

Guidance Notes for School Governing Bodies with Delegated Budgets to support the Procurement Standing Orders

Following the rules for spending money
2014

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1 Introduction

East Sussex County Council (ESCC) updated their Procurement rules that govern how the Council spend money. As part of this process, the rules that schools need to follow when they purchase goods, services or works were also reviewed.

The following document summarises the rules and limits that apply to schools and includes guidance to support schools using the Procurement Standing Orders (PSO's)

This document reflects feedback from our key school stakeholders and aims to support the process by giving additional guidance where it is required to apply the rules successfully.

The schools spend limits did not change as part of the review this time, because it was felt that, keeping the limits at the same level as the previous Contract Standing Orders was a way for schools and Governing Bodies to manage the risks involved in purchasing.

Terminology can be tricky, so if there's anything you don't understand in the document, then please check out the Glossary in chapter 14.

2 What are the Rules?

There are specific rules about spending money from a County Council delegated budget and these are fully outlined in the Procurement Standing Orders for School Governing Bodies with Delegated Budget document.

Whilst this document offers support and guidance and suggestions on how to implement the rules, it must be remembered that the rules always take precedence.

The contract letting process will vary substantially depending on the value, the risk and the nature of the goods, services or works being sourced.

- Goods are the tangible items a school might need – such as sports equipment.
- Services are often intangible and might include things like someone coming to repair a fence.
- Works are for when there are some building works going on on site.

Assuming that you have established the need for something that you are going to need to buy, what follows is the basic guidance for obtaining goods or services over the £5,000 threshold. This document can also provide useful guidelines for purchases below this amount but are not mandatory below this level.

Over the page is a table to show the contract spend limits for your reference. These are taken from the Procurement Standing Order document, but are not a substitute for reading and understanding the document content.

Summary Table – Process for finding new suppliers at each threshold level

Aggregate value	How many quotes are required?	How should you approach the market?	Should the contract be formally advertised?	Who must approve the contract award?	Who signs the contract?	Notes
£0 to £4,999 goods or services (£15,000 works)	One written quotation	Email/call supplier Obtain best price Use Select List or framework if appropriate	No, obtain best price only required Check the market place and select company	Full Governing Body or, if lowest price or MEAT, can be delegated to Headteacher or committee	Governing Body unless Headteacher approved to sign recorded on the committee minutes	
£4,999 to £49,999 goods or services (£99,999 works)	Minimum of three written quotes	Invitation to Quote (to at least 3 companies) Use Select List or framework if appropriate	No, Invitation to Quote (to at least 3 companies) OR Use Select List or framework if appropriate	Full Governing Body or, if lowest price or MEAT, can be delegated to Headteacher or committee	Governing Body unless Headteacher approved to sign recorded on the committee minutes	Where three written quotes are not available as there are not enough suppliers in the marketplace, a file note must be kept to outline this.
£50,000 to EU Limit: £172,514 (goods and services, including consultancy) £100K to £4.3M (works)	follow tender process	Issue Invitation to Tender following Standing Orders	Yes, via newspaper, relevant trade journal	MEAT must be used, so full Governing Body unless formally delegated to committee or Headteacher	Governing Body unless Headteacher approved to sign recorded on the committee minutes	
Over EU limit* Over £164,176(goods and services) Over £4.1M (works)	OJEU tender process	Issue Invitation to Tender or negotiate via European Procedures	Yes, via newspaper, relevant trade journal and OJEU	MEAT must be used, so full Governing Body unless formally delegated to committee or Headteacher	Governing Body unless Headteacher approved to sign recorded on the committee minutes	Advice on EU Procurement procedures should be sought from Director of Children's Services or Assistant Director Property (BSD).

Note – the values above are the TOTAL Contract value for the full contract period, not the annual value. The above table sets out the minimum actions based on spend, but high risk projects and contracts may require additional work

OJEU procedures apply above the EU limit, these are specific compulsory procurement regulations - EU limits correct as at changes 1st January 2016

3 Where do I start?

This phase is about understanding what you're going to need and is essential for ensuring that the resulting contract operates well.

