

DN COLLEGES GROUP

Procurement Policy

Effective from: 01/04/2020

Version Number: V1

1. Purpose

This Contract and Procurement Policy provides an organisational framework for the procurement of all Goods, Services and Works by the College (and its subsidiary companies). This Policy is designed to ensure that the College obtains value for money and the required level of quality, risk management and compliance for all the Contracts it enters into.

This policy is written in line with DNCG Statement of Intent which identifies a commitment to core values, safeguarding, health safety and welfare, equality and diversity and Data Protection.

2 Scope

This policy covers the College's contracting and procurement activities. All staff who seek to purchase Goods, Services and Works on behalf of the College, regardless of the funding source, must comply with this policy.

The policy applies to all employees, agency/temporary workers, volunteers or those with significant control or influence. A breach of the Procurement Policy and procedure may result in disciplinary and/or legal action.

This policy applies to the Corporation, its Colleges and all wholly owned subsidiary undertakings.

3 Consultation

This is a new policy that builds on best practice and has been developed in consultation with Tenent Education Services Ltd, current external procurement specialists engaged by DN Colleges Group.

4 Definitions and/or Relevant Legislation

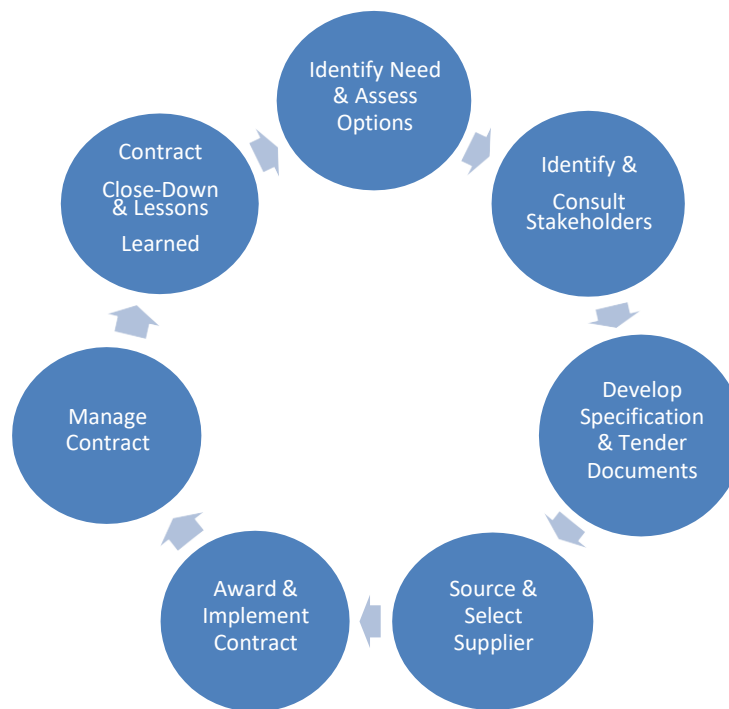
Award Criteria	means the criteria used to evaluate a Supplier's offer in relation to fulfilling the requirements detailed in the Quotation or Tender documents;
Budget Holder	means staff who are assigned a budget and who are involved in procurement activity on behalf of the College;
Concession Contracts	means a Contract under which the execution of Works or the provision and management of Services is entrusted to one or more Suppliers, the consideration for which is the right to exploit those Works or Services. Usually this will involve a transfer of operating risk to the Supplier and them receiving payment from third parties, not wholly from the College;
Conflict of Interest	means any interest which may appear to an objective bystander to affect the fair judgment of a College staff member or any person acting on the College's behalf in a procurement process. The concept of conflict of interest shall at least cover any situation where relevant person has, directly or indirectly, a financial, economic or other personal

	interest which might be perceived to compromise his or her impartiality and independence in the context of a Procurement;
Contract	means any form of contract, agreement for the supply of Goods, Services and/or Works that the College enters into;
Data Protection Legislation	means the General Data Protection Regulation 2018 (GDPR) (EU) 2016/679 and all other laws and regulations relating to the processing of personal data and privacy;
Dynamic Purchasing System (DPS)	means a Procurement tool available to procure Goods, Services and Works commonly available on the market. It has its own specific set of requirements (as set out in Regulation 34 of the Public Contracts Regulations 2015); for example, it must be run as a completely electronic process, must remain open to new entrants, all suppliers must be invited to quote for contracts, and it should be set up using the EU Restricted Procedure.
EU Regulations	means the Public Contracts Regulations 2015 (as amended) and/or the Concession Contracts Regulations 2016 (as applicable) as supplemented by the EU Directives on the procurement of Goods, Works, Services and Concessions and as amended and supplemented by the European Court of Justice. Breach of these regulations is legally actionable by a Supplier;
E-Procurement	means the use of an electronic procurement portal or system to obtain quotations and tenders. The use of electronic procurement will be mandatory under UK Procurement Law as of 18 th October 2018;
FOI	means the Freedom of Information Act 2000 and any other law which places the College under an obligation to disclose or publish information;
Framework Agreement	means an agreement between the College and/or other public bodies and one or more Suppliers where the volumes to be delivered are not set out at the outset but which establish terms (including price) under which the Supplier will enter into a Contract to provide Goods, Works and/or Services;
Goods	means all supplies, equipment and materials that the College purchases or acquires;
Light Touch Regime	means the parts of the Regulations which apply to the procurement of Contracts for 'social and other specific services' (defined at Schedule 3 of the Public Contracts Regulations 2015) that are deemed to be of lower interest to cross-border competition;
Local Supplier	Means a supplier used by the College who is based within a certain mileage and post code area.
Personal Data	means data which relates to a living individual who can be identified from that data or from other information which is in the possession of, or is likely to come into the

