in scores will be discussed and if appropriate, individual scores may be changed (e.g. if something has been missed). Any rationale for discrepancies between individual panel member scores and/or final scores should be recorded.

The consensus quality scores should be agreed by all panel members and taken forward to the final Quality/Cost evaluation. The Chair will keep a formal record of the discussions and decisions taken at the meeting. Based on the resultant scores, the evaluation panel will recommend to the ETRP which bidder should be awarded the contract.

### → AWARD Reports

Upon completion of the evaluation consensus stage, the Estates Project Manager/Operations Lead should inform the Procurement Officer/Manager. The Procurement Officer/Manager will subsequently create the relevant AWARD report to produce an overview of the results, review the scores and rationale and advise on any areas where, if any, further review from the evaluation panel is recommended to ensure all scoring and rationale is consistent with the original criteria as advertised and sufficiently detailed to produce meaningful debrief information within the letters to the unsuccessful bidders. Once the evaluation panel and Procurement Officer/Manager are satisfied that the evaluation within AWARD is complete, the Procurement Officer/Manager will forward a copy of the finalised AWARD report to the Estates Project Manager/Operations Lead. **Note: - the evaluation on AWARD will not be “locked down” at this stage until ETRP approval has been granted.**

### → Head of Estates Finance approval

Once the AWARD evaluation report has been finalised as outlined above, the Procurement Officer/Manager will provide the Head of Estates Finance with the relevant financial and bidder information in relation to the proposed shortlisted bidders to allow a financial assessment to be carried out to ensure circumstances have not changed since ESPD stage. The Head of Estates Finance will confirm the outcome of the financial assessment to the Procurement Officer/Manager and this information will be entered on the Recommendation for Award Report (P4).

### → Submit P4 Recommendation for Award Report to ETRP for approval

A Recommendation for Award Report shall be drafted by the Procurement Officer/Manager using the P4 Template document and this will be forwarded to the Estates Project Manager/Operations Lead for review and to populate any outstanding areas indicated by the Procurement Officer/Manager, as required. Once the Estates Project Manager/Operations Lead has completed any areas indicated and are satisfied with the content of the report, the P4 document must be returned to the Procurement Officer/Manager for review and any final amendments agreed. The Procurement Officer/Manager will sign the P4 template document to confirm that internal procurement procedures have been followed and the report is complete. The signed copy will be returned to the Estates Project Manager/Operations Lead for submission.

Following receipt of the signed P4 Recommendation for Award Report document from the Procurement Officer, the Estates Project Manager/Operations Lead shall email the P4 Document for review to the Head of the relevant Estates department at least **2 working days** before the scheduled ETRP meeting. The Head of the relevant department will, if satisfied with the content, email the P4 Document to the ETRP Administrative Secretary by no later than 3pm, **2 working days** before the scheduled ETRP meeting to ensure sufficient time is given to the panel members to consider the recommendations ahead of the meeting.

The following documents must be available for review and approval by ETRP members prior to action being taken. The information must be uploaded by the Estates Project Manager/Operations Lead via

folder EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then into the applicable ETRP weekly meeting folder: -

- Tender documentation
- Tender Reports e.g. QS
- Evaluation scoring and consensus results
- Any relevant supporting evidence
- Successful Award and Unsuccessful debrief letters
- Recommendation for Award Report (P4)

The ETRP Administrative Secretary will communicate the decision made by ETRP to the Estates Project Manager/Operations Lead, copying in the Procurement Officer/Manager.

Where the ETRP members approved the P4 subject to minor amendments, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. The Procurement Officer/Manager will make any amendments to the P4 document and forward to the Estates Project Manager/Operations Lead who will return the amended P4 to the ETRP Administrative Secretary. Once the amended P4 has been signed, the ETRP Administrative Secretary will notify the Estates Project Manager/Operations Lead and copy in the Procurement Officer/Manager.

In the case of the P4 document being rejected, the Procurement Officer/Manager and Estates Project Manager/Operations Lead will discuss and agree actions required. A revised version 2 of the P4 document will be completed and signed by the Procurement Officer/Manager and emailed to the Estates Project Manager/Operations Lead. The Estates Project Manager/Operations Lead will email the signed version 2 to the Head of the relevant Estates Department who will subsequently forward to the ETRP Administrative Secretary as per the timescales for P4 submissions detailed above.

If a P4 document is approved by the ETRP members, the ETRP Administrative Secretary, will at the time of notifying the Estates Project Manager/Operations Lead and Procurement Officer/Manager, provide the k drive url link as to where the signed P4 document is stored and can be viewed.

#### → **Approval by ETRP.**

The ETRP will review the content of the P4 paper and all supporting documentation including the letters and if acceptable this P4 paper will be approved unless further approval is required due to the nature of the project in which case the endorsement of the P4 paper will act as a gateway to recommend approval by the relevant Committee and Delegated Authorised Signatory.

#### → **Preparing successful appointment letters and unsuccessful debrief letters**

The successful bidder(s) should be notified and all other bidders should be informed in writing simultaneously that they have been unsuccessful. Standard templates for contract award and debriefing letters are to be used. **(See Templates P16 and P17)**

##### **The unsuccessful debrief letters must contain as a minimum:**

- The name of the successful bidder(s)
- The criteria used to award the contract
- The University's scoring against the criteria of the unsuccessful bidder and successful bidder(s)
- The reasons for the decision i.e. reasons the unsuccessful bidder was unsuccessful including the characteristics and relative advantages of the successful bidder. Feedback provided should be based upon the areas which had a material effect on the outcome (please refer to the Estates Evaluation Guidance for more information on this)
- A precise statement of the standstill period

This increased level of information within the letters, for most tendering exercises, negates the requirement for a further de-briefing of unsuccessful tenderers in person and gives clarity and transparency in writing as to the decision taken. If approached for a personal debriefing, please seek advice from procurement staff.