- Defining budget for your requirements
- Identifying exactly what it is you're trying to deliver
- Identifying and engaging with key stakeholders
- Production of Specification
- Working out which process to use (eg. quote/tender)
- Establishing criteria for evaluating tender responses

At the outset it is always necessary to work out whether there is a **budget** for the requirement as well as the resources and payment processes that will be required. Consider the total cost, rather than just purchase costs, especially where purchases have ongoing maintenance or replacement costs

It is essential to establish what the **key requirements** are (rather than the perceived needs). Then you will be able to draw up a clear set of objectives for what you want to deliver and be able to explain why it needs to be done. Here's where you would also talk with **key stakeholders** to plan what needs to be done. Key stakeholders would be users of the good, service or works, or other people or groups who use or have an opinion about the facility or service.

Producing the **Specification** is really key in being able to deliver the contract, whatever it is for. This can be done in several ways, but the two most common are input and output specifications. Input specifications define all of the parameters of what is being delivered and output specifications just define the output requirements, allowing for more innovative solutions. *There is an example to clarify this in Section 6.*

At the same time as the Specification is done, and bearing in mind the key objectives that have already been established, it is essential to work out what **Criteria** will be used for marking the tender. You would normally consider price as a key factor, but MEAT (the most economically advantageous tender) is the way that the Council normally considers what is going to offer the best result, so it may be worth considering quality factors, such as time, H&S etc.

Once these elements are covered off, the tender phase of the process begins, and that needs to be managed well to ensure the best deal is obtained.

4 What to consider

In this section we'll look at things that are really helpful to consider at the outset. It's not an exhaustive list and if you need extra support, then check out the "Where to go for help" chapter.

Health and Safety

For more risky projects (such as where building work has to be carried out), Health and Safety must be considered. It is always a good idea to carry out a risk assessment if there is a risk involved and identify what needs to be controlled and how.

Insurance

Insurance is typically required for all service contracts. This may be composed of Public Liability Insurance, Professional Indemnity Insurance and so on. Specific levels of insurance required are based on the nature and scale of the risk involved.

EU Rules

We have a requirement under EU rules to advertise any contract more widely where it might be deemed of interest to the European Union. These contracts are over £164K (total value as opposed to annual value) for goods and services, and much higher for works (see also page 5 for guidance on limits). Once the EU limit is reached, more rules apply as to how a tender is let.

Sustainability & Social Value

The Social Value Act 2012 places an obligation on public bodies to consider if there can be any additional benefit to the economic, social and environmental well-being of the area linked to any service contract which they are letting which is over the EU threshold. Specifically, for all contracts over this threshold, when planning to let a contract or framework agreement, a school must consider at the pre-procurement/planning stage:

- (a) how what the school proposes to procure might improve the economic, social and environmental well-being of the relevant area, and
- (b) how, in conducting the process of procurement, it might act with a view to securing that improvement, where relevant to the goods and services to be procured. In doing so, the school must consider the extent to which it is proportionate in all the circumstances to take those matters into account.

Financial Suitability

When awarding contracts (and in particular contracts of a higher value), we need to ensure that the company that is being awarded the contract is capable of dealing with it in all aspects (such as volume and value). This is to ensure that the contractor does not go bust during the delivery of the contract. It is accepted practise not to award a contract to a supplier where the annual value of the contract exceeds 25% of the contractor's turnover, although this might be

increased where a high proportion of the costs is labour cost. What is acceptable will depend on the industry concerned.

Conflict of Interest

A conflict of interest is a situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self interest and professional or public interest. For example, someone who is working on a tender could be related to a person who is submitting a tender.

All purchasing decisions must be free of conflict of interest. Staff, governors and suppliers must declare all real and potential conflicts of interest and these must be recorded. If a supplier is subject to a conflict of interest this doesn't mean they can't be considered, so long as the conflict is declared, recorded, its potential impact assessed and any risks managed appropriately.

Leases

Schools should remember that many leases are defined as borrowing and as such are outside of their power to authorise.

Record Retention

All original, signed contracts for goods, works and services valued at over £50,000 should be kept in a secure, fireproof location. Scanned electronic copies also need to be held securely.

All received tenders and questionnaires must be retained for a minimum of 18 months following the issue of a contract award.