	possession of, the College, Supplier and any sub-contractors;
Procurement	means the purchase, contract hire, lease, rental or any other form of acquisition which results in a contract where the College is purchasing Goods, Works or Services from a third-party Supplier. Procurement also includes the establishment of Framework Agreements and Dynamic Purchasing Systems;
Quotation	means a written offer in relation to a Procurement, making reference to a price and (where applicable) other information.
Services	means all services which the College commissions, purchases or acquires;
Social Value Act	Public Services and (Social Value Act) 2012 requires certain public authorities to consider overall value – including social value – in the provision of goods and services.
Specification	means a written document detailing the College's requirements for a purchase, including things such as definitions, acceptance test methods, material requirements, drawings, plans, certifications of compliance, data security measures, quality control, performance testing, delivery and timescales;
Suitability Criteria	means the criteria used to assess a Supplier's general capability, skill and competence, to undertake a contract;
Supplier	means any person, partnership, sole trader, company, economic entity or any other organisation which provides or offers Goods, Works and/or Services to the College;
Tender	means a formal process by which proposals are requested by the College and received from Suppliers in relation to a Procurement, making reference to a price and (where applicable) other information;
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations;
Value for Money	means securing the optimum mix of price, quality and suitability over the period of use of the goods or services bought;
Works	means the execution, or both design and execution, of construction works and civil engineering works including the execution of repairs in relation to those works.

5 The Policy

5.1 Procurement is the process by which the College manages the purchase of all its Goods, Services and Works over the full procurement lifecycle:



5.2 Procurement Principles

Whilst the Public Contract Regulations 2015 mandate that the purchase of all Goods and certain types of Services and Works whose value exceeds specific thresholds must be advertised in the Official Journal of the European Union (OJEU), it is important to understand that all public-sector procurement must follow the 'spirit of the legislation'. This policy seeks to promote the following procurement principles:

- Purchases are compliant with legal obligations.
- Goods, Works and Services are fit for purpose and value for money is obtained.
- Money is spent in a way that is fair, open and transparent.
- Staff awareness of relevant public-sector regulations is promoted.
- Most effective and efficient Procurement processes are used, including E-Procurement.
- Aggregation of spend throughout the College to maximise buying power.
- Consortia Framework Agreements are used wherever possible.
- Local, small and medium-sized enterprises (SMEs) are used wherever it is possible and compliant to do so, ensuring that Value for Money is obtained.
- Contracts are managed effectively, and supplier performance is monitored.
- Clear purchasing procedures, guidance and training is available to all relevant College staff.
- Consistency in approach.
- All purchases are carried out in accordance with the College's Financial Regulations

5.3 Value for Money

When making purchasing decisions, all College staff should seek the best Value for Money for the College. Value for Money should not be judged solely on cheapest initial price or locality of the supplier, but on the lowest whole-life cost to the College.

This means that, in anticipating the price to pay, the College should account for local suppliers, maintenance, support, design, delivery, operational and disposal (end-of-life) costs, reliability and compatibility with College systems. Factors such as these may justify a higher initial cost in the expectation of lower whole-life costs.

One of the best ways to achieve Value for Money and Social Value is through consultation and competition.

5.4 Responsibility

The Director of Finance is responsible for administering and enforcing the Procurement Policy.

Budget Holders are responsible for:

- Maximising Value for Money for their area of budget responsibility.
- Ensuring compliance with the College's Procurement Policy and Procedures for their area of budget responsibility.
- Liaising with the Finance Team to ensure procurement activities in the area are conducted effectively and efficiently.
- Once procured, ensuring that Suppliers are performance-managed against Contracts for their area of budget responsibility.

All College staff involved in procurement activity are responsible for compliance with the College's Procurement Policy and Procedures.

5.5 Authority Levels

Budget holders have authority to purchase goods and services only within the budget allocated and within any rules related to funds concerned.

Although authority to raise orders may be delegated to other named responsible staff by the budget holder, the budget holder must approve the actual order.

Overall responsibility for budgets still rests with the budget holder. The authority to commit College funds is also differentiated by the value of the order. All authorisation limits exclude VAT.

Authorisation limits are set out below and relate to purchases of a single item, a series of linked payments or related items:

- Up to £10,000 - Authorisation required by Budget Holder.
- Up to £25,000 – As above and Principals, or Heads of Department
- Over £25,000 - As above and Chief Executive Officer and Director of Finance
- Over £100,000 - As above and Chair of Governors and/or Vice Chairs.

In addition to the above, the following procurement limits and requirements are as follows: -

Value of Order (excluding VAT)	Requirement
Up to £2,500	It is the responsibility of the Budget Holder to ensure best value for money. No quotation is required, but good purchasing practice suggests seeking quotations for all purchases where practicable.
£2,500 to £25,000	Three written quotations should be obtained, and copies should be attached to the purchase order requisition, unless a Framework Agreement is used. Guidance can be obtained via Procurement
Over £25,000	Competitive tendering using an auditable electronic system and entering into a written contract. Approval to be gained before commencement of project. Bids from at least three suppliers should be invited where available. All orders over £25,000 require Chief Operating Officer Approval.
Over £100,000	The Budget Holder must contact the Director of Finance All applicable purchases must be made in compliance with the current and relevant EU Regulations. The OJEU threshold applies to the aggregate value of the contract. The award of contracts over £100,000 shall be reported to the Corporation Board.

* Details of the current EU Thresholds as applicable to the College can be found in Appendix 1

Please note these requirements are a minimum; more suppliers can be invited to bid if necessary, to achieve greater Value for Money through competition.