**Standstill period** – this is a MANDATORY requirement for Route 3 OJEU regulated procurement. The standstill rule provides a mechanism whereby tenderers can challenge an award decision before the contract with the successful tenderer is signed.



The standstill rule requires the University to suspend the process for a mandatory period of a minimum of 10 calendar days<sup>25</sup> between communicating the award decision to all bidders and formally accepting an offer (i.e., confirming the award and then proceeding with the purchase).

It should be noted that the successful and unsuccessful letters which includes the standstill details must not be issued until the ETRP, the Procurement Office and the relevant University committee have given approval. No approaches should be made to the successful tenderer (through appointment letter, purchase order or start date given) unless the Procurement Office is satisfied that the award can proceed unchallenged and has confirmed that discussions with the successful tenderer can commence. Any standstill period should be exclusive of University holiday closures.

An initial Standstill Notification Letter will be issued to communicate the award decision and at the end of the standstill period a further contract award letter accepting the offer will be issued.

The letters will be drafted by the Procurement Officer/Manager and submitted to the Estates Project Manager/Operations Lead for review. The Estates Project Manager/Operations Lead will upload the letters along with all other documents in the relevant EST: K drive: shared: tender review panel: submissions: pre-approvals folder and then the applicable ETRP weekly meeting folder.

The ETRP members will be responsible for reviewing and approving the contents of all letters along with associated documentation submitted.

## Procurement Journey – Route 3 – ZONE C – Contract



### ○ Contract award

#### → Send appointment letter(s) and unsuccessful debrief letters via PCS-T

Following confirmation of approval from ETRP, it is the responsibility of the Estates Project Manager/Operations Lead to ensure all letters are signed by the appropriate authorised signatory according to the DAS. All signed letters must then be emailed to the Procurement Officer/Manager who will issue all letters via PCS-T.

As indicated in the [Standstill Period](#) section in Zone B, this will be one stage or two stage process dependent upon the circumstances.

#### → Publish Contract Award Notice on PCS

The University must publish a contract award notice within 30 days of award of the contract unless a challenge is received. The Procurement Officer/Manager will publish the Contract Award Notice via PCS in the Official Journal of the EU. The Contract Award Notice contains details of the award of the contract including the successful tenderer and the price, or estimated price, to be paid.

<sup>25</sup> The standstill period when using electronic communications is a period of 10 days ending at midnight at the end of the 10<sup>th</sup> day after that on which the debrief letters were sent. If using other means of communications – the standstill period is 15 days.

## ○ Contract implementation

### → Raise Purchase Order

A University Purchase Order must be raised at the time of appointing suppliers, consultants and contractors or service providers (subject to confirmation being obtained that the standstill period has concluded without any challenge and subsequent formal acceptance letter, where relevant being issued by the Procurement Officer/Manager via PCS-T). The Purchase Order must include information advising the Procurement Contract Reference Number and Title, the Estates Project Reference Number and a statement to the effect that the T&Cs governing that Contract Award apply to this Order to ensure the basis upon which the two parties are trading in relation to that Purchase Order is clear and can be called upon should the need arise. An instruction must also be given to the Purchase Order recipient that any invoices for payment must include the purchase order number.

### → Payment for Goods, Works and Services

To maintain appropriate checks and balances, it is important that the approval of expenditure is kept separate from the process of shortlisting or appointing suppliers. Payments arising from commitments given in the appointment document, contract or Purchase Order are certified for payment by individual members of staff responsible for the project or budget; payments are then batched, and authorised for payment by one of the following delegated or sub delegated authorities below:

- Director of Estates
- Director of Estates Development
- Director of Estates Operations
- Head of Estates Planning and Special Projects
- Head of Capital Projects
- Head of Small Projects & Minor Works
- Head of Estates Business Services

**It should be noted that the person who signs any of the documents which are used to appoint the supplier or certifies the invoice for payment may not approve the related batch payment. The University must pay its invoices within 30 days, so care needs to be taken that any internal processes do not delay payment.**

### → Emergencies – unforeseeable (i.e. not due to lack of planning)

**Emergency commitments to any suppliers can only be made with the prior approval of the Director of Estates in consultation with the Director of Procurement/ Acting Director of Procurement.**

The Director of Procurement/ Acting Director of Procurement should be consulted as soon as possible so that the appropriate course of action is taken.

All such emergency purchases of this nature will be accompanied by an information note which should be completed by the originator and approved by the ETRP retrospectively.

### → Retention of Documentation

All documentation relating to the ITT process must be retained to ensure a full audit trail.

In all cases, the following documentation must be retained in an electronic referenced project file in the Estates Department hierarchy (not personal email) for future financial reporting, internal and external audits, VfM reports or FOI responses, for at least 12 years<sup>26</sup> from the end of the project: -

- ITT documents issued via PCS-T
- Bidder ITT responses submitted (successful and unsuccessful)
- Evaluation scores, rationale and notes (individual evaluators and consensus)
- Successful award letters and unsuccessful debrief letters (standstill and acceptance, where relevant)
- Recommendation of Award Report (P4)

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<sup>26</sup> Please note, such audits can be conducted many years after termination of the project. Eg. ERDF projects funded in period 2007-2013 must be retained until 2025.

- Tender Reports e.g. QS
- All communications and clarifications with suppliers including any additional feedback which may have been provided
- Purchase Order

## ○ **Contract and supplier management**

### → **Importance**

Following the award of a contract, it is essential to manage the relationship with the contracted supplier to ensure that what has been contracted for is achieved and a constructive supplier-buyer relationship develops. Contract Management is about ensuring that all parties to a contract fully understand their obligations and responsibilities under that contract and continue to do so throughout the life of the contract until completion.

Managing the information and obligations contained in a contract during the whole contract lifecycle is of upmost importance. It safeguards the University should things go wrong and ensures that supplier performance is monitored at all times. It also provides the opportunity for continuous improvement. Please note that construction related contracts require tight contract management – for example, if complaint procedures contained in the contract are not followed, the University may unintentionally waive its right to complain at later stages.

