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Interpretation

1. **“Blanket Order”** means an order raised with a supplier for a specific range or category against which individual requirements will be drawn down / ‘called off’ over a period. Typically, the overall quantities are not known precisely at the start of the arrangement, so a commitment is given to fix the terms of the agreement for a specified period, for example, six months or 12 months.
2. **“Business Continuity”** means the capability of the University to continue to delivery its core services at acceptable predefined levels following a disruptive incident.
3. **“Category Manager”** means the member of the Procurement Team authorised by the Head of Commercial Finance to manage the procurement of a category or categories of goods, services and/or works. Where there is no Category Manager for the goods, services and/or works being procured the Head of Commercial Finance shall adopt this role.
4. **“Concessions”** are Contracts of the same type as public service Contracts, except for the fact that the consideration for the provision of services or works consists either solely in the right to exploit the service or work, or in this right together with payment. The [Concession Contracts Regulations 2016](#) (amended by the [Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)), to be complied with where awarding a Concession Contract, provides a fuller definition, stipulates how the Estimated Value of such a Contract is to be calculated, and includes the principles and minimum timescales with which to adhere when procuring a Concession.
5. **“Contract”** means a binding agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.
6. **“Contract Extension”** means an extension to the duration of the Contract, but not including any alteration to the scope of the Contract.
7. **“Contracts Finder”** means the Contract Opportunity Publication which the Public Contracts Regulations 2015 require be used to advertise a Procurement Exercise for a Contract with an Estimated Value exceeding £25,000, which the Procurer has decided to openly advertise.
8. **“Contract Manager”** means the member of Staff to which the Dean of School/Head of Professional Service allocates the responsibility for managing a contract, as defined in Regulation 6.2. This person may or may not also be the Procurer who established the Contract.
9. **“Contract Notice”** means a Contract Opportunity Publication as defined in the Public Contracts Regulations 2015.
10. **“Contract Opportunity Publication”** is the means by which a Procurement Exercise is advertised, and includes (where appropriate) the Contract Notice as defined in the Public Contracts Regulations 2015.
11. **“Contract Variation”** means an alteration to the scope of the Contract, but not the extension of the duration of the Contract.
12. **“Dynamic Purchasing System”** means a completely electronic process, which has a limited duration, for making commonly used purchases, as more particularly defined and described in the Public Contracts Regulations 2015.
13. **“Enterprise Resource Planning (ERP) system”** means the business process management software used by the University (currently SAP) that allows it to use a system of integrated applications to manage its business and automate back office functions, including invoice matching.

14. **"Equality Act 2010"** means the legislation that protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone.
15. **"Estimated Value"** means the value as estimated under Regulation 2.1.
16. **"Exception Form"** means the form developed and issued by the Head of Commercial Finance to be completed and submitted to the required approver(s), as identified in these Procurement Regulations for the particular exception, by the Procurer/Contract Manager.
17. **"Threshold"** means the respective threshold for Supplies, Works, or Services Contracts, excluding Social and Other Specific Services, referred to in the Public Contract Regulations 2015.
18. **"Finance Committee"** means the committee that reports to Council (the University's supreme governing body) recommending the Annual University Budget and Medium Term Financial Forecasts, determining the University's Financial Regulations, and overseeing its procurement arrangements.
19. **"Financial Control Team"** means the team responsible for the University's technical accounting and transaction processing, for which the Head of Financial Control is responsible.
20. **"Find a Tender"** means the Contract Opportunity Publication which the Public Contracts Regulations 2015 (amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020) require be used to advertise a Procurement Exercise for a Contract above the Threshold.
21. **"Formal Tender Process"** is a process following the requirements of Open Tendering, Restricted Tendering, the Competitive Procedure with Negotiation, the Competitive Dialogue or Innovation Partnership procedures. It also encompasses the lighter regime for procuring Social and Other Specific Services as defined in the Public Contracts Regulations 2015.
22. **"Framework Agreement"** is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. The Framework Agreement may, itself, be a Contract to which the Public Contracts Regulations 2015 apply.
23. A **"Further Competition"** is undertaken where not all the terms of a proposed Contract are laid down in a Framework Agreement. It involves re-opening competition between the economic operators which are parties to the Framework Agreement and which are capable of performing the proposed Contract, on the basis of the same or, if necessary, more precisely formulated terms, and where appropriate other terms referred to in the Contract documents based on the Framework Agreement.
24. **"Head of Financial Control"** means the head of the Financial Control Team.
25. **"Head of Commercial Finance"** means the Head of the Commercial Finance.
26. **"Information Security"** means defending information from unauthorized access, use, disclosure, disruption, modification, perusal, inspection, recording or destruction.
27. **"Invitation to Tender"** means the document(s) containing the specification, proposed terms and conditions and other appropriate information as issued to the Tenderers to solicit Formal Tenders.
28. **"Irregular Tender"** means a Tender that does not fully comply with the instructions given in the Invitation to Tender.