It is the responsibility of the Budget Holder to ensure that their members of staff comply with EU Regulations by notifying the Director of Finance of any purchase that is likely to exceed the thresholds. This will need to be done well in advance to permit OJEU advertisement (the Official Journal of the European Union) which on 1st January 2021 will be replaced with Find a Tender.

Publication of contract opportunities on Contracts Finder Find a Tender from 1st January 2021 where the value is above £25,000 applies where a contracting authority advertises a contract award opportunity.

5.6 Aggregation

For all Contracts, the total value of the contract over its full lifetime (the number of years the contract will be used), including any ongoing support, maintenance, licencing, repair, or disposal costs, must be taken into account when calculating the whole contract value, for the purpose of selecting the appropriate purchase method.

A purchase should not be sub-divided to reduce the total value of the contract. Similar contracts must be aggregated to calculate the total value; for example, a Works contract must include the cost of any Supplies and Services involved with delivering that project.

5.7 Repeat Purchases

Where supplies of Goods, Works or Services are repeatedly purchased (e.g. office stationery), it is not necessary to evaluate each purchase, but the annual sum must be evaluated and calculated over a three-year term. Areas of spend for repeat purchases must have a compliant Contract or Framework Agreement in place. The Finance Team will work with Budget Holders to identify areas of spend for repeat purchases, of over £20,000 in the last two financial years.

5.8 External Framework Agreements and Dynamic Purchasing Systems

Goods, Services and Works may be purchased through third-party Frameworks Agreements or Dynamic Purchasing Systems that:

- a) Are created by a public body or a private sector party as agent of a public-sector body which is approved by the Director of Finance.
- b) Have valid mechanisms that exist to enable the College to use the Framework Agreement (including appropriate transparent referencing in the procurement documents and inclusion in the framework call off conditions).
- c) They are not used to create further Framework Agreements or Dynamic Purchasing Systems.

The College is a member of the CPC (Crescent Purchasing Consortium) and Budget Holders are encouraged to use these Framework Agreements where possible, in line with the relevant procedures. As well as CPC, the College also has access to a number of Government Consortia offering use of pre-tendered framework agreements. A comprehensive list of purchasing consortia is available in Appendix 3.

The College may choose to establish its own Framework Agreement or Dynamic Purchasing System for the purchase of Goods, Works or Services. Any associated Procurement process must be completed in accordance with the procedures outlined in this Contract and Procurement Policy.

Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a standard contract (but must not be procured through another framework agreement or a Dynamic purchasing system) and in accordance with the EU Regulations.

All Framework Agreements will be in the form of a written Contract detailing the method by which the College will call off Goods, Works or Services during the duration of the Framework Agreement and stating that there will be no obligation to make any purchase from any framework Supplier.

Framework Agreements must be closed to new entrants and must not last longer than four years without this being justified in a written assessment of the exceptional factors present and the approval of the Director of Finance.

Contracts created through Framework Agreements must not be greater than four years in duration without being justified in a written assessment of the exceptional factors present and the approval of the Director of Finance. Contracts created through a Framework Agreement may extend beyond the end date of the Framework Agreement itself.

Dynamic Purchasing Systems must be set up by an advertised competitive process which is approved by the Director of Finance; and

- remain advertised.

- not limit the number of Suppliers admitted to the system (but the system may be split into categories).
- be set up with clear operative rules which involve obtaining Quotations from all Suppliers on the system, or on the relevant category on the system, as appropriate; and
- be operated wholly electronically; and
- be open to new entrants; and
- not last longer than five years.

5.9 Exemption from Tender and Quotations Procedure

The following criteria will exempt the Budget Holder from carrying out a formal Tender or Quotation procedure:

- a) The College has an existing Contract, Dynamic Purchasing System or Framework Agreement in place for the specified goods or services.
- b) A Framework Agreement or Dynamic Purchasing System is available via an approved consortium, although the framework guidelines may state further competition is required; all purchases using a framework must be compliant with the framework user guide.
- c) Additional criteria for exemption, subject to compliance with the EU regulations.
 - i) Where there is genuinely only one potential Supplier, such as for works of art and copyrighted material or unique technology, compatibility with existing equipment, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the specification.
 - ii) Compliance with the College's standard programmes.
 - iii) The usage of a Supplier where usage of that specific Supplier is a condition of grant funding.
 - iv) The selection of a Supplier on the instruction of a third party, providing the whole of the funding is met by the third party.
 - v) A necessary supply is required extremely urgently, not due to any action or inaction of the College, with the prior agreement of the Director of Finance.

When the EU Regulations apply, these exemptions may not be permitted. For purchases above the EU Threshold, Budget Holders must check and confirm exemptions with the Director of Finance.

There are potential risks associated with a non-competitive approach.

Some suppliers might think it does not meet the Procurement Regulations principles of fairness, transparency and non-discrimination.

Some funding bodies may consider that it does not comply with their funding Terms & Conditions.

This may result in a financial and other loss in the form of:

- Expenditure against a research grant being disallowed or required to be re-paid;
- Inability to obtain future funding;
- A legal challenge on the basis of a breach in Procurement legislation; and,
- Reputational damage.

Therefore, on the basis of the risks stated above, the requester must contact the Procurement Manager, at the earliest opportunity, for advice.

5.10 Conflict of Interest

Budget Holders shall take appropriate measures to effectively identify, prevent and remedy Conflicts of Interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all Suppliers.

Except in exceptional cases where it is clearly in the best interests of the College, it is the Corporation's general policy that the College will not engage a Governor to provide Services and/or Goods. If a member of the Corporation is engaged to provide Goods and/or Services it may be prudent to consider whether the Conflict of Interest should be removed by the member in question resigning following the Charity Commission's most recent comments on conflicts of interest particularly if the conflict is likely to be serious and is expected to continue for an extended period of time. Each individual case will be assessed by the Corporation in advance of any procurement process.