All signed contracts under £50,000 (including all tender documents) must be retained for a minimum of 6 years following contract expiry.

All signed contracts over £500,000 (including all tender documents) must be retained for a minimum of 12 years following contract expiry.

5 Contract Letting Process

	Process	Notes and Comments
1	Identifying the need	Begin by establishing the core need. Establish aggregate value of the arrangement.
2	Establish key needs with stakeholders	Establishing the actual business need (rather than perceived need)
3	Decide route to market	Devise the most appropriate route to market for the spend and risk – be it quote process or tender
4	Develop Specification	Which type of specification will be most appropriate here – output or input – whether any technical standards need to be applied
5	Proceed to market	This might be either a quote process or a full tender based on the value, complexity etc.
6	Gather responses	Collect the responses together ready to assess them.
7	Evaluation	Evaluating the responses from different suppliers, to identify a winner.
8	Clarification	This is the opportunity to clarify any part of the tender returns which were not clear
9	Contract 'Award' process	Obtain all the necessary sign off and then tell the supplier that they have won the contract
10	Implementation	Always consider the time required for this carefully and talk to the supplier involved. Will they need to be given anything to enable them to start work?
11	Contract management	If you are tendering for a service, it may be necessary to manage the quality of the service over time (e.g. is the supplier providing everything they promised in the tender - are they turning up when they said they would and doing the work that was agreed?)
12	Change Management	Any changes need to be formally recorded during the contract
13	Contract finish	

6 Producing Specifications

Defining the needs of your contract is a key part of delivering what you want.

The more this is clearly defined and communicated to potential suppliers, the more likely you are to get what you want.

Typically there are two types of specifications; input and output. Input strictly defines what you want and output defines the result you are looking for.

Example - if you were specifying an air conditioning unit you could either choose:

- a) Specifying the fact you want an air cooling unit, which fitted into a specific sized office space and was a certain colour or shape, featured remote control and so on... (Input specification) or
- b) Ask for a solution that controlled the temperature of a given room between x and y temperature (output specification).

The second method would clearly allow for a wider range of solutions to be developed.

It's useful when thinking about a specification to think about some key factors:

- **Why - sometimes it's worth explaining your objective**
- **What - explain what you want to achieve**
- **When - have you got any specific deadlines you need to meet**
- **Where - are there any parameters around location**
- **Who - are there any restrictions**

If you're considering a service contract, it might be useful for you to think about some performance standards. These are often termed as Key Performance Indicators.

Key Performance Indicators (KPIs) can form part of a contract agreement. These are measurable, quantifiable targets that help measure the effectiveness of service delivery.

When setting KPIs, keep in mind that they may have short, medium or long term objectives and they must be SMART;

- Specific** - clearly defined goals that are understood by all parties
- Measurable** - if something is measurable it is easy to measure improvement
- Agreed** - both parties agree to the goals

Realistic - are the goals realistic and achievable?

Timely - is there sufficient time to achieve the goal?

Producing regular (and at times, ad hoc) **Management Information (MI)** can really help when examining the contract performance, as well as highlighting benefits achieved, and opportunities and issues with the contract.

7 Terms and Conditions

How a contract is formed

In simple terms, a contract may be defined as an agreement between two or more parties that is intended to be legally binding. The first prerequisite of any contract is an agreement (consisting of an offer and acceptance). At least two parties are required; one of them, the offeror, makes an offer, which the other, the offeree, accepts.

If you weren't recording your actions by the use of a tender, you might get a quote from a supplier.

If you were asking for a quotation for some work on the roof of your house, you might get a quote which has terms and conditions on the reverse from the roofer. If you accepted this quote, the contract is formed and the terms and conditions (or T&Cs) apply. Make sure any terms and conditions are not at odds with your requirements.

Exactly the same could happen if you do this when you seek quotations for work carried out on behalf of a school. So it makes sense when you're doing your quote or tender to use a standard set of terms and conditions, so that yours apply. We have prepared a standard set of service terms and conditions for you which are enclosed in the appendix (page 21).

For this reason, using a properly formed quote or tender is a great way to protect the school for higher value contracts. The higher the risk and value, the more needs to be done to manage the contract process.