29. **“Key Performance Indicators”** means a set of quantifiable measures, including targets, built into a Contract, to allow the University to monitor a Supplier’s performance in delivering the Contract.
30. **“Mandatory Contract”** means any Contract or Framework Agreement or other arrangement put in place by the University itself, the North Eastern Universities Procurement Consortium (NEUPC), or any other Public Sector Organisation (including other university) or Consortium in which the University is entitled to participate and which, where necessary, has been awarded in an compliant manner.
31. **“Midlands Innovation”** means the group of Midlands research-intensive universities - Leicester, Birmingham, Loughborough, Nottingham and Warwick and Aston - that is exploring how to boost research collaboration and improve sharing of equipment.
32. **“OJEU”** means Official Journal of the European Union, the Contract Opportunity Publication which the Public Contracts Regulations 2015 required be used to advertise a Procurement Exercise for a Contract above the Threshold, before being amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020; after which OJEU was replaced by Find a Tender.
33. **“Operations Committee”** advises Senate on the future academic developments of the University, having particular regard to the financial and physical implications of such developments. The committee holds budgets for projects.
34. **“Person”** includes a partnership, body corporate or unincorporated association.
35. **“Post Tender Negotiations”** means the ability to negotiate with a Tenderer after a Tender has been opened and evaluated in accordance with the published evaluation criteria for the purposes of securing an improvement in the delivery of the Contract including but not limited to improvements in price.
36. **“Prior Information Notice”** means the notice published to make known the University’s intended planned procurements, as defined in the Public Contracts Regulations 2015.
37. **“Procurement Exercise”** means any process by which goods, services and/or works are to be procured including but not limited to Request for Quotations and Formal Tender Processes. For the purpose of these Regulations a Contract for a Concession shall be treated as a Procurement Exercise.
38. **“Procurement Strategy ”** means the strategy document that explains the University's procurement aims and how it intends to realise these aims.
39. **“Procurement Team”** means the centralised procurement team for which the Head of Commercial Finance is responsible.
40. **“Procurer”** means any member of University Staff, including academics, allocated the responsibility of procuring goods and services by their Dean of School/Head of Professional Service, who is responsible for the procurement of goods and services.
41. **“Public Contracts Regulations 2015”** means the Public Contracts Regulations 2015 laid before Parliament on 5th February 2015, as amended by the [Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)
42. A **“Quotation”** is an offer to sell works, goods and/or services at a stated price under specified conditions. A Quote or Quotation may or may not be written.
43. **“Request for Quotation”** (“RFQ”) means a document or documents containing the specification, and proposed terms and conditions issued to potential suppliers to solicit written Quotations.

44. **“Risk(s)”** means the risks inherent to a Contract; the potential adverse effects of the Contract not being performed as required. Examples of risks include disruption to the University’s core business operations and the loss of sensitive University data.
45. **“Social and Other Specific Services”** are defined in the Public Contracts Regulations 2015, which outline a lighter regime of regulations to be followed when procuring such services with an Estimated Value of £633,540 incl. VAT or more. The types of services included are postal services and hotel and restaurant services.
46. **“Specification”** means the document used to clearly and accurately describe the essential requirements for the goods, services or works.
47. **“Spin-out Company”** is a new corporate entity, functioning separately from the University, for developing ideas with commercial potential.
48. **“Standard Terms and Conditions”** means standard Contractual terms used by University of Leicester.
49. **“(Members of) Staff”** means employees of the University, including academics.
50. **“Tender”** means the formal offer from a Tenderer, which is capable of acceptance by the University, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements as well as information about the Tenderer. A written Quote or Quotation is also a Tender.
51. **“Tenderer”** or **“Tenderers”** means the Person or Persons invited to participate in a Procurement Exercise.
52. **“Total Value”** means the value of a Contract which has been calculated in accordance with Regulation 2.1(b) reading where appropriate Total Value for Estimated Value.
53. **“University”** means the Loughborough University.
54. **“In writing”** or **“written”** for the purpose of interpreting these Regulations includes transmission by any electronic means which have been approved by the Head of Commercial Finance.

Words imparting the masculine include the feminine gender.

1. GENERAL

The Procurement Regulations form part of the University’s Financial Regulations. The responsibility for formulating the Procurement Regulations rests with the University’s Finance Committee. The purpose of the Regulations is to ensure that the University gains value for money when undertaking its procurement activity and ensure compliance with public procurement law. The Regulations include the University’s approval levels when accepting tenders, awarding Contracts, placing orders, varying and extending Contracts, and gaining exceptions to the Regulations.

1.1. Compliance

Staff must comply with these Regulations. Failure to do so may result in disciplinary action.

1.2. Allocation of Responsibilities

Deans of School/Heads of Department may allocate their responsibilities under these Regulations to members of their Staff, following the details of these allocated responsibilities having been provided to the Head of Commercial Finance.

1.3. Interpretation

Words and expressions used in these Regulations are to be interpreted in accordance with the provisions of the Interpretation section.

1.4. Application

(a) These Regulations apply to every procurement Contract made by or on behalf of the University except Contracts:

- (i) for only the acquisition or disposal of any interest in land;
- (ii) for the lending or borrowing of money;
- (iii) of employment (making an individual a direct employee of the University).

(b) These Regulations apply where a University Spin-out Company could deliver the Contract.

1.5. General Requirements

(a) Every Contract or official order for works, supplies or services made by the University shall be for the purpose of implementing the University's policies and must be made in accordance with the University's Procurement Strategy.

(b) When proposing to procure or making arrangements for procuring a service Contract where the Estimated Value exceeds the Threshold then consideration must be given as to how the Contract might improve the economic, social and environmental wellbeing of Leicestershire, as required by the Public Services (Social Value) Act 2012.