For each procurement via tender, both the potential suppliers and College staff involved in the preparation, evaluation and award of tender shall complete a conflict of interest's declaration form. All staff involved in procurement activity must ensure that they are fair and unbiased when making a procurement decision.

If a member of staff suspects that someone involved in the contracting and procurement process is acting in an unethical way the member of staff must report this to their line manager immediately. Staff must not use their position for personal gain and should always maintain the highest standard of integrity in all business relationships both inside and outside the College.

5.11 Local or Alternative Supplier Arrangements

Goods and services should be made on the most economically advantageous terms and conditions having regard to best value for money and emphasising quality, quantity, reliability and the total cost to the College.

It is the policy of the College to strengthen its links between local suppliers and purchasing within the community.

Although it is not possible to give preferential treatment to local suppliers, they should be given equal opportunity to quote for all relevant quotations and tenders. If local suppliers are able to fulfil the requirements on best value for money, then they should be awarded the business.

5.12 Environmental Statement

As a large consumer of goods and services, the College has key role to play in protecting the environment. We accept that purchasing decisions have the potential to promote environmental protection.

Therefore the College we will seek to:

- meet and, where appropriate exceed the requirements of all relevant legislation;
- seek to reduce our consumption of materials, re-use where possible and promote recycling and the use of recycled materials;
- seek to dispose of materials in an environmentally sensitive manner;
- promote and manage energy efficiency in all our operations and incorporate effective energy measure wherever possible;
- influence our major suppliers to minimise the negative impact of their operations on the environment;

The College will endeavour to:

- consider goods and services, which can be manufactured, used and disposed of in an environmentally aware way;
- give preference, where items are of a similar standard and cost to, those that are manufactured with a high recycled content;
- wherever possible, specify items that can be recycled or reused;
- consider the energy usage/cost of operating equipment prior to purchase;
- favour suppliers that are committed to environmental improvement;
- consider whole life costs of impacts when assessing equipment for purchase; ensure that suppliers hold or are actively working towards certification for its environmental management system, e.g. ISO 14001, EMAS.

5.13 **TUPE**

Before the commencement of a procurement exercise the College must consider whether TUPE will apply to the College's or the incumbent Supplier's staff.

Guidance should be sought from the HR team at an early stage and must ensure that sufficient time is built into the procurement process to deal with staffing issues and ensure that the correct processes are followed.

TUPE will apply where College Services are:

- Contracted out or "outsourced" to a third party;
- Re-let to a new Supplier;
- Brought back in-house.

Where TUPE applies staff will transfer automatically to the new employer on current terms and conditions.

Where TUPE applies, the Tender and Contract documentation must include standard provisions dealing with TUPE. The Contract must not commence until all TUPE issues have been resolved.

5.14 **Management of Risk**

Procurement activity must be undertaken in a way that does not expose the College to unacceptable levels of risk and that this is managed and reduced where appropriate. This will include:

- Ensuring that suppliers are sound and reliable
- Ensuring acceptable terms and conditions are in place
- Complying with the College's Financial Regulations and Procedures
- Ensuring that the College's procurement activity does not damage suppliers
- Ensuring compliance with all applicable procurement legislation

5.15 **College Tendering Procedures**

5.15i **Identify Need**

At the first stage of any procurement, a need is identified. At this stage a review should be carried out by the Budget Holder or a member of staff involved in the procurement to ensure the goods or services are required or if there is an alternative solution available that would provide better Value for Money.

5.15ii **Determine Cost of Procurement**

When calculating the cost of the procurement, whether it is a one-off purchase or a regular purchase, staff must take into consideration the whole-life cost to identify the true value of the purchase required, to ensure the procurement is in-line with College thresholds. Valuations must:

- a) be estimated by reference to the gross value of the Contract (including installation, maintenance, options, and any income gained by all Suppliers involved in the agreement);
- b) where the Contract includes a fixed duration, cover the entire possible duration of the Contract (i.e. including any options, such as for extension or renewal);
- c) where a maximum contract duration is not certain, treat the Contract as if it lasts for 4 years;
- d) exclude VAT.

Commitments must not be broken down artificially into separate orders to circumvent the College thresholds. Where a series of orders are made in close succession they must be treated as a single order unless approved by the Director of Finance.

The total whole-life aggregate value of the purchase will determine the method to be followed:

Value of Order (excluding VAT)	Requirement
Up to £2,500	It is the responsibility of the Budget Holder to ensure best value for money. No quotation is required, but good purchasing practice suggests seeking quotations for all purchases where practicable.
£2,500 to £25,000	Three written quotations should be obtained, and copies should be attached to the purchase order requisition, unless a Framework Agreement is used. Guidance can be obtained via Procurement
Over £25,000	Competitive tendering using an auditable electronic system and entering into a written contract. Approval to be gained before commencement of project. Bids from at least three suppliers should be invited where available. All orders over £25,000 require Chief Operating Officer Approval.
Over £100,000	The Budget Holder must contact the Director of Finance All applicable purchases must be made in compliance with the current and relevant EU Regulations. The OJEU threshold applies to the aggregate value of the contract. The award of contracts over £100,000 shall be reported to the Corporation Board.

5.15iii Assess Sourcing Options

There are various sourcing options available which enable an efficient and cost-effective procurement exercise. Suppliers should be selected from the following, based on the estimated purchase value and the availability of existing agreements:

- Existing College Contracts.
- Frameworks via consortia e.g. Crescent Purchasing Consortium.
- Request Quotations.
- Tender process
- EU Tender process

If an existing supplier is unable to meet College needs a competitive Quotation or Tender may be required depending on the value. The relevant procedure must be followed to ensure Value for Money is obtained.