The Procurement Journey provides a valuable resource on Contract and Supplier Management.

### → **Allocate Contract Manager/Project Manager**

Appropriate structures need to be in place with representatives of both the University and the supplier to manage the contract throughout its existence. The University must allocate a 'contract manager or project manager' i.e. the contact point for all relations with the supplier under that specific contract. The contract manager will also be responsible for reviewing and approving change requests within their delegated authority.

### → **Change Control – Modifications of Contracts**

Changes to services, processes or contracts may have an effect on service delivery, performance, costs, timescales, and on whether the contract still represents value for money. The specification and administration of change control is an important area of contract management.

Modifications of contracts during their term are regulated by well-defined legal rules and need to be properly incorporated into the contract to be valid – please see FAQ 9. If a specific change, or cumulative changes significantly increase or decrease the scale or scope of the original contract, then this may not be permitted under public procurement law.

**Certain contract modifications require the University to publish a notice to that effect in PCS or OJEU. Please consult the Procurement Office for further advice.**

## Section 7: Frameworks

A framework agreement is a general term for an agreement between a supplier/multiple suppliers and one or more contracting authorities (like the University). Framework agreements are generally used for purchases where there is a repeat need but exact quantities or timings are unknown. They allow contracting authorities to make individual purchases without repeating many of the stages of a full competitive tendering process required by the Procurement Regulations.

Each framework agreement sets out the terms and conditions under which “call-off contracts”, i.e. specific purchases, can be made throughout the term of the agreement.

A framework agreement does not oblige the University to purchase goods, services or works under that framework agreement – the University can decide to use the framework agreement if it represents value for money. If the University considers that the framework agreement does not provide value for money, it can choose to award a contract outside the framework by conducting a new procurement.

The University has access to a number of frameworks within the public sector which may be suitable to meet the University's requirements and can be utilised where appropriate. **It should be noted that only the Director of Procurement has delegated authority to enter into Framework Agreements.** The Procurement team should be contacted to discuss options and work in collaboration with the Estates Department to establish frameworks which are aligned to the University's procurement strategy.

The current list of Estates related framework agreements is available at Buy@Ed and this will be updated quarterly by the Procurement Office. Advice should be sought from the Procurement Office regarding the appropriateness of existing frameworks prior to initiating a procurement process.

Other common use items of goods and services can be found at Buy@Ed.

## Section 8: Delegated Authority

The University of Edinburgh has an approved Delegated Authority Schedule (DAS) which lists those committees or individuals to whom authority has been delegated by the University Court to commit the University to contractual or quasi-contractual arrangement within approved budget limits. It states:

- Who can approve a transaction, arrangement or project
- Who has signing authority to execute the transaction once approval has been given
- Who must be informed or consulted

The responsibility for managing a budget does not of itself grant authority to make contractual commitments.

**Note 1:** Amounts stated in the DAS all include VAT (but legal thresholds stated in Procurement Protocol exclude VAT)

**Note 2:** Authority to sign does not only apply to signing of contracts, letters of agreement, and other contractual documentation but also to Purchase Orders and covering letters where they are used as an instruction to carry out services, works or to deliver and charge for goods.

The full [Delegated Authorised Schedule](#) is available on the University web page.

### Land and Property - Property Transactions (Section from DAS)

The **Policy and Resources Committee** approves the estates capital plan as part of the business planning process, advises the University Court on any matters of concern and recommends to the University Court any proposals for significant subsequent amendments to the agreed estates programme.

The **Estates Committee** has Delegated Authority to approve land and property transactions/projects consistent with the direction of the estates capital plan **up to £10m**. Estates Committee does not have authority to approve projects which require resource out with the estates capital plan. Such projects must be referred to PRC and Court for approval.

Approved transactions can be signed by:

	Convener of Estates Committee		Head of Corporate Services	Director of Estates
<b>Formal acceptance of contracts and acquisition of all goods, services and works</b>	£10m		£5m	£2m
<b>Acquiring and disposing of the ownership in land and buildings</b>	£10m		£5m	£2m
<b>Entering into or exiting from leases for land and buildings</b>	£10m <30 years	£5m >10 years	£5m <10 years	£2m <10 years

- The **Director of Finance** must be notified in advance of creating any financial commitment for transactions over £1m and all lease arrangements.
- The **Director of Legal Services** should be consulted for all contracts involving Land and Property Law over £1m or where there are matters of concern.
- Approval from the **Scottish Funding Council** must be sought for the disposal of property purchased with public funds.

## **Procurement (Section from DAS)**

Procurement is the acquisition, whether under formal contract or otherwise, of goods, services and works from third parties and must adhere to the University Procurement Strategy, applying the principles and procedures under public procurement law. Procurements of all types must be planned to take account of legal duties, including social, economic and environmental impact; and to be transparent, apply equalities duties and anti-corruption policy to create the most economically advantageous balance of quality and cost.

The legal thresholds and obligations vary for the University acquiring goods, services or works, and each Delegated Authority must adhere to guidance in conducting an appropriate Procurement Journey for procurements of all types, obtained as early as possible in planning, from the **Director of Procurement**.

In estimating the potential value of any procurement, the total cost over the full contract period, including any options or extensions must be considered.

All advertising of planned acquisitions over the legal thresholds, of all types, and whether collaborative or not, will require prior approval of the **Director of Procurement**.

All Framework Agreements or Approved Contracts (which aggregate to current legal thresholds) for procured goods and services, or works, including those used in business plans for Court or Committees, must be approved by the **Director of Procurement**. The Director of Procurement has Delegated Authority to approve decisions regarding disputes with suppliers on framework agreements or approved contracts up to £1m.

All transactions greater than £1m must be routinely notified to the **Director of Finance** and must have the appropriate approval in place, ahead of creating any financial commitment.