(c) The Procurer must consider what Risks the Contract presents ahead of any Procurement Exercise, taking proportionate account of any Risks identified during the subsequent Procurement Exercise and within the resultant Contract. The types of Risk for the Procurer to consider include those relating to Health & Safety, Business Continuity, and compliance with the Equality Act 2010, the Modern Slavery Act 2015, and the Data Protection Act 2018.

(d) The Procurer must contact, take advice and, where necessary, gain approval from the University's appropriate Professional Services before commencing the Procurement Exercise, where relevant to the Contract. For example:

(i) The Estates & Facilities Management Department must be contacted where the Contract will have a dependency and/or impact on University buildings, building services or infrastructure;

(ii) The Head of Financial Control must be contacted where the Contract involves the collection of income on behalf of the University; and

(iii) The IT Services Department must be contacted and give its approval where the works, services or goods to be procured have an IT element and/or interface with the University's IT systems; for example, where the product or service being procured is based on Cloud Services.

- (e) The Procurer must ensure that Contracts approved as Mandatory Contracts by a Category Manager are used to order the respective supplies, services and works, unless it is agreed by the Category Manager that better value for money can be clearly demonstrated outside of these approved Mandatory Contracts.
- (f) The following services must be delivered by the University's in-house provision unless the Head of Commercial Finance approves a Procurement Exercise being undertaken or an exception being sought in accordance with Regulation 1.6:-
 - (i) Marketing, audio visual, design, print and postal services to be provided by the appropriate Corporate Services department;
 - (ii) On-site catering services to be provided by University Catering Services;
 - (iii) Conference Services to be arranged using University facilities;
 - (iv) Overnight accommodation for visitors to be arranged using University facilities;
 - (v) Managed IT services to be provided by IT Services; and
 - (vi) Buildings, building services and infrastructure to be delivered by the Facilities Management Department.
- (g) Before commencing a Procurement Exercise for research equipment and specialist machines the Procurer must first check whether such equipment is available to be used from elsewhere within the University or amongst the other members of the Midlands Innovation group of research-intensive universities, by consulting the online Kit-Catalogue.
- (h) Procedures set out in the relevant UK legislation must be complied with at all times.
- (i) Based on criteria laid down by the Head of Commercial Finance, the Procurer will be responsible for evaluating the financial status of Tenderers and suppliers.
- (j) The Procurer must ensure that sufficient budget provision has been agreed with the budget holder or Operations Committee prior to any Procurement Exercise being undertaken and must provide evidence of there being a budget to the appropriate Category Manager where the Procurement Unit is to undertake the Procurement Exercise.
- (k) All Procurement Exercises for Contracts with an Estimated Value of £50,000 or more must be undertaken using an electronic tendering system approved by the Head of Commercial Finance (currently Delta), unless otherwise agreed with the Head of Commercial Finance.
- (l) Subject to the provisions of Regulation 5.1(b) (Framework Agreements) Contracts shall not be longer than four years (including extensions) or of indeterminate length without the written approval of the appropriate Category Manager. Any such approval shall be sought prior to the commencement of the Procurement Exercise.
- (m) For all Contracts dependent on grant funding the Procurement Exercise and Contract must adhere to, and reflect, all relevant grant conditions that stipulate requirements that go beyond these Regulations.

1.6. Exceptions

- (a) Subject to the requirements of Acts of Parliament and UK Regulations the following Contracts may be placed by direct negotiation with a supplier, Contracts:-



- (i) for supplies, materials, services or works which are available only as proprietary or patented articles, services or works from one Contractor or supplier and for which the Dean of School/Head of Professional Service and the Head of Commercial Finance decide that there is no reasonably satisfactory alternative available in the UK and for repairs to, or the supply of, parts of existing proprietary or patented articles or works, including machinery or plant;
 - (ii) for works of art or historical documents;
 - (iii) which constitute a variation or extension of an existing Contract, as permitted by the Contract and/or the University's Financial Regulations subject to the provisions of Regulation 6.2 (Contract Variations), Regulation 6.3 (Contract Extensions) and 6.4 (Novation of Existing Contracts).
- (b) Other exceptions to these Regulations may only be made within the relevant law and with the authority of the appropriate Category Manager where the Estimated Value of the proposed Contract is between £10,000 and £49,999, and the Head of Commercial Finance and the Director of Finance where the Estimated Value of the proposed Contract is £50,000 or more. In requesting authority for an exception to these Regulations the Exception Form must be completed and submitted to the appropriate Category Manager or Head of Commercial Finance, depending on the Estimated Value of the proposed Contract, where the Dean of School/Head of Professional Service has approved the exception request.

1.7. Financial Thresholds and Delegation

- (a) Financial limits and thresholds within these Regulations may be varied from time to time by exception by the Finance Committee.
- (b) Arrangements for delegation of functions to members of Staff within these Regulations may be varied from time to time by the Director of Finance.

1.8. Annual Reporting

The Head of Commercial Finance shall at least once in each financial year submit a report to the Finance Committee in relation to the operation of these Regulations, including, among other things, details of the approved exceptions to these Regulations and approved extensions to Contract, where not provided for in the Contract, and proposed revisions to these Regulations and/or changes required to accommodate the requirements of UK procurement law as may be necessary from time to time.

1.9. Ethical Procurement

- (a) The Financial Regulations under the headings of Fraud, Corruption and Whistleblowing and Code of Conduct, and the Corporate Code of Ethics of the Chartered Institute of Purchasing & Supply apply to any Procurement Exercise.
- (b) Every written Contract will include the standard Prevention of Bribery and Corruption clause included within the University's Standard Terms and Conditions for Goods and Services, or a clause that is substantially similar.