5.15iv **EU Tenders**

Where the value of the proposed Contract exceeds the European threshold (taking account of aggregation), it must be tendered in accordance with the EU Regulations. The Regulations allow a range of different procedures:

- Open tender
- Restricted tender
- Competitive procedure with negotiation
- Competitive dialogue
- Innovation partnership
- Light Touch procedure (for goods and services that fall under specific categories, see Appendix 1)
- Dynamic Purchasing System Frameworks

The open and restricted procedures are the most commonly used procedures. You must also consider whether it would be appropriate to divide large procurements into contract lots and must record the decision and reasoning. Where an EU Tender Process is required, you must contact the Director of Finance.

5.15v **Buy Versus Lease**

Goods should normally be acquired by outright purchase. Circumstances may require the leasing of equipment to satisfy specific needs. The economic benefits of leasing versus buying must be determined before entering into any lease agreement. If sponsored project funds are involved in the acquisition of the equipment, it must first be determined that the source of funding allows for leasing.

Leasing may be advantageous if the total cost of a lease for the period of the equipment's life or the technological life is less than the purchase price. The total cost of the lease must be compared to the total cost of the purchase, taking into account such factors as equipment costs, maintenance costs, interest, taxes and insurance.

5.16 **Identify & Consult Stakeholders**

5.16i **Internal Stakeholder Engagement**

All stakeholders should be appropriately identified prior to commencing any procurement activity. All stakeholders should be consulted on the purchase to ensure that the procurement captures College-wide requirements, identifies all relevant risks, and whether stakeholders need to be involved in the process. Examples of stakeholders to be consulted include:

- HR (for TUPE or equality and diversity)
- Estates & Facilities (for health & safety, resource use, accessibility)
- IT (for College systems or associated hardware requirements)
- Data Protection Officer (for Data Protection issues relating to Personal Information being shared with potential Suppliers that are of a financial or budgetary nature)

5.16ii **Early Market Engagement**

Consultation with Suppliers in the relevant market prior to tender is permitted and encouraged under the Public Services (and Social Value) Act 2012 but it must not prejudice any potential Supplier, and no technical advice may be sought or accepted from any Supplier in relation to the preparation of the Specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers.

5.17 **Develop Specification and Tender Documents**

5.17i **Quotations (below £25,000)**

For all Quotations under the value of £25,000, the College should prepare a Request for Quotation that enables Suppliers to submit pricing and other relevant details, which can be evaluated on a fair, equal and transparent basis by the College. The College is encouraged to give the Supplier as much detail about the requirement as possible, to ensure accurate Quotations are received.

For more complex procurements (such as the purchase of Works or Services), the College may wish to follow a more detailed Tender process to ensure the completeness of information received from the Supplier.

5.17ii **Tenders (including EU Tenders)**

The Director of Finance, or his designated representative, shall be responsible for establishing and maintaining a Tender Register. This will include the following details for each project put out to Tender: -

- Sequential numbering of each project put out to Tender.
- Title of Tender.
- Estimated value of contract.
- Date Tender issued.
- Closing time and date.
- Names of parties invited to Tender

Where the procurement activity involves aggregate spend of greater than £25,000, then the College should prepare a detailed Tender Document for the procurement activity. This should contain the following:

a) Specification:

Clear details of the Goods, Works or Services required. This may include technical configuration, operational requirements, quality, quantity, size/dimensions, performance/conformance requirements, delivery requirements, and installation/maintenance/servicing requirements.

If a site visit is required, state how the visit is to be arranged and whether it is mandatory or optional.

A Specification should not include information that distorts competition, such as brand names, sources or processes that favour one Supplier over another. Brand or proprietary names can only be referred to where this is justified by the subject matter of the purchase and cannot be otherwise specified by a technical description; in these cases, whenever a brand name is used, it must also allow for equivalents.

b) Suitability and Award Criteria:

Details of the evaluation process including scoring criteria and people involved in the process, plus any presentations, interviews or fact-finding events that the tenderers should be aware of. The evaluation process should be as transparent as possible so that no Supplier can challenge the process as being biased or unfair.

- **Suitability Criteria** (e.g. technical capability, qualifications, financial standing etc.)
The College must satisfy itself that Suppliers have relevant and proportional minimum levels of suitability. For EU tenders, a standard Selection Questionnaire must be used. Where the procurement process is below the EU threshold, a separate Selection Stage must not be used, although key proportional suitability questions linked to the subject matter of the contract should, as appropriate, be used to establish the suitability of the Supplier.
- **Award Criteria** (e.g. quality, delivery timescales, price, etc.)
A transparent, unambiguous and clear schedule of Award Criteria, which are objectively verifiable, non-discriminatory and appropriate to the subject matter of the Contract must be prepared and communicated to Suppliers as part of the Tender. These criteria must not include unlawful non-commercial considerations or Suitability Criteria and must be proportional to the contract's main objectives. They should include measures to evaluate both cost and quality to determine the most economically advantageous tender (MEAT).

c) Tender Indicative Timetable

Clear details of the tender timeline should include (where appropriate) dates and time details of:-

- Site Visit
- Tender Return (via electronic portal)
- Evaluation Dates
- Presentation/Interview
- Standstill
- Contract Award
- Contract Commencement

d) Pricing Schedule:

Details of the price or prices to be paid or received and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deduction.

e) Data Protection Clauses:

Where any Supplier is to be given possession of or access to any Personal Data as part of the Contract, the College must have regard to their obligations regarding Data Protection Legislation, consult with the College's Data Protection Officer, and include appropriate Data Protection clauses in the Tender:

- Provision for ensuring the Supplier is verified as suitable to be trusted with Personal Data before allowing the Supplier access to the data;
- Appropriate guarantees of the security of the Personal Data are included within a written Contract;
- Appropriate monitoring of Contract performance and mechanisms to enforce the Contract where the information security guarantees are not being met;
- Appropriate mechanisms to allow for Data Audits to be undertaken by the College;

- Instructions on how Personal Data should be processed under the Contract (including the transfer, return or deletion information);
- Instructions that the Supplier must assist the College in meeting its obligations under Data Protection Legislation;
- Measures to manage any sub-contractors who will have access to Personal Data under the contract;
- Appropriate steps to be taken to minimise as far as possible the impact of a breach of data security, and steps to be taken in the event of a data breach.