The University's standard terms and conditions, or agreed framework agreement terms where appropriate, will apply to purchases for any University activity. Any bespoke contracts for the procurement of goods or services must be considered by the **Director of Procurement** who should consult with the **Director of Legal Services**, as appropriate.

### **Sub delegation**

A sub-delegation of the Delegated Authorised Schedule exists for Estates staff.

This sub-delegation schedule must be adhered to by all Estates Department staff and no contractual or financial commitments should be made out-with the delegated responsibility levels.

## Section 9: Useful resources

The University of Edinburgh Procurement website

<http://www.ed.ac.uk/procurement>

Buy@Ed

<http://www.ed.ac.uk/procurement/buy-at-ed>

The University of Edinburgh Procurement Newsletter

<http://www.ed.ac.uk/procurement/news/procurement-newsletter>

Scottish Government Procurement Journey

<https://www.procurementjourney.scot/procurement-journey>

Scottish Government Review of Procurement in Construction

<http://www.gov.scot/Topics/Government/Procurement/policy/ReviewProcConst>

EU Commission – Public PROCUREMENT

[http://ec.europa.eu/growth/single-market/public-procurement/index\\_en.htm](http://ec.europa.eu/growth/single-market/public-procurement/index_en.htm)

## APPENDIX A: Glossary

**Definitions** - The following lists some of the common terms that are used in procurement.

<b>Abnormally Low Tender</b>	A tender where the price is so low that it raises suspicion that the supplier will not be able to supply the requirements specified by the University
<b>APUC</b>	Advanced Procurement for Universities and Colleges
<b>Award</b>	Decision to accept a tenderer's offer to supply goods/services/works following a procurement exercise and thereby creating a legally binding contract
<b>Bidder</b>	A person, sole supplier, partnership, limited company, public limited company, public entity, company or supported business, as part of a group, consortium, joint venture.
<b>Call-Off Contracts</b>	These are specific contracts which arise out of a framework agreement. The framework agreement is an overarching agreement with no specific commitment to buy, the call-off contract is the specific commitment to buy under that framework agreement
<b>Contract Award Notice</b>	A notice in PCS or OJEU that a previously advertised opportunity has been awarded
<b>Contract Notice</b>	Advert in PCS or OJEU to invite bidders to express interest, apply to tender or to be pre-qualified
<b>Contracting Authority</b>	An entity, usually a public body, which by law is required to comply with public procurement law. The University of Edinburgh is a contracting authority
<b>Contractor/Supplier/Provider</b>	A person, sole supplier, partnership, limited company, public limited company, public entity, company or supported business awarded a contract to provide goods, works or services or works related services as required by the University.
<b>ESPD</b>	European Single Procurement Document.
<b>Framework Agreement</b>	An agreement or other arrangement between one or more contracting authorities and one or more economic operators which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the economic operator will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies
<b>FOI</b>	Freedom of Information (Scotland) Act 2002 and Environmental Information (Scotland) Regulations 2004
<b>ITT</b>	Invitation to Tender
<b>Lots</b>	Subdivisions of a contract
<b>MEAT</b>	Most economically advantageous tender (best quality/price ratio)
<b>OJEU</b>	Official Journal of the European Union
<b>PCS</b>	Scottish Government's advertising portal for public contracts opportunities
<b>PCS-T</b>	PCS-Tender is the national e-Tendering system provided free of charge by the Scottish Government. The system is a secure and efficient means for buyers and bidders to manage tender exercises online. The standard ESPD /ITT templates enable buyers to easily create consistent tender documentation.
<b>PQQ</b>	The ESPD document contains our Pre-Qualification Questionnaire details
<b>Procurement</b>	The acquisition, whether under formal contract or otherwise, of goods, works and services from third parties. We are a public contracting authority adhering to the Scottish Public Procurement Policy Handbook, the Scottish Model of Procurement and the University Procurement Strategy.
<b>Tenderer</b>	An organisation submitting a bona fide sealed bid to supply the University
<b>Variants</b>	Alternatives offered by the tenderers to the goods, services or works as specified by the University
<b>Works</b>	The term used by the Public Contracts (Scotland) Regulations 2015 for a building or civil engineering project or piece of work. The full list is available under Appendix B of this Protocol



## APPENDIX B: List of Activities Constituting Works

Subject	Notes	CPV Code
<b>Construction</b>	<b>This division includes:</b> <ul style="list-style-type: none"> <li>construction of new buildings and works, restoring and common repairs.</li> </ul>	45000000
<b>Site Preparation</b>		45100000
<b>Demolition and wrecking of buildings; earth moving</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>demolition of buildings and other structures,</li> <li>clearing of building sites,</li> <li>earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc.</li> <li>site preparation for mining,</li> <li>overburden removal and other development and preparation of mineral properties and sites.</li> <li>This class also includes:</li> <li>building site drainage.</li> <li>drainage of agricultural or forestry land.</li> </ul>	45110000
<b>Test drilling and boring</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes.</li> <li>This class excludes:</li> <li>drilling of production oil or gas wells, see 11.20.</li> <li>water well drilling, see 45.25,</li> <li>shaft sinking, see</li> <li>oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20</li> </ul>	45120000
<b>Building of complete constructions or parts thereof; civil engineering</b>		45200000
<b>General construction of buildings and civil engineering works</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>construction of all types of buildings construction of civil engineering constructions,</li> <li>bridges, including those for elevated highways, viaducts, tunnels and subways,</li> <li>long-distance pipelines, communication and power lines,</li> <li>urban pipelines, urban communication and power lines,</li> <li>ancillary urban works,</li> <li>assembly and erection of prefabricated constructions on the site.</li> </ul> <b>This class excludes:</b> <ul style="list-style-type: none"> <li>service activities incidental to oil and gas extraction, see 11.20,</li> <li>erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28,</li> <li>construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports Installations, see 45.23,</li> <li>building installation, see 45.3,</li> <li>building completion, see 45.4,</li> <li>architectural and engineering activities, see 74.20</li> <li>project management for construction, see 74.20</li> </ul>	45210000  Except: 45213316 45220000 45231000 45232000
<b>Erection of roof covering and frames</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>erection of roofs,</li> <li>roof covering,</li> <li>waterproofing.</li> </ul>	45261000