2. PROCUREMENT EXERCISE

2.1. Pre-Estimate

- (a) Before any Procurement Exercise is begun the Procurer must calculate its Estimated Value in accordance with this clause.
- (b) The Estimated Value shall be calculated as follows:

- (i) Where the Contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the Contract;
 - (ii) Where the Contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;
 - (iii) For Concessions the Estimated Value shall be the estimated gross value of the service before income over the Contract period;
 - (iv) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;
 - (v) Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 48 month period;
 - (vi) Where the University may be contributing only part of the Total Value of a Contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Regulations.
- (c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Regulation 2.2 must be used.
- (d) Where the Estimated Value is £25,000 or more the Procurer must notify in writing the appropriate Category Manager of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procurer.

2.2. Procurement Exercise Process

- (a) Based on the Estimated Value, as identified in Regulation 2.1, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise.

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Regulation 1.6):

Estimated Value	Procurement Process	Minimum Contract Opportunity Publication	Documentation
£0 – £9,999 excl. VAT	Obtain one written Quotation	None	Record details
£10,000 – £24,999 excl. VAT	Seek three written Quotations (where practical)	When requesting quotations the Procurer should consider the benefits of including a local supplier, where appropriate or applicable to the Contract*	Record details <i>(If three Quotations cannot be obtained, despite them being sought, a record of the reasons for this must be maintained and forwarded to the appropriate Category Manager)</i>
£25,000 – £49,999 excl. VAT	Obtain three written Quotations (to be based on a Request for Quotation document) For exceptions see Regulation 1.6(b)	When requesting quotations the Procurer should consider the benefits of placing a Contract Opportunity Publication on a website approved by the Head of Commercial Finance to notify the supply market. The University's electronic tendering system, Delta, provides this functionality	Request for Quotation issued by the Procurer and Quotations received
£50,000 –	Obtain three written Tenders		Invitation to Tender issued and Tenders received



Estimated Value	Procurement Process	Minimum Contract Opportunity Publication	Documentation
£99,999 excl. VAT	(Tender process to be undertaken by the Procurement Unit**, unless agreed otherwise by the Head of Commercial Finance)	and ensures that a Contract Opportunity Publication is also placed on the Contracts Finder website (where Contract Opportunity Publications for all openly advertised Contracts with an Estimated Value of £25,000 or more must be placed). <i>(If the specified number of Tenders to be received based on the Estimated Contract Value is not obtained, but a Contract Opportunity Publication was placed, then this does not constitute an exception to these Regulations)</i>	
£100,000 excl. VAT – Threshold***	Obtain five written Tenders (Tender process to be undertaken by the Procurement Unit**, unless agreed otherwise by the Head of Commercial Finance)	Find a Tender**** and also consider the benefits of placing a Contract Opportunity Publication on a website approved by the Head of Commercial Finance to notify the supply market. A Contract Opportunity Publication can be placed via the University's electronic tendering system, Delta, which will also place a Contract Opportunity Publication on the Contracts Finder website (where Contract Opportunity Publications for all openly advertised Contracts with an Estimated Value of £25,000 or more must be placed).	
Above the Threshold*** or £633,540 incl. VAT if Social and Other Specific Services, as defined by the Public Contracts Regulations 2015	Formal Tender Process (to be undertaken by the Procurement Unit, unless agreed otherwise by the Head of Commercial Finance)		

* The University cannot give preference to local suppliers, as this would contravene procurement law and one of its primary underpinning principles of non-discrimination. However, the University recognises that there can be barriers limiting the ability of smaller suppliers to compete for its business. The University will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the University

** The Formal Tender Process for Works below the Threshold (£5336,937 incl. VAT) may be undertaken by the Facilities Management Department, rather than the Procurement Unit

*** Thresholds are currently £213,477 incl. VAT for Supplies and Services, and £5336,937 incl VAT for Works and Concessions

**** Where following the Restricted Procedure or Competitive Procedure with Negotiation the call for competition may be made, via Find a Tender by way of a Prior Information Notice or Contract Notice

- (b) Where any Mandatory Contracts have been set up for supplies, services or works then these Regulations are deemed to have been satisfied when the arrangement was set up and do not have to be further applied, if appropriately used. When the Mandatory Contract is a Framework Agreement then the Procurer must comply with Regulation 5.1(c).
- (c) Where the Estimated Value exceeds the relevant Threshold, consideration must be given as to whether to subdivide the Contract into lots. If the decision is made not to subdivide the Contract into lots then the reason for this decision must be formally documented.
- (d) The Procurer must ensure that the appropriate Category Manager is involved from the outset of the Procurement Exercise for equipment with an Estimated Value of £25,000 or more, where funded by a Research Council.

2.3. Selection and Award Evaluation Criteria

- (a) A Procurement Exercise must include both selection and award criteria.
- (b) Selection criteria must be included in the evaluation process where employing the Open Tendering procedure (Regulation 3.1) or must be the only criteria used for the shortlisting methodology where employing the Restricted procedure (Regulation 3.2).