Additional Information:

- The time(s) within which the Contract is to be performed;
- Termination provisions and break clauses, if appropriate;
- A clause/notice relating to FOI so that Suppliers can identify the sections which they believe are commercially confidential;
- Declarations regarding Conflict of Interest and non-collusive tendering.
- Where TUPE applies, details of standard provisions dealing with TUPE and pensions.

5.18 Source and Select Supplier

The following information applies where a Framework Agreement or Dynamic Purchasing System is not being used. Where a Framework Agreement or Dynamic Purchasing System is being used, you must follow the procedures as detailed in the specific framework user guide.

5.18i Quotations

The Budget Holder must arrange for at least three Quotations to be received from Suppliers. The Suppliers must have indicated that they are willing to submit a Quotation. If it is not possible to identify the number of willing prospective Suppliers indicated above, the Budget Holder must retain a record of the efforts made and reasons why an appropriate number of Suppliers could not be identified.

5.18ii Tenders (below EU Threshold)

a) Advertising

The Tender should be advertising via an electronic tendering portal. Please contact the Procurement Director of Finance for guidance on using the College's E-Procurement Portal. Please note that the use of E-Procurement systems to conduct procurement processes is mandatory.

Where the Tender is being openly advertised to Suppliers, it must also be advertised on Contracts Finder (www.contractsfinder.service.gov.uk). If the Tender is available only to a restricted list of Suppliers, then advertisement on Contracts Finder is not required.

b) Evaluation

After the deadline for submissions has passed, all Tenders should be evaluated in accordance with the Suitability and Award Criteria outlined in the tender document and keep a written record of the analysis and outcome.

With some tender processes there may be the need for an independent expert to assist in the evaluation. This is often the case in large building projects or in specialist procurements such as cleaning or catering. Where this is the situation, prospective Suppliers must be made aware and the specialist should only outline his opinion, leaving College managers to make the final choice.

The College does not have to accept the lowest price Tender, as this may not be “best value” but it must be able to justify that decision should it be subject to scrutiny.

c) Clarifications, Presentations and Interviews

Where information or documentation submitted by a Supplier is or appears to be incomplete (including where specific documents are missing), erroneous or unclear, the College may issue a request for clarification to the Supplier. This must not favour or disadvantage any other Supplier in the procurement process.

The College has a statutory duty to ensure Suppliers explain the price or costs proposed in their tender where tenders appear to be abnormally low.

The College may invite Suppliers to attend a presentation or interview as part of the evaluation process. The criteria for shortlisting must be clearly set out in the tender document, and the selection of Suppliers to attend presentation/interview must not discriminate against or disadvantage any other Supplier.

d) Post-Tender Negotiations

Post-tender negotiations (i.e. after receipt of formal Tenders but before signing of contracts) with a view to improving price, delivery or other terms can be entered into, provided:

- It would not put other tenderers at a disadvantage; and
- It would not affect their confidence and trust in the College’s tendering process

In each case, a statement of justification should be approved by the Principal (except where the Principal has been involved in the Tender process, when it should then be authorised by the Chair of the Audit Committee) prior to the event, showing:

- Background to procurement;
- Reasons for proposing post-tender negotiations; and
- Demonstration of the improved value for money

All post-tender negotiations should be reported to the Finance Committee.

5.18iii Tenders (above EU Threshold)

The procedure outlined in section 9.2 applies, with the following additions:

- The Tender must also be advertised in the OJEU (Find a Tender from 1st January 2021). Details of Advertising Timescales can be found in Appendix 2.
- It is not possible to restrict the advertisement of the contract to a pre-defined list of Suppliers (unless using the Restricted procedure).
- Publication of the tender documents at a national level (e.g. through your e-procurement portal and Contracts Finder) must not occur until 48 hours after the despatch of the OJEU notice.
- Post-tender negotiations are not permitted, unless specifically provided for as part of the tender process.

5.19 **Award & Implement Contract**

5.19i **Tenders (Below EU Threshold)**

a) Due Diligence

Following the evaluation process and upon reaching consensus on the winning Supplier, a due diligence process must be undertaken to confirm that:

- The Tender received is bona fide and sustainable;
- The Supplier has the technical capability to deliver the Contract; and
- The Supplier has the relevant policies / certificates required (including evidence of adequate insurance cover for public and employers' liability; and professional indemnity and product liability where required).

b) Supplier Notification

The College must write to the unsuccessful Suppliers and advise them of the outcome of the procurement process. The College should provide unsuccessful Suppliers with details of the scores they received, and the characteristics and relative advantages of the winning Tender.

A short standstill period is recommended between the issue of notification letters and the confirmation of contract award/signature of the contract, to deal with any queries or complaints from Suppliers.

c) Supplier Queries/Complaints

Complaints or challenges made by Suppliers at any stage of the Procurement process must immediately be referred to the Director of Finance, who must take steps to investigate and take action as necessary.

d) Contract Award Notice

If the value of the Contract exceeds £25,000, an Award Notice must be issued via Contracts Finder, recommended within 90 days of the contract award date (regardless of whether it was originally advertised via Contracts Finder).