<b>Construction of highways, roads, airfields and sport facilities</b>	<p><b>This class includes:</b></p> <ul style="list-style-type: none"> <li>• construction of highways, streets, roads, other vehicular and pedestrian ways,</li> <li>• construction of railways,</li> <li>• construction of airfield runways</li> <li>• construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations,</li> <li>• painting of markings on road surfaces and car parks</li> </ul> <p><b>This class excludes:</b></p> <ul style="list-style-type: none"> <li>• preliminary earth moving, see 45.11.</li> </ul>	45212212 and DA03 45230000  except: 45231000 45232000 45234115
<b>Construction of water Projects</b>	<p><b>This class includes:</b></p> <p><b>construction of:</b></p> <ul style="list-style-type: none"> <li>• waterways, harbour and river works, pleasure ports (marinas), locks etc;</li> <li>• dams and dykes,</li> <li>• dredging</li> <li>• subsurface work.</li> </ul>	45240000
<b>Other construction work involving special trades</b>	<p><b>This class includes:</b></p> <ul style="list-style-type: none"> <li>• construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment,</li> <li>• construction of foundations, including pile driving,</li> <li>• water well drilling and construction, shaft sinking,</li> <li>• erection of non-self- manufactured steel elements,</li> <li>• steel bending,</li> <li>• bricklaying and stone setting,</li> <li>• scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms,</li> <li>• erection of chimneys and industrial ovens.</li> </ul> <p><b>This class excludes:</b></p> <ul style="list-style-type: none"> <li>• renting of scaffolds without erection and dismantling, see 71.32</li> </ul>	45250000 45262000
<b>Building installation</b>		45300000
<b>Installation of electrical Wirings and fittings</b>	<p><b>This class includes:</b></p> <ul style="list-style-type: none"> <li>• installation in buildings or other construction projects of:</li> <li>• electrical wiring and fittings,</li> <li>• telecommunications systems,</li> <li>• electrical heating systems,</li> <li>• residential antennas and aerials,</li> <li>• fire alarms,</li> <li>• burglar alarm systems,</li> <li>• lifts and escalators,</li> <li>• lightning conductors, etc.</li> </ul>	45213316 45310000  Except: 45316000
<b>Insulation work activities</b>	<p><b>This class includes:</b></p> <ul style="list-style-type: none"> <li>• installation in buildings or other construction projects of thermal, sound or vibration insulation.</li> <li>• This class excludes: - waterproofing, see 45.22</li> </ul>	45320000
<b>Plumbing</b>	<p><b>This class includes:</b></p> <ul style="list-style-type: none"> <li>• installation in buildings or other construction projects of:</li> <li>• plumbing and sanitary equipment,</li> <li>• gas fittings,</li> <li>• heating, ventilation, refrigeration or air-conditioning equipment and ducts,</li> <li>• sprinkler systems</li> </ul> <p><b>This class excludes:</b></p> <ul style="list-style-type: none"> <li>• installation of electrical heating systems, see 45.31.</li> </ul>	45330000

<b>Other Building Installation</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>• installation of illumination and signalling systems for roads, railways airports and harbours,</li> <li>• installation in buildings or other</li> <li>• installation in buildings or other construction projects of fittings and fixtures n.e.c.</li> </ul>	45234115 45316000 45340000
<b>Building completion</b>		45400000
<b>Plastering</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>• application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials.</li> </ul>	45410000
<b>Joinery installation</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>• installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials,</li> <li>• interior completion such as ceilings, wooden wall coverings, movable partitions, etc.</li> </ul> <b>This class excludes:</b> <ul style="list-style-type: none"> <li>• laying of parquet and other wood floor covering, see 45.43</li> </ul>	45420000
<b>Floor and wall covering</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>• laying, tiling, hanging or fitting in buildings or other construction projects of:</li> <li>• ceramic, concrete or cut stone wall or floor tiles,</li> <li>• parquet and other wood floor coverings carpets and linoleum floor coverings,</li> <li>• including of rubber or plastic,</li> <li>• terrazzo, marble, granite or slate floor or wall coverings</li> <li>• wallpaper.</li> </ul>	45430000
<b>Painting and glazing</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>• interior and exterior painting of buildings,</li> <li>• painting of civil engineering structures,</li> <li>• installation of glass, mirrors, etc.</li> </ul> <b>This class excludes:</b> <ul style="list-style-type: none"> <li>• installation of windows, see 45.42.</li> </ul>	45440000
<b>Other building Completion</b>	<b>This class includes:</b> <ul style="list-style-type: none"> <li>• installation of private swimming pools</li> <li>• steam cleaning, sand blasting and similar activities for building exteriors,</li> <li>• other building completion and finishing work n.e.c.</li> </ul> <b>This class excludes:</b> <ul style="list-style-type: none"> <li>• interior cleaning of buildings and other structures see 74.70.</li> </ul>	45212212 and DA04 45450000
<b>Renting of construction or demolition equipment with operator</b>		45500000
<b>Renting of construction or demolition equipment with operator</b>	This class excludes: renting of construction or demolition machinery and equipment without operators, see 71.32	45500000

## APPENDIX C: Frequently Asked Questions

### 1. How do I calculate the value of the contract?

The rules below give a summary of the rules applicable to the calculation of the value of any given contract. If in doubt, please speak to the Procurement Department.

**Estimated value of the contract = total amount payable under it, excluding VAT, including any options to renew:**

**Example:** A contract for the delivery and maintenance of a scanner. Cost purchase scanner: £30k, Maintenance Agreement for 4 years: £10k / year. Value of the contract = £70k

- Value of **framework agreements** = total amount payable of all potential call-off contracts under the framework, aggregation of all lots over the whole period of the framework agreement
- Value **works** contract = total estimated value of any supplies and services that are necessary for executing the works to completion
- Value of contracts for goods or services which are **regular in nature** = total value of contracts of the same type awarded during a period of 12 months

**Example:** If the University regularly hires contractors for demolition works, we would need to aggregate all these contracts over a period of 12 months to estimate whether further contracts for demolition works fall below or above the regulated thresholds.