2.4. Award Methodology and Evaluation Criteria

- (a) The award methodology must determine the most economically advantageous Tender based on a range of predetermined evaluation criteria which must be set out in the Invitation to Tender.
- (b) Before a Contract can be awarded the supplier must meet the minimum standard for the selection criteria where included in the evaluation process, where employing the Open Tendering procedure (Regulation 3.1) or where the only criteria used for the shortlisting methodology where employing the Restricted procedure (Regulation 3.2).
- (c) In the case of a Procurement Exercise with an Estimated Value of £50,000 or more the process for identifying the most economically advantageous Tender, including selection and award criteria, must be agreed in consultation with the appropriate Category Manager and included in the Invitation to Tender and a copy retained on file. Where the Facilities Management Department undertakes a Formal Tender Process for Works below the Threshold, as provided for in Table 1, it is not necessary for the process for identifying the most economically advantageous Tender to be agreed in consultation with the appropriate Category Manager.
- (d) The Procurer must notify all Tenderers of the award methodology and evaluation criteria being used in the case of the Contract in question. If weightings are to be applied to the criteria then the Procurer must ensure that these are also incorporated into the Invitation to Tender.
- (e) Where the decision is made to subdivide the Contract into lots, having followed Regulation 2.2(c), it is necessary that the Find a Tender Contract Notice detail the number of lots for which Tenderers may bid, the number of lots that may be awarded to any one Tenderer, and the award criteria and rules to be used in awarding the lots.

2.5. Contract Opportunity Publication

- (a) The Procurer must consider the benefits of placing a Contract Opportunity Publication on a website approved by the Head of Commercial Finance (functionality currently provided by the University's electronic tendering system, Delta) to notify the supply market where the Procurement Exercise has an Estimated Value of £25,000 or more.
- (b) Where a Contract Opportunity Publication is to be placed then this should be on the Contracts Finder website or placed on the Contracts Finder website before or within 24 hours of any other Contract Opportunity Publication.
- (c) Unless agreed otherwise with the Category Manager, for all proposed Contracts where the Total Value is below the Threshold, a period of at least ten working days should be allowed between the closing date for requests for the Invitation to Tender and either:
 - (i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or
 - (ii) the deadline for receipt of Selection Questionnaires or Expressions of Interest, where a Restricted Tendering procedure is being used.

- (d) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained and inviting Tenders in response to the Contract Opportunity Publication.
- (e) If the Estimated Value exceeds the relevant Threshold the Procurer must ensure that the Contract Opportunity Publication is first published on the Find a Tender website before the Contracts Finder website or any other website approved by the Head of Commercial Finance. The same applies to Social and Other Specific Services, as defined by the Public Contracts Regulations 2015, with an Estimated Value exceeding £633,540 incl. VAT.
- (f) Under no circumstances must a Contract Opportunity Publication appear in any form before publication on the Find a Tender website and neither should any advertisement contain any more information than that published on the Find a Tender website.
- (g) All procurement documents must be available by means of a website approved by the Head of Commercial Finance from the date of the publication of the Find a Tender Contract Notice (or Prior Information Notice, where used as a call for competition where following a Restricted Procedure or Competitive Procedure with Negotiation).

3. FORMAL TENDER PROCESS

3.1. Open Tendering

Under Open Tendering, Procurers must send Invitations to Tender to all those Persons who respond to the Contract Opportunity Publication and who meet the requirements stated therein.

3.2. Restricted Tendering

- (a) Regulation 3.2 applies to Tenders where the Estimated Value is equal to or exceeds the Threshold. Restricted Tendering is not to be used where the Estimated Value is below the Threshold.
- (b) Under Restricted Tendering, Procurers need only send Invitations to Tender to:
 - (i) not less than five of the Persons who respond to the Contract Opportunity Publication and who best meet the shortlisting methodology agreed in Regulation 2.4(b); or
 - (ii) where fewer than five Persons have applied or are considered suitable, to all those Persons who equal or exceed the minimum requirements for the shortlisting methodology agreed in Regulation 2.4(b).
- (c) The shortlisting criteria and process must be prepared (in consultation with the Category Manager) in advance of the issue of the Selection Questionnaire and a copy retained on file.
- (d) All Persons that do not qualify for inclusion on the shortlist to receive an Invitation to Tender must receive notice that they have been excluded from the Procurement Exercise. Any Person requesting in writing the reasons why they were unsuccessful shall be informed by the Procurer of the reasons for the University's decision.

3.3. Competitive Procedure with Negotiation, Competitive Dialogue and Innovation Partnership

- (a) Where the Competitive Procedure with Negotiation or Competitive Dialogue or Innovation Partnership procedures are used the requirements of the Public Contract Regulations 2015 and where appropriate these Regulations shall be followed.

- (b) The Competitive Procedure with Negotiation and the Competitive Dialogue and Innovation Partnership procedures must only be used with the prior approval of the Head of Commercial Finance.

3.4. Invitations to Tender

- (a) Every Invitation to Tender must specify the latest day and hour for the receipt of Tenders and, for Tenders where the Estimated Value is £50,000 or more, must state the effect of Regulation 3.5.
- (b) Procurers must give all Tenderers the same information about the Procurement Exercise and in particular information relating to the Tender process, specification, award methodology and evaluation criteria.
- (c) Procurers must also give all Tenderers the same information relating to questions, answers and clarifications raised during the Procurement Exercise unless they relate solely to another Person's Tender.