5.19ii **Tenders (above EU Threshold)**

The procedure outlined in section 10.1 applies, with the following additions:

- A mandatory standstill period of a minimum 10 days must be held prior to confirmation of the contract award. If the standstill period is due to end on a non-working day, then it must be extended until the next available working day.
- A Contract Award Notice must also be published in the OJEU within 30 days of the contract award date.
- complete a 'Regulation 84 Report', subject to the EU Procurement Rules.

5.19iii Where only one supplier submits a tender, the tender should still be evaluated as outlined above and scored appropriately. The Chief Operating Officer should authorise all contract awards where only one supplier has submitted a tender, or consider going back out to market.

5.20 **Contracts**

5.20i **Contract Management**

After the Contract has been awarded the Budget Holder is responsible for managing the Contract in line with the agreed terms and conditions and any Service Level Agreements and Key Performance Indicators which were agreed between the College and Supplier as part of the contract.

The Budget Holder can refer issues to the Director of Finance or Procurement for advice and guidance in managing the Contract.

The Director of Finance will from time to time request feedback on consortia Framework Agreements to communicate to the relevant consortia.

5.20ii **Contract Extensions and Renewals**

Under no circumstances should a Contract be extended after the expiry date if there is no extension clause within the Contract. If a Contract has an extension clause, the Budget Holder must not allow the contract to be rolled over without first being reviewed to identify if Goods or Services are still required and if the Specification remains the same.

The Budget Holder should also arrange for a benchmarking exercise to be carried out to check that the Contract is still offering value for money. This should be carried out at least six months prior to the Contract expiry date to allow time for tendering and potentially choosing a new Supplier.

If the Budget Holder requires the Contract to be extended, a contract extension request form which evidences value for money must be completed and approved in line with the College thresholds. The Budget Holder should arrange for a tender to be carried out at least six months prior to the expiry date.

5.20iii **Contract Termination**

The Budget Holder is responsible for arranging termination of a Contract in line with the terms and conditions of the contract. Advice can be sought from the Director of Finance.

A copy of the termination letter should be issued to the Director of Finance to keep on file with the contract and to update the Contracts Register.

5.20iv **Contracts Register and Contract Documents**

The Director of Finance (or their delegate) is responsible for maintaining the Contracts Register and holding all original Contracts and agreements, including licence and maintenance agreements.

The Budget Holder is responsible for notification of, and issuing, all Contracts and agreements to the Director of Finance / Procurement after signature.

The Contracts Register and related Contracts Guidelines are available on the intranet or from the Director of Finance / Procurement.

5.21 **Placing Orders with Suppliers**

5.21i **Purchase Orders**

Purchase orders are required as follows:

- Official College orders must be placed for the purchase of all Goods, Works and Services, except those that have a value of less than £30. Below this limit, petty cash is more efficient.
- Orders must not be placed with the Supplier until an official purchase order has been created.
- In exceptional circumstances, urgent orders may be given verbally but must first be agreed by the Director of Finance and confirmed with a purchase order no later than the next working day.
- In some circumstances, alternative purchasing route's may be agreed by the Director of Finance that do not require a purchase order. E.g. purchase of stationary via web account management. Where this is arranged, appropriate authorisation levels will be setup within the account management.

5.21ii **Call-Off Orders**

Call-off orders are to be used primarily for Goods and Services that are provided on a regular and consistent basis. Examples include but not limited to:

- Bottled water
- Consumables ordered regularly from an agreement/contract
- Rental of equipment
- Professional Services
- Transport

When raising a call-off order staff must ensure:

- An approved Contract or agreement is place.
- Call-off order numbers should be sent to the Supplier, so they know the number to include on all invoices.
- There is a record of requests against the call-off order. This helps when checking invoices and keeping track of spend.
- All call-off orders should be reviewed each year during July/August or thirty (30) days prior to issuing a new blanket order for the upcoming financial year.

5.21iii **Credit Card**

A College Credit Card is held by the Finance Department. It is only to be used for low value purchases, internet orders or one-off purchases. Procurement cards may be issued for departmental/individual use. The Director of Finance is required to authorise the issue of procurement cards. No credit card payments will be made without a Purchase order Number.

5.21iv **Petty Cash**

Petty cash must only be used in line with the College's Financial Regulations.

5.21v **Internet Orders**

Ordering via the internet presents increased risk and responsibility to those who purchase on behalf of the College. Purchases via the internet should be minimised unless the order is with a preferred or contracted Supplier.

Deal only with established, reputable Suppliers. Do not buy from unincorporated individuals or groups offering products or services.

- Departments can utilise their Procurement Card, where applicable, or a Credit Card Request.
- Departments choosing to order via the internet should ensure that the Supplier provides a secure website for transmission of information.

It may appear the item being purchased is less in value via an internet Supplier, but the whole-life cost still has to be taken into account including delivery charges and warranties. In addition, the College has less protection and loses buying power, compared with preferred Suppliers.

eBay and other internet auction sites must not be used under any circumstances unless approved by the Finance Director.

5.21vi **Personal Monies**

Staff making any purchases using their own money or a personal credit card will not be able to recover through expenses unless prior approval has been sought and received from their line manager.

5.21vii **New Suppliers**

Prior to requesting new Suppliers, staff should first check the Finance System Supplier List.

If there is no existing Contract or preferred Supplier, follow the procedure for setting up a new Supplier.

If there is an existing Contract or preferred Supplier and the Budget Holder requires a new supplier to supply Goods, Works or Services, the Budget Holder will be expected to explain and document any derogation from the use of any College, regional or national Contract/Framework Agreement set up to cover a specific area of purchase. Such evidence should be attached with the new Supplier request form and new Supplier Data form duly completed and authorised.