- Value of contracts for **services** with no fixed term = monthly fee multiplied by 48

**>< It is illegal to subdivide contracts with the effect of the value falling below the regulated thresholds**

#### Examples of Works Contracts

Where the construction of a new building is divided into three phases, site clearance, construction, and fitting out, the threshold must be applied to the value of all three phases, added up, even though the activities are different and different contractors may be used.

Construction of a new road might consist of separate contracts for the construction of the road itself, road signs, lighting, and landscaping. If all these contracts form part of the same project, the value of each contract must be added together to arrive at a value against which the threshold must be applied. Similarly, if the public body buys materials or products for use in connection with the works (i.e. by the works contractor) the value of these must be included when calculating the whole works project value.

Related services (for example, architectural or quantity surveying services) may be purchased under separate contracts, in which case their value need not be counted against the whole works project value. However, the Directive will apply to each separate service contract that exceeds the Services threshold.<sup>27</sup>

Please note: The Procurement Office, in conjunction with the Estates Department, continually monitors via the Scottish Procurement Hub (a tool called Spikes Cavell) Estates' categories of spend with third parties in the areas of Services, Goods and Works. This process allows visibility of the aggregate purchases of similar Services, Goods and Works across the University and not just within the Estates Department. The overall principle is to determine whether the thresholds, for Services, Goods and Works have been or are likely to be reached and in the event the applicable threshold is likely to be exceeded then the University is obliged to put in place a plan of action to ensure it is compliant. Please remember that for procurement purposes, the University is one legal entity so all expenditure for a certain goods, services or works are aggregated.

The Head of Estates Finance will validate aggregation of supplier spend and commitments using existing reporting mechanisms from the Procurement Office, normally on a quarterly basis. Close liaison with the Head of Estates Business Services and Procurement will be needed to prepare a plan of action where aggregation levels are liable to be exceeded.

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<sup>27</sup> See more at: <https://www.procurementjourney.scot/eu-guidance#sthash.rlg7NDWV.dpuf>

The University's Spikes Cavell data is also used by our Centre of Expertise (APUC) and other public bodies to consider collaborative Framework Agreements and efficiencies in tender activity, and may be sought in Freedom of Information requests from the public.

## **2. What is the Procurement Journey?**

The Procurement Journey is a helpful tool provided by the Scottish Government. It is intended to support all levels of procurement activities and to help manage the expectations of stakeholders, customers and bidders/suppliers alike and facilitates best practice and consistency across the Scottish public sector. It provides a helpful step by step guide for procurement conducted by contracting authorities in Scotland, templates and easy to follow guidance.

See: <https://www.procurementjourney.scot/procurement-journey>

## **3. What procurement procedures are available to me?**

The selection of the procurement journey route to be taken will be dependent on the value and nature of the requirement. You must ensure that the procurement journey route you choose is consistent with the requirements of the Public Contracts (Scotland) Regulations 2015 before you embark on your procurement. Decisions on compliance with the Regulations may require specialist knowledge. If you are in any doubt you should seek specialist professional procurement or legal advice and guidance.

### **Overview of procurement procedures**

- 1) The restricted procedure
- 2) The open procedure
- 3) The competitive dialogue procedure
- 4) The competitive procedure with negotiation
- 5) An innovation partnership

### **1) The restricted procedure**

#### **Key features**

- This is a two stage process whereby the University carries out a short-listing exercise (using the ESPD) and only those meeting the University's selection criteria will be invited to tender.
- A minimum of five bidders must be invited to tender (unless fewer suitable candidates have met the selection criteria and these are sufficient to ensure genuine competition).
- Following the submission of tenders, no negotiation with tenderers is permitted, just clarification of the tenders submitted and a finalisation of contract terms with the successful tenderer.

#### **When to use**

- There are no restrictions on when this procedure can be used.
- As there is a short-listing stage, it is likely to be more appropriate than the open procedure for procurements where there is likely to be a large amount of bidder interest.
- Under this procedure, the University is unable to negotiate with tenderers, therefore it should only be used where the University is able to adequately specify its needs in advance of conducting the procurement.

### **2) The Open Procedure**

#### **Key features**

- No separate pre-qualification stage
- All interested parties can submit a tender in response to the OJEU notice. All bidders who respond to an advertised opportunity are sent the full invitation to tender without a separate pre-qualification stage, although ESPD will be part of the process.
- Tenders can be clarified following receipt by the contracting authority. However, changes to the tender and any negotiation with the tenderer are not permitted.

#### **When to use**

- There are no restrictions on when the open procedure can be used.

- Suitable where your research has indicated that there are few bidders, that could meet your needs in the market place
- As all interested parties may submit a tender, the open procedure is unlikely to be appropriate where there is any complexity in the evaluation process for practical reasons or the University is expecting a large amount of bidders.

### **3) The Competitive Dialogue Procedure**

#### **Key features**

- Interested parties can submit an expression of interest in response to the OJEU Notice.
- The University may then carry out a short-listing exercise (using the ESPD) and only those meeting the University's selection criteria will be invited to dialogue.
- A minimum of three bidders must be invited to dialogue (unless fewer candidates have met the selection criteria and these are sufficient to ensure genuine competition, that is, at least two).
- The University enters into a parallel dialogue with bidders to develop one or more suitable solutions to meet its needs. Discussions with each bidder remain confidential. During the course of the dialogue the University is able to reduce the number of bidders provided that it confirms it intends to do so in the OJEU Notice or invitation to dialogue using the stated evaluation criteria and weightings. If the University does choose to down select, it should ensure that at least two tenderers remain in the dialogue until it concludes.
- When an appropriate solution(s) has been identified, the University will conclude the dialogue phase and invite final tenders. The University may require all final tenders to be based on one solution identified during the course of the dialogue or allow each tenderer to submit a bespoke final tender.
- Following receipt of final tenders, the University would evaluate the tenders and select the best tender based on pre-specified award criteria.