3.5. Irregular Tenders

- (a) An Irregular Tender must not be accepted by either the Category Manager or the Procurer, other than in accordance with this Regulation.
- (b) A Tender is not valid unless it has been submitted in accordance with Regulation 3.4.
- (c) Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Tender and/or because it is received after the appointed time for receipt or does not comply with Regulation 3.5(b), the provisions of Regulations 3.5(e) and 3.5(f) apply.
- (d) Where hardcopy Tenders are received, subsequent to the appropriate approval having been gained in accordance with Regulation 1.5(k), a Tender received after the closing date and time may be opened and evaluated in accordance with Regulation 3.6 if there is clear evidence of it having:-
 - (i) been posted by first class post at least a day before the closing date; or
 - (ii) been posted by second class post at least three days before the closing date.
- (e) If in other cases of Irregular Tenders the Head of Commercial Finance considers that there are exceptional circumstances and that the Tenderer who submitted the Irregular Tender has gained no advantage from its irregularity they may determine to accept the Irregular Tender and authorise that it be opened and evaluated together with any other Tenders in accordance with Regulation 3.6. The Head of Commercial Finance shall record in writing the reasons why each Irregular Tender has been accepted or rejected.
- (f) Irregular Tenders that the Head of Commercial Finance has rejected under this Regulation must be returned to the Tenderer by the Procurer or Category Manager with a covering letter stating the reason for their rejection.

3.6. Errors or Discrepancies in Tenders

- (a) Tenderers are not allowed to alter their Tenders after opening save in accordance with this Regulation or Regulation 3.7.
- (b) Where it is suspected that there has been an error in a Tender and following the closing date for receipt of Tenders but before acceptance of any Tender discussions may take place with Tenderers in order to:
 - (i) ensure that the Tender is constructed correctly; or
 - (ii) ensure that the Tenderer has fully understood the specification; or
 - (iii) seek clarification from Tenderers of cost, quality and performance indicators.

- (c) Where a Tender appears to be abnormally low the Procurer shall require the Tenderer to explain the price or costs proposed in the Tender. If the explanation subsequently provided by the Tenderer is deemed not to satisfactorily account for the low level of the price or costs then the Procurer may reject the Tender.
- (d) A written note of the discussions must be made to record the suspected error, date, time, detail of the discussion and any agreement reached.

3.7. Discussions and Post Tender Negotiations

- (a) In the case where the Estimated Value was below the Threshold, and following the closing date for receipt of Tenders, but before acceptance of any Tender, the Procurer in consultation with the appropriate Category Manager may carry out Post Tender Negotiations in an attempt to secure improvements in the price or economic advantage in one or more of the following circumstances:
 - (i) where the most competitive Tender (according to the pre-determined award methodology and evaluation criteria) submitted exceeds the Estimated Value;
 - (ii) where it is considered that the price of the most competitive Tender submitted does not represent the best value for money that can reasonably be obtained;
 - (iii) where Tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items;
 - (iv) where the most competitive Tender contains conditions, trading terms, guarantees, or provisions relating to performance or service delivery less favourable than in other Tenders, or than stipulated for and this defect appears capable of being remedied by Post Tender Negotiations.
- (b) When conducting Post Tender Negotiations, as part of a Procurement Exercise where the Estimated Value is £50,000 or more (but below the Threshold), only the Tenderer submitting the most competitive Tender in accordance with the award methodology and evaluation criteria (Regulation 2.4) may be invited to participate in Post Tender Negotiations.
- (c) When conducting Post Tender Negotiations, the following additional regulations shall apply:
 - (i) At no time during the negotiations must a Tenderer be informed of the detail of any other Tender submitted or as to whether or not the Tender they submitted was the lowest.
 - (ii) During negotiations in person there must always be present at least two members of staff of the University. Where the Estimated Value of the Contract is £50,000 or more, one of these members of Staff must be a Category Manager.
 - (iii) A note of the negotiations will be made by one of the members of Staff present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.
 - (iv) Post Tender Negotiations shall not enable any material departure from the published specification. The Category Manager shall determine whether any proposed change to the specification constitutes a material departure and whether as a consequence other Tenderers shall be permitted to participate in Post Tender Negotiations and/or whether new Tenders should be invited, to avoid any potential allegations of competition being distorted.
- (d) Post Tender Negotiations are not allowed in the case of Contracts with an Estimated Value exceeding the relevant Threshold. However, clarifications of errors or discrepancies in Tenders may take place in accordance with Regulation 3.6.

4. AWARD OF CONTRACT

4.1. Acceptance of Tenders

- (a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Regulation 2.4. Any evaluation sheets must be maintained on file in accordance with Regulation 7.1.
- (b) The Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) must approve the acceptance of all Tenders for Contracts with an Estimated Value of below £50,000. The Dean of School/Head of Professional Service and Head of Commercial Finance must approve the acceptance of all Tenders for Contracts with an Estimated Value of £50,000 or more.
- (c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Regulation 1.5(j) the Procurer must ensure that sufficient funds are available and approved by the appropriate budget holder or Dean of School/Head of Professional Service prior to accepting the Tender.
- (d) An abnormally low Tender may not be rejected without first giving the Tenderer the opportunity to explain the tendered price.