All new Supplier requests will be reviewed and approved by Procurement and the Finance Team. A notification will be issued to the requestor when approved or rejected, with reasons.

New Supplier request forms and New Supplier data forms are available on the staff intranet.

5.22 **Terms and Conditions/ Supplier Payments**

5.22i **Terms and Conditions**

Where possible, all purchases for Goods, Works and Services must be agreed on the College's standard terms and conditions. There will be occasions when the Supplier requests the purchase/Contract to be agreed against their terms and conditions because of the type of purchase. Where this occurs, the department must submit the Supplier terms and conditions to the Finance Team for review and approval before an order is placed with the Supplier.

5.22ii **Supplier Payments**

All payments will be made to Suppliers in line with the College's Financial Regulations. Payment terms are stated within the College's terms and conditions.

Under no circumstances should staff agree to any special payment terms, including payments before Goods are delivered or reduced payment terms. Upfront payment places the College at risk of loss if the goods are not received or are received in an unsatisfactory condition.

Under exceptional circumstances a request for different payment terms can be submitted to the Director of Finance for review and, if agreed, will require approval from the Director of Finance.

5.23 Audit Trail & Document Retention

5.23i The Director of Finance may request and review any document related to a purchase decision. To that end, College departments must ensure that they retain copies of key documentation in accordance with the College's procurement procedures, and sufficient information to justify decisions taken in all stages of the procedure, such as:

- Communications with Suppliers and internal deliberations;
- Preparation of the procurement documents;
- Any interviews, presentations, clarifications, other dialogue or negotiation;
- Supplier vetting;
- Reasons for award of the contract.

5.23ii All other Contractual documentation relating to the delivery or performance of a contract must be retained for a period of six years from the date of the completion and close-down of the Contract, in accordance with the Limitations Act 1980, except for:

- Records relating to Contracts that are £5,000 or less (these should be kept for no longer than two years after the end of the Contract)
- Records relating to Contracts that are for a period of more than ten years, which should be reviewed when they are five years old to determine whether they are still needed for current business and thus for further retention. Thereafter they should be reviewed every five years.

5.24 Periodic Reviews and Reporting

5.24i Regular reporting on procurement activity will be undertaken as follows:

- Monthly Highlight Report
- Termly Report to Audit & Risk Committee
- Annual Report to Audit & Risk Committee

Each report will as a minimum, highlight procurement activity undertaken within the period, savings achieved and future planned procurement activity.

6 Relevant Policies and Procedures

Financial Regulations
Gifts and Hospitality Policy
Anti-Corruption, Fraud & Bribery Policy
Whistleblowing Policy

7 Who to contact with Queries

Director of Finance
Head of Finance
Procurement Manager

8 Communication

To be made available on the Staff Intranet.

9 Authorisation

Policy Holder:	Barrie Shipley
Job Title:	Director of Finance
Committee Group:	Senior Leadership Team
Authorisation Date:	01 August 2020
Next Review Date:	31 July 2023

*Policies will be reviewed every three years unless there is a specific requirement to undertake the review annually.

APPENDIX 1

EU Procurement Regulations Thresholds (as of 1st January 2020*)

Supply, Services and Design Contracts	Works Contracts	Social and other specific services**	Concession Contracts
£189,330	£4,733,252	£663,540	£4,733,252

*The EU thresholds are typically subject to review every two years.

**Social and other specific services (subject to the light touch regime) as detailed in Schedule 3 of the Public Contracts Regulations 2015.

These include: Health, social and related services; administrative social, educational, healthcare and cultural services; benefit services; community social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services; religious services; hotel and restaurant services; legal services; investigation and security services; and postal services.

APPENDIX 2

EU Advertising Timescales

The table below sets out minimum permitted timescales relating to the main contract award procedures under the Public Contracts Regulations 2015. The requirement when setting timescales is to allow sufficient time for suppliers to prepare responses, accounting for the subject of the contract, the contract award procedure to be used and the need, for example, for site visits.

Type of Procedure	Standard Timescales	Tenders <u>submitted</u> electronically	Requirement is urgent and longer time limit is impractical as a result*	PIN published no more than 12 months and no less than 35 days from despatch of contract notice
Open Despatch of contract notice to receipt of responses	35 days	5-day reduction	Period reduced to 15 days	Period reduced to 15 days
Restricted Despatch of contract notice to receipt of responses ITT to receipt of Bids	30 days May agree time-limit with tenderers (min. 10 days)	5-day reduction	Period reduced to 15 days Period reduced to 10 days	Period reduced to 10 days
Competitive with Negotiation Despatch of contract notice to expressions of interest ITN to receipt of Bids	30 days May agree time-limit with tenderers (min. 10 days)	5-day reduction	Period reduced to 15 days Period reduced to 10 days	Period reduced to 10 days
Competitive Dialogue & Innovation Partnership Despatch of contract notice to expressions of interest	30 days			

*The criteria for justification are set out in Regulation 27 (5) of the Public Contracts Regulations.

APPENDIX 3

List of Purchasing Consortia

Crescent Purchasing Consortium (CPC)	https://www.theipc.ac.uk/
Crown Commercial Services (CCS)	https://ccs-agreements.cabinetoffice.gov.uk/
Yorkshire Purchasing Organisation (YPO)	https://www.ypo.co.uk/
Eastern Shires Purchasing Organisation (ESPO)	https://www.espo.org/
North East Procurement Organisation (NEPO)	https://www.nepo.org/
North Eastern Universities Purchasing Consortium (NEUPC)	http://www.neupc.ac.uk/
The Energy Consortium (TEC)	http://www.tec.ac.uk/

APPENDIX 4

Procurement Route to be taken