#### **When to use**

- See table below.
- The University's needs cannot be met without adaptation of readily available solutions.
- The contract includes design or innovative solutions.
- The contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them.
- The technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference.
- When only irregular/unacceptable tenders are submitted in response to a procurement run using the open or restricted procedure.

### **4) The competitive procedure with negotiation**

#### **Key features**

- This procedure has been described as a hybrid procedure because, as with the restricted procedure, it allows the University to award a contract on the basis of an initial tender. However, like the competitive dialogue procedure, it also enables the University to negotiate with bidders who submitted an initial tender, and any subsequent tenders, until it decides to conclude those negotiations. There is no limit to the number of tender stages.
- Final tenders are submitted and evaluated and the contract is awarded.

#### **When to use**

- See table below.
- The needs of the contracting authority cannot be met without adaptation of readily available solutions.
- The contract includes design or innovative solutions.
- The contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them.
- The technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference.

- When only irregular/unacceptable tenders are submitted in response to a procurement run using the open or restricted procedure.

## 5) An innovation partnership


### Key features

- The innovation partnership is a procedure designed to allow the University to establish a long-term partnership for the development and subsequent purchase of a new, innovative product, service or works. The University can decide to set up the partnership with one partner or with several partners conducting separate research and development activities.
- As with several of the other procedures, the procedure allows for an initial qualification stage, following by submission of initial tenders and the possibility of successive stages and the potential for the down-selection of bidders.

### When to use

- See table below
- The innovation partnership must aim at the development of innovative works, products or services and the subsequent purchase of the resulting works, supplies or services provided that they correspond to the performance levels and maximum costs agreed between the University and the partners.

## A competitive dialogue procedure, competitive procedure with negotiation or an innovation partnership?

Sufficient knowledge of the market to define requirements for end-solutions?			
YES		NO	
		<i>Preliminary market consultation</i>	
Need R&D services prior to procurement?			
YES		NO	
<i>Do you wish to acquire innovative products or services on a commercial scale, as part of the same procedure?</i>		<i>Can a specification of the end products/services to be procured be developed?</i>	
YES	NO	YES	NO
<i>Innovation Partnership</i>	<i>Pre-commercial procurement</i>	<i>Competitive procedure with negotiation</i>	<i>Competitive dialogue</i>
Levels of competition or time/resources inadequate for above procedures? <i>Consider joint procurement or, in exceptional cases only, derogation from the directives</i>			

## 4. My project is funded by ERDF or other public funding – how does that impact the way I must procure?

As a condition of the grant, many funders impose specific procurement rules on the University. For example, funding received from ERDF or the European Investment Bank impose strict compliance with public

procurement laws. Failing to do so, may lead to the University having to refund the whole or part of the grant funding.

The EC Commission has published a guidance for practitioners on the avoidance of the most common errors in projects funded by the European Structural and Investment Funds (ERDF).

[http://ec.europa.eu/regional\\_policy/sources/docgener/informat/2014/guidance\\_public\\_proc\\_en.pdf](http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_public_proc_en.pdf)

If in doubt, please consult a member of the Estates Procurement Office.

## 5. What is the Sustainable Procurement Duty?

### **MANDATORY obligation for any contract above £50k (goods/services) or £2m (works) (Procurement Journey Routes 2 and 3)**

The sustainable procurement duty is a new duty applicable from 1 June 2016. It requires the University, before carrying out a regulated procurement, to consider how in conducting the procurement it can:

- improve the economic, social, and environmental wellbeing of the University's area,
- facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process, and
- promote innovation.

Wellbeing includes:

- economic factors such as the availability of suitable and high quality jobs, measures to encourage local small businesses, efficient and effective transport links, lifelong learning, training and skills development, the provision of infrastructure and new information and communication technologies, etc.;
- social factors such as the promotion of good quality and affordable housing, safe communities, the encouragement of the voluntary sector, looking after the needs of children and young people (particularly the most vulnerable), access to the arts or leisure opportunities, access to education, etc.;
- health-related factors such as the promotion of good physical, social and mental health and developing and promoting policies which have a positive impact on health outcomes, especially on health inequalities; and
- environmental factors such as the availability of clean air, clean water, clean streets, the quality of the built environment, the removal of objects considered hazardous to health, removal of disfiguring or offensive graffiti from buildings, protecting communities against the threat of climate change, freedom from a high risk of flooding, improving and promoting biodiversity and accessibility to nature.

Compliance with the sustainable procurement duty may aid compliance with other legislation that places specific requirements on a contracting authority with respect to its procurement activities. In particular the Equality Act 2010, The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, the Climate Change (Scotland) Act 2009 and The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015.

Community benefits may be viewed as a subset of the sustainable procurement duty. While the Act has a specific threshold at which community benefits must be considered, application of the sustainable procurement duty means that community benefits may be achieved below this threshold.

The Procurement Office has access to all available sustainability tools to achieve this duty and will advise accordingly.

## 6. What are Community Benefit Requirements?

### **MANDATORY obligation for any contract at the threshold value of £4m and above (Goods, Services, Works). MUST be considered for any contract £50k and above (Goods and Services) and £2m and above (Works)**

Community benefits requirements, as mandated by the Procurement Reform (Scotland) Act 2014, are contractual performance requirements included in the public contracts relating to:



- a. training and recruitment;
- b. the availability of sub-contracting opportunities; or
- c. which are otherwise intended to improve the economic, social or environmental wellbeing of the University's area in a way additional to the main purpose of the contract.<sup>28</sup>

## 7. What is the ESPD?

The European Single Procurement Document (ESPD) is a generic form used across all EU Member States as part of the initial selection process; it replaces the standard pre-qualification questionnaire (SPQQ). The ESPD must be accepted as a self-declaration by an economic operator that it has not breached any of the mandatory or discretionary exclusions grounds (or, if it does, it can demonstrate in the ESPD that it has taken self-cleansing measures) and that it meets the relevant selection criteria.