4.2. Notification of Contract Award

- (a) The Procurer must notify the successful Tenderer of the acceptance of their Tender and for all Procurement Exercises with an Estimated Value of £10,000 or more this notification must be in writing.
- (b) In the case where the Estimated Value is £25,000 or more the Procurer must notify in writing all Tenderers who submitted a Tender of the decision as soon as possible after the decision has been made.
- (c) In the case where the Estimated Value is equal to or above the appropriate Threshold the following additional regulations shall apply:
 - (i) The notice in Regulation 4.2(b) shall include the award criteria, the reasons for the decision, including the successful Person's score, the score (if any) of the Person receiving the notice, and the characteristics and (if appropriate) relative advantages of the successful Person's Tender, any reasons why the recipient of the notice did not meet the technical specification, the name of the Person awarded the Contract, as well as the date when the standstill period required in accordance with Regulation 4.2 (c)(ii) will come to an end.
 - (ii) A minimum period of 10 calendar days must elapse between the day of sending the notice in Regulation 4.2(b) and the date on which the University enters into a Contract, if the notice is sent electronically. Where the notice is sent by other means then either, 15 days from the day of sending the notice, or 10 days from the day of receipt of the notice by the last Tenderer to receive the notice must elapse. In all cases the day after sending the notice should be counted as day 1. The standstill period must end on a working day.
 - (iii) The appropriate Category Manager shall ensure that an Find a Tender award notice is placed within 30 days of the Contract award.
- (d) Where a Contract Opportunity Publication was placed on the Contracts Finder website, the Procurer must ensure that an award notice is placed on the Contracts Finder website within 90 calendar days of the Contract award.

- (e) The Procurer must notify the appropriate Category Manager in writing of any Contract that has been awarded with a Total Value of £25,000 or more.

4.3. Form of Contract

- (a) A Contract shall be formed:
 - (i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or
 - (ii) by completion of a formal Contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or discussions; or
 - (iii) by placing an order in accordance with Regulation 4.4.
- (b) In determining and negotiating the terms and conditions of Contract, the Procurer must ensure that the appropriate Standard Terms and Conditions are incorporated, unless the Procurer, having consulted the appropriate Category Manager, considers it inappropriate to do so.
- (c) All Contracts with an Estimated Value of £25,000 or more must be in writing and where appropriate the Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) shall:
 - (i) ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.
 - (iii) ensure that the Contract provides for the supplier to have an insurance policy, which can be inspected during the Contract period. The appropriate Category Manager shall be consulted on the insurance requirements where the standard insurance cover levels that the University requires of its suppliers are not deemed to be appropriate.
 - (iv) consult the Tax Manager on the appropriate VAT requirements.
- (d) Every Contract must be signed by the Dean of School/Head of Professional Service or a member of Staff designated by them. The Head of Commercial Finance will determine whether a Contract must be under seal.
- (e) Except after consultation with the Head of Commercial Finance, work or services must not be authorised to commence or goods to be supplied where such works, services or goods are to be the subject of a Contract under seal entered into between the University and the supplier, until the Contract has been signed by the supplier.

4.4. Orders for work, goods and services

- (a) The Dean of School/Head of Professional Service may allocate the responsibility to place orders to budget holders and named members of their Staff, where this complies with the Schedule of Delegated Authorities at Appendix E of the University's Financial Regulations. Blanket Orders must be raised for the full estimated aggregate value of the future intended call-off orders, with the authority to place such orders based on this aggregated value.

- (b) The duties of authorising orders, certifying invoices, and receiving goods must be vested in different members of Staff, unless approval has been gained from the Head of Commercial Finance for the same member of Staff to fulfill more than one of these duties due to unavoidable circumstances.
- (c) Except where approved by the Head of Commercial Finance or where placing orders using a Purchasing Card in accordance with Regulation 4.5, the procurement of all goods, works and services must be based on a purchase order issued to the supplier prior to the delivery of the goods or commencement of the service or works, using an purchase ordering system approved by the Head of Financial Control (for example, Agresso). The purchase order (including Blanket Orders) should be placed against a Mandatory Contract (See Regulation 1.5(e)) or follow a Procurement Exercise conducted in accordance with these Regulation, or follow an exception to the Regulations having been gained in accordance with Regulation 1.6.
- (d) Where the supplier is a new supplier to the University, and so not on the University's Enterprise Resource Planning (ERP) system (currently Agresso), the details of the new supplier must be provided to the Procurement Team to approve, for the Financial Control Team to then enter onto the ERP system.

4.5. Purchasing Cards

- (a) The Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) may nominate the members of Staff to which Purchasing Cards are issued, including individual transaction limits, for the Financial Control Team to approve and, if approved, issue.
- (b) Purchasing Cards are only to be used for procuring goods and services, from suppliers that allow payment by credit card, where:
 - (i) Low value and on a one-off basis (below £2,000); and/or
 - (ii) External training, conference services and accommodation directly associated with the event (in accordance with Regulation 1.5(f)(ii)).
- (c) Purchasing Cards are not to be used for procuring goods and services where the Department can access them by placing an order through the University's primary purchase ordering system (Agresso), including via its electronic marketplace/catalogues.
- (d) Purchasing Cards are not to be used for procuring software unless approved by the IT Department, i.e. the Software & Asset Manager or delegated IT Department staff, where delegated.
- (e) All procurements made using a Purchasing Card must be in accordance with these Regulations and the Purchasing Cards Policy.

5. FRAMEWORK AGREEMENTS

5.1. Framework Agreements

- (a) Procurers must establish all Framework Agreements in accordance with these Regulations.
- (b) Framework Agreements must not be awarded for more than four years, including any extensions without the prior written consent of the Head of Commercial Finance.
- (c) All suppliers on the Framework Agreement must be invited to participate in a Further Competition unless it is clear from the terms of the Framework Agreement which supplier best meets the award methodology set out in the Framework Agreement in which case that supplier may be selected.