The templates enclosed in the appendix in this document protect you from this risk (amongst others!).

8 Requesting Quotes and Running Tenders

When you go to market to ask for responses, you use a quotation form or a tender, depending on the value of spend, the complexity of the work and the risk involved.

Quotations

Quotations are pretty straightforward and intended for lower value requests typically under £50,000

When you send a request for a quotation this might involve, but is not limited to:

- A covering letter, asking for what you want and giving a deadline to return it.
- A brief specification, saying what you'd like included as part of the work
- A blank quotation form, ready for the supplier to fill in and return to you
- Standard T&Cs

Tenders

Tenders are more complex and intended for higher value requests of £50,000 and over.

When you send an Invitation To Tender (ITT) this might involve, but is not limited to:

- A covering letter, asking for what you want and giving a deadline to return it.
- A full specification
- A pricing schedule for the supplier to add their prices to and return to you
- Standard T&Cs
- Standard declarations

Examples of all of these forms are included in the Appendix section for your reference. The highlighted areas are the ones you need to amend.

A few things to remember:

- **Always ask for prices without VAT.** This makes them comparable (everyone quotes on the same basis) and also, the VAT, if charged, can be claimed back afterwards, so you only need to worry about the price without VAT.
- **Tenders or quotes should be returned on a specific date and time**, and be returned to one person, who opens them all up at the same time. Each return should be labelled in the same way, with no identifying marks on the envelope
- **Remember to add the name and number of a contact person** who can answer any questions related to the project, in case the supplier has any questions.

9 Evaluation

When your tenders or quotations are returned, they need to be opened and assessed.

For a quotation process, this is quite straightforward and you will likely pick the cheapest quote and go on from there.

For a tender, the process is slightly more complex.

You will need to assess the tender responses to make sure that you get what you want. This often uses the MEAT (most economically advantageous tender) option, rather than just the cheapest one.

Typically you will assess on price and quality.

First decide which proportion this should be in e.g. 70% price and 30% quality.

Then think about what points will constitute a good quality score. This might include points such as ability to meet the deadlines, qualifications to carry out the work or deliver the goods etc.

See the appendix on scoring for more help in this area.

Record all the scores you award to each supplier and keep a record of what's happened.

The supplier with the highest score at the end will be the person you award the contract to.

10 Contract Award

Obtaining authorisation

Depending on the value of the contract, you will need to seek authority to award as defined in the rules. This is usually from the governing body unless the Headteacher has been formally delegated with the authority to award. *(This should be recorded in the school's Scheme of Delegation)*

Communicating with Suppliers

Once this is done you're ready to inform the suppliers of your decision

Remember you need to inform the successful and unsuccessful suppliers of your choice!

For a simple quote, you might do this by phone, but for a full tender, it's worth doing in writing and acknowledging the work involved in producing a tender.

A template for each of these can be found in the Appendices.

11 FAQs

What happens if I want to get quotes but I only get two and not three?

You will need to evidence that you have tried to get three quotes. Keep the evidence and proceed with the rest of the Request for Quotation Process.

What is acceptable evidence for H&S issues?

Increasing value and/or increasing risk of the goods/service means a more serious H&S assessment is required. If the nature of the risk is high then it will need to have a risk assessment carried out. It may also be necessary to apply specific additional risk information, such as working at height (if you were applying for something like window cleaning services). Keep a record of all the information/assessments that are made.

How do I manage contract changes (variations)?

Keep written evidence of any variations (changes) to the contract on file. Remember, changes that are made that change the fundamental nature of the contract you've put in place could cause the contract to become void. If this were the case you'd need to retender/re-quote.

What happens if I go over the EU limit?

You will be at risk of a legal challenge, which could have a financial risk to the school. This is a serious issue and should be avoided.

What is a preferred supplier or a preferred list?

Preferred lists are simply lists of suppliers that may be able to supply the goods or services you require. They often do not get checked once the list has been made.