The University must use the ESPD (Scotland) in all regulated procurement exercises (procurement journey routes 2 and 3) which are commenced on or after 18 April 2016.

Please note, the University cannot add to or change the questions in the ESPD (Scotland).

## 8. Can we use the incumbent supplier again?

Public procurement law does not allow for preference to be given to a supplier who you have worked with in the past nor for negative discrimination unless evidence of poor performance has led to the breach of a contract caused by such supplier (in which case, please contact Legal Services, procurement solicitor, for advice).

Any new contract must be advertised even if the University has an existing relationship with a contractor, unless the contractor was appointed in line with the public procurement law, and the existing contract clearly covers the requirements of the new requirement.

## 9. Can I modify a contract during its term (after it has been awarded)?

**Yes, but only in 6 particular circumstances**

1. The initial procurement documents clearly provided for that contract modification – eg. a fixed terms service contract which provides for 2 x 1 year extension periods
2. For additional works, services or goods by the original supplier that have become necessary and were not included in the initial procurement, BUT ONLY where a change of supplier:
  - o Cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment services or installations procured under the initial procurement; AND
  - o Would cause significant inconvenience or substantial duplication of costs for the University; AND
  - o Any increase in price cannot exceed 50% of the initial contract value.
3. Where a need for modification has been brought about by circumstances which the University acting in a diligent manner could not have foreseen, BUT ONLY IF:
  - o The modification does not alter the overall nature of the contract; AND
  - o Any increase in price does not exceed 50% of the initial contract value.
4. Where a new supplier replaces the original supplier as a consequence of:
  - o an unequivocal review clause or option; OR
  - o Complete or partial succession into the position of the initial supplier, following corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract or framework and is not aimed at circumventing application of the Regulations.
5. Where a modification, irrespective of value, is NOT 'substantial'. A modification is substantial where:
  - o It renders the contract materially different to the one initially concluded; OR

<sup>28</sup> <http://www.gov.scot/Publications/2016/03/8410/4>

- It introduces conditions which, had they been part of the initial procurement, would have:
    - Allowed the admission of candidates other than those selected, or
    - Allowed for the acceptance of a tender other than that accepted, or
    - Attracted additional participants in the procurement procedure; OR
  - It changes the economic balance of the contract in favour of the contractor in a manner not provided for in the initial contract; OR
  - It extends the scope of the contract considerably; OR
  - A new supplier replaces the existing supplier other than as permitted above
6. The value of the modification is the lower of:
- 10% of initial contract value for goods and services
  - 15% of the initial contract for works

## 10. Can we buy locally?

No. Preference should not be given to local suppliers, to suppliers with a local office or to suppliers that have already worked with the University.

## 11. Can we impose the Living Wage on our contractors/subcontractors?

The University of Edinburgh is committed to pay the living wage and encourages its contractors to do the same. However, making it a requirement of the tender process or grounds for selecting tenderers would infringe EU procurement rules. The University's Procurement office can advise further on this matter.

## 12. What is a concession? What process needs to be followed?

In a basic public concession, the University would be granting a private entity a right to provide an asset or service. Rather than pay for providing the asset or service, the University would transfer the opportunity to exploit the market to the private entity, along with the demand risk (the risk that there will be little or no market to exploit). Revenue from fees paid by third party users (normally the general public) to the private entity are then used to meet the costs incurred and to make a profit.

Both types of public concession (works and service) are subject to a lighter procurement regime than traditional public contracts, but they are treated in different ways from each other. Procurement and Legal Services will be able to advise on how to procure for a concession.

## 13. Is there any risk of being in breach of State Aid rules?

Funding provided by the University to a third party, such as a supplier, could constitute State Aid UNLESS the third party to which the funding is provided is contracted by the University in accordance with Scottish and EU public procurement rules, State Aid rules can be highly complicated and their application extends much beyond the remit of this protocol. For the purpose of this Protocol, it is suffice to state that application of public procurement rules should significantly reduce the risk of breaching state aid regulations.

## 14. What are Variants? How can I utilise Variants in the bidding process?

Variant bids give bidders an opportunity to suggest alternative ways to meet your requirement. Variants must meet your minimum requirements, but may alter criteria in your specification. Accepting or requesting variant bids may provide better solutions and promote innovation, however, certain processes must be followed. If you wish to accept variants, you must:

In the PCS Contract Notice\*

- Indicate that variant bids will be accepted (or required) in notice section II.1.9

In the ITT

- Detail rules for bidders for submitting variants
- Indicate that bidders must clearly label variant submissions as 'Variant Bid'
- Indicate whether variants are accepted or required, and whether bidders must submit a compliant (i.e. non-variant) bid alongside the variant bid

- Indicate that variant bids must be linked to the subject matter of the contract
- Detail a single set of **minimum requirements** that both variant and compliant bids must meet
- Detail full technical and other criteria for compliant bids
- If applicable, indicate any technical or other criteria that variants can or cannot alter in variant bids
- Detail award criteria and evaluation methodology that reflect the minimum requirements, and which must apply equally to variant and compliant bids

#### During Evaluation/Award

- Variants may take more time/ resources/legal checks—ensure adequate resources are available to properly and fairly evaluate variants (especially if evaluating multiple solutions from a single supplier)
- Evaluators must not consider variant bids that:
  - Are not authorised or required
  - Are not linked to the subject matter of the contract
  - Do not meet the minimum requirements
- Evaluators must not reject a variant on the sole ground that it would lead to a public service contract rather than a public supply contract or vice versa.

## APPENDIX D: Procurement Templates

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