- (d) New suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:
- (i) the Estimated Value is below the Threshold; or
 - (ii) it covers Social and Other Specific Services as defined by the Public Contracts Regulations 2015, and has an Estimated Value exceeding £633,540 incl VAT: and provided that the Invitation to Tender states:
 - (1) that new suppliers may be added to the Framework Agreement; and
 - (2) how many suppliers can apply to be added to the Framework Agreement; and
 - (3) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.

5.2. Dynamic Purchasing Systems

Procurers must only establish Dynamic Purchasing Systems with the prior written approval of the Head of Commercial Finance and in accordance with the requirements of the Public Contracts Regulations 2015 and these Regulations where appropriate.

6. CONTRACT MANAGEMENT

6.1. Contract Management

- (a) The Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) must ensure that all Contracts with a Total Value of £25,000 or more are allocated to a Contract Manager. The Contract Manager will be responsible for ensuring that the Contract is performed as agreed in the Contract documentation, including the Specification and the terms and conditions of Contract, and that the supplier meets any agreed Key Performance Indicators and maintains the required insurance cover levels.
- (b) The Contract Manager must undertake Contract review meetings with the supplier at a frequency commensurate with the value of the Contract and the Risk that it presents. They will raise and seek to resolve any Contract performance issues with the supplier, escalating any persistent or material performance issues to the appropriate Category Manager.
- (c) The Contract Manager must know the date on which the Contract for which they are responsible is due to expire and must establish the ongoing requirement for such a Contract following its expiry. This must be done a sufficient period before the Contract expiry date so as to allow time for a Procurement Exercise to be undertaken for any replacement Contract.

6.2. Contract Variations

- (a) Prior to any variation being agreed which would result in an increase in the Total Value of the Contract the Procurer must ensure that sufficient additional budget provision has been approved by the budget holder.
- (b) If the Total Value of the Contract is under £50,000, including the planned variation, the Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) in consultation with the appropriate Category Manager shall be authorised to vary the Contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.

- (c) In the case of a Contract with a Total Value of £50,000 or more:
 - (i) for any variation(s) that would increase or decrease the Total Value of the Contract by 10% or more, the Dean of School/Head of Professional Service in consultation with the appropriate Category Manager must gain the prior approval of the Head of Commercial Finance. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter;
 - (ii) for any variation(s) that would increase or decrease the Total Value of the Contract by less than 10% the Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) in consultation with the appropriate Category Manager shall be authorised to vary the Contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.
- (d) For a Contract to be varied there must be provision for the variation within its original scope. Otherwise it must have been unforeseen at the time of tendering or there are insurmountable economic or technical barriers or significant inconvenience, were there to be a change of supplier. In any event the variation must not alter the overall nature of the Contract and not exceed 50% of the original Contract value.

6.3. Contract Extensions

- (a) If the Total Value of a Contract, including the planned extension, is under £50,000 and the Contract provides for the extension the Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) shall be authorised to extend the Contract.
- (b) If the Total Value of a Contract, including the planned extension, is £50,000 or more and the Contract provides for the extension the Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated) shall be authorised to extend the Contract in consultation with the Category Manager.
- (c) If the Total Value of a Contract, including the planned extension, is under £50,000 and the Contract does not provide for the extension the Dean of School/Head of Professional Service (or Operations Manager or Deputy/Assistant Director, where delegated), in consultation with the Procurer and appropriate Category Manager, shall be authorised to extend the Contract on a one-off basis.
- (d) If the Total Value of a Contract, including the planned extension, is £50,000 or more and the Contract does not provide for the extension the Dean of School/Head of Professional Service must gain the prior approval of the Head of Commercial Finance and the Director of Finance to extend the Contract.
- (e) In the case of Contracts tendered in accordance with the Public Contracts Regulations 2015 any extension will only be permissible if this was properly described in the original Find a Tender (or OJEU) Contract Notice, where applicable.

6.4. Novation of Existing Contracts

The novation of a Contract to a new Person requires the prior written approval of the Head of Commercial Finance.

6.5. Early Termination of Contracts

Unless a provision for early termination is clearly stated in the Contract, Procurers shall seek advice from the appropriate Category Manager where it is intended to terminate a Contract early. Where the Total Value of the Contract is £50,000 or more the prior written approval of the Head of Commercial Finance shall also be obtained.

7. MISCELLANEOUS PROVISIONS

7.1. Document Retention

- (a) All Contract records that might be required in court proceedings must be retained for at least six years and any under seal for at least twelve years from expiry of the Contract.
- (b) Where the Contract is externally funded any contingent liabilities and/or grant conditions must be taken account of by the length of the retention period.

7.2. Supervision of Contracts by Third Parties

- (a) The Procurer shall ensure that it is a condition of any Contract between the University and any Person (not being an employee of the University) who is involved in a Procurement Exercise or the management of a Contract on behalf of the University that in relation to that Contract he must comply with the requirements of these Regulations and other reasonable requirements of the University.
- (b) Such Person must:
 - (i) at any time during the carrying out of the Contract produce to the Dean of School/Head of Professional Service or their representative or University Auditor on request all records maintained by them in relation to the Contract; and
 - (ii) on completion of the Contract transmit all records to the Dean of School/Head of Professional Service.