Preferred suppliers lists can be very difficult to maintain as they may not guarantee the quality of the supplier in question. As a result, we tend not to have many preferred lists. If in doubt please contact procurement

13 Glossary

Aggregated purchase value	The total value of a contract over its life including all “hidden extras” When calculating the cost of a contract in order to assess what contract process would be appropriate, this is the calculation that is used rather than something else, such as annual spend.
Change management	Change management is a structured approach to altering service provisions within the contract from its current status to its newly refined requirements. Having the scope, personnel and capabilities to implement necessary alterations and variations to enhance the contracted service are key aspects.
Collaboration	A partnership working style where common goods are procured together to obtain the economies of scale of doing this and therefore better prices
Communication	There needs to be consistent, effective and timely dealings between the local authority departments and the supplier(s) with relevant and key personnel. All matters relating to contracts need to be conducted in an open (two-way process), transparent, receptive, and professional manner in order to ensure value for money is achieved.
Contract	An agreement is put in place between two parties whereby a service is provided in return for payment. Every contract should define the services to be provided in the specification. Defining the delivery and performance standards to be expected is also essential. These standards are often referred to as SLAs
Contract administration	Keeping contract records up-to-date with regards to documentation, contract updates and any variations, progress reports, meeting outcomes. This should be the responsibility of the client – or a delegated administrator. The need to keep a contract file for all-important pieces of documentation is of the up most importance.
Contract initiation	The commencement stage of service delivery – an extremely critical part of the contract duration. It is important to monitor the service in its start-up phase as problems can be solved promptly
Contract meetings	Matters discussed will include but not limited to contract performance progress, the need for alterations, future targets. All-important matters to arise from such discussions should be recorded and stored on the contract file.
Contract Monitoring	This is the process that ensures all parties to the contract fully understand their respective obligations enabling these to be fulfilled as efficiently and effectively as possible to provide even better VFM.
Contract obligations	All parties involved have a legal duty to honour commitments to each other and the service users. They are duty bound to meet their objectives that binds them to the contract.
Designated client	The purchasing authority will assign an individual with the task of overseeing the running of a relevant contract. Day-to-day matters and performance delivery issues will be channelled through this person.
Financial	A precautionary measure to ensure the on-going financial

safeguarding checks	viability of the supplier(s) to guarantee service delivery can be provided to the agreed pre-defined contract specification. Procurement does this for high value high risk contracts.
Funding/Budgeting	Ensuring that contracts have the correct budgetary funding streams in place to last for the duration of the contract period. If funding levels are to be split between differing contract requirements, it is vital there are no levels of overspend which detracts from other matters of that contract.
LA	Local Authority
Legal processes	Ensure the contract is managed in a way that legally is in accordance with guidelines, and does not deviate from the original terms and conditions. Any alterations during the duration of the contract will require legal approval.
Low risk purchases	Dealing with low risk and generally low value purchases on a regular basis. These types of products require minimal contract management e.g. stationery.
Procurement	Defined as being the acquisition of goods and/or services under legally binding contractual terms and conditions, which have been agreed by all parties, and forms the basis for a contract. Such acquisitions are for the direct benefit of the contracting authority, necessary for the delivery of the services it provides or for the running of its own business.
Relationship management	Ideally there should be a positive, pro-active dialogue and rapport between both the purchasing and supplying organisations. Local authority departments should aim to be a good customer, and openly encourage feedback from suppliers and ask for any suggestions on how the relationship could be improved or processes streamlined. The overall objective of this phase is to monitor and rate the performance of your suppliers in order to develop their service and aim for continual improvement.
Scope Creep	Also called focus creep, requirement creep, future creep. This can occur when the scope of a project/contract is not properly defined, documented, or controlled. It is generally considered a negative occurrence that is to be avoided.
Service delivery	Whilst the supplier ensures the contract output is achieved to the agreed standard for end users, there needs to be an effective partnership arrangement in place to achieve the original targets.
Service Level Agreement	A commitment that sets binding conditions with detailed specifications for levels of outcome and output performance. An SLA can relate to a 'supply' of a service or an administration of a grant award. The SLA reflects a common understanding about services, priorities, responsibilities, guarantees and warranties. Each area of service scope should have the 'level of service' defined. The SLA may specify the levels of availability, serviceability, performance, operation, or other attributes of the service such as billing.
Service review/Performance monitoring	Methods of measuring service delivery to ensure the pre-defined and/or updated targets are realised. Through such practices it will be possible to identify what aspects are working to plan, along with aspects that require further enhancement and

	reviews.
Supplier/provider viewpoint	Consider the views and proposals of the supplier. Contract management is a two-way process based on joint working. A 'win win' scenario should be the aim.
TUPE	Transfer of Undertakings (Protection of Employment) Regulations This is a piece of legislation that protects someone who is working on a contract, where the contract is taken over by another party when the contract ends. In basic terms, the person has the right to transfer to working to the new supplier, taking their current terms and conditions (including pay) with them. A very complex piece of legislation, which requires Legal advice.
Value for money (VFM)	Ensuring contracts are procured with the intention to secure maximum benefit from the goods and services, within the resources available to the procuring authority. It not only measures the cost of goods and services, but also takes account of the mix of quality, cost, resource use, fitness for purpose, timeliness and convenience to judge whether or not, when taken together, they constitute good value. Achieving Vfm may be described in terms of the 'three Es' - economy, efficiency and effectiveness:
Whole Life Costs	Also known as Total cost of ownership. The decision-making process to analyse the full costs throughout the life of an asset/service. Also commonly referred to as "cradle to grave" or "womb to tomb" costs.

14 Appendices

Here are the template documents to help you construct quotations and tenders:

1. Covering letter for tender or quotation

- i. Fill in highlighted areas
- ii. Ensure that the quotation/tender information is correct depending on which one you are using.



ESCC Covering letter
for quotes or tenders

2. Quotation Form (For RFQ's)

- i. Enter quotation title in cell B9



ESCC quotation
document.xlsx

3. Specification

- i. The Specification communicates your expectations to the supplier (see also section 6)
- ii. This is a key documents when you are seeking a quotation or tender
- iii. Fill in the highlighted areas
- iv. It is likely that there will be more detail for a tender than a quote.
- v. Change RFQ to ITT if applicable



ESCC
specification.doc

4. Standard T&Cs (for ITT's and Quotes)

- i. Fill in all the highlighted areas, including title of the work, name and address of the school.
- ii. Page 3; fill in commencement date and contract duration
- iii. Page 10; enter contract price
- iv. Page 11; enter insurance detail appropriate to contract
- v. Page 15; enter termination notice period (notice period given to supplier to end contract)
- vi. Page 32; the School and Successful Supplier to sign – this section is to be left blank until the contract is agreed, then it needs to be signed off by both parties.



ESCC standard
Terms and Conditions

5. Pricing Schedule (For ITT's)

- i. Fill in the tender title on the front cover tab
- ii. Ensure that all the things you need priced are laid out in the later sections
- ii. The rest of the document will be filled out by the supplier and returned to you as part of their submission
- iii. This is a pricing schedule for more complex and detailed Tenders



ESCC pricing
schedule for complex

6. Standard Declarations/Bidder Warranties

- i. Fill in the tender title near the top of page one and the tender/quote elements
- ii. The rest of the document needs to be completed by all tenderers



ESCC bidder
warranties.doc

7. Tender Return Label

- i. This needs to be completed showing where you want the responses to be sent to



ESCC tender return
label.docx

8. Tender Record Schedule

- i. Two members of staff need to open and witness tender value for each supplier
- ii. Fill in the highlighted areas



ESCC tender return
record.docx

9. Tender evaluation sheet

- i. This is for scoring suppliers who have submitted a tender
- ii. The template is pre loaded
- iii. Score each supplier a score from 0 – 5
- iv. Tab four (Moderation Sheet) - each of the three evaluators (there will be times when you don't have three evaluators) enters their scores in the appropriate box. The pre loaded template will calculate a final score for each supplier



ESCC tender
evaluation.xlsx

10. Contract Award Letter

- i. Send out to the successful tenderer
- ii. Fill out the highlighted areas
- iii. Remember, when sending this out, to attach copies of the T&Cs so the supplier can sign them and return them to you.



ESCC successful
letter.doc

11. Unsuccessful Letter

- i. Send out to the unsuccessful tenderers
- ii. Fill out the highlighted areas



ESCC unsuccessful
letter.doc