

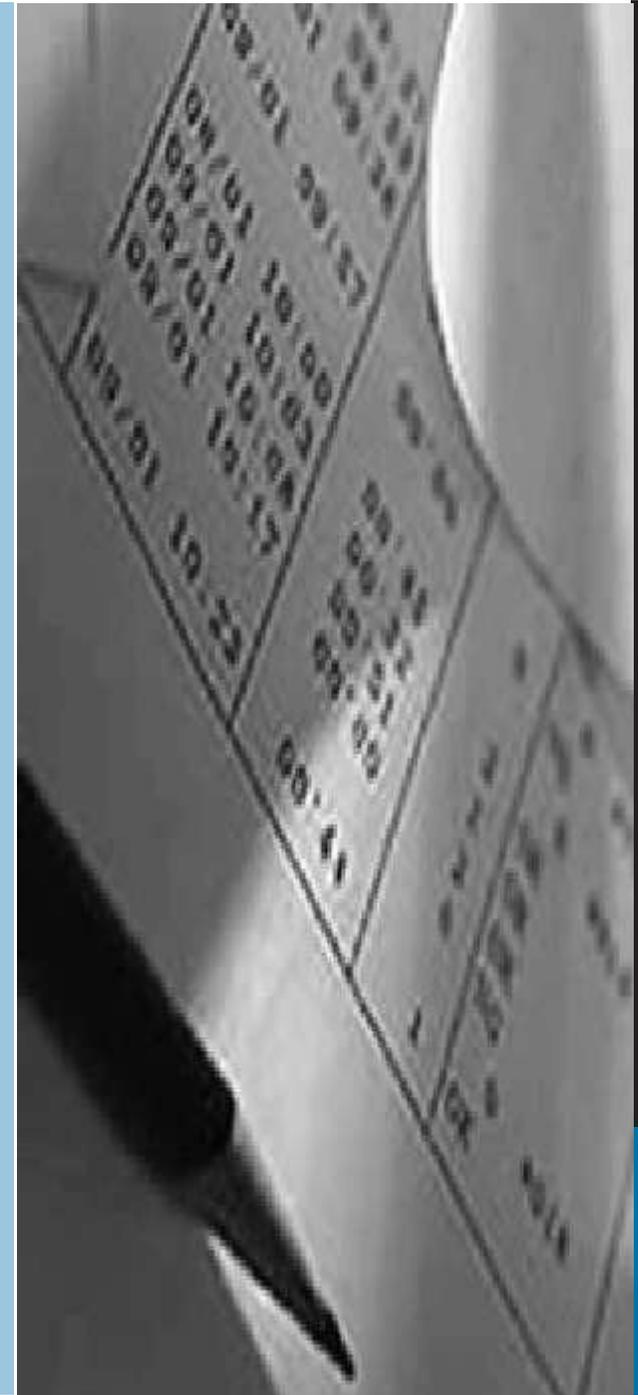
Selling to the Council Guide

TONBRIDGE
& MALLING
BOROUGH COUNCIL



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WHY HAVE A GUIDE?

The Council buy goods, works and services from a range of suppliers. Contracts vary from small, one-off purchases to large works or services contracts.

This document:

- Advises potential suppliers about how to apply for Council contracts;
- Gives guidance on how we advertise contracts for goods, works and services; and
- Includes extracts of relevant legislation, Council policies and contract procedure rules. These control the procurement framework.

The Council has a Procurement Strategy. One of the key principles of the Procurement Strategy is to develop a mixed economy of suppliers and promote partnering arrangements. We are keen to develop participation by small firms and the voluntary and community sectors, and to work with suppliers to deliver community benefits in a way that is consistent with best value, and in compliance with procurement law.

The Council's Procurement Strategy is available on the Council's website at:

www.tmbc.gov.uk/services/business/tenders-and-contracts

The Council cannot give a guarantee to any supplier that they will be successful in securing a contract. However, this Guide should help you to take steps to ensure that you are in a position to compete for business.

WHAT THE COUNCIL BUYS

Here are some indications of the purchases that the Council makes: -

Goods

Car parking enforcement equipment
Catering products and provisions
Computer hardware including servers and computers
Computer software
Mobile phones
Office furniture
Photocopiers including multi-functional devices
Stationery supplies

Services

Advertising
Cleaning of public conveniences
Grounds maintenance
Insurance
Refuse collection, recycling and street cleaning

Supplies

Gas, electricity, water

Works

Building of Council facilities
Repair and maintenance of Council facilities

RULES AND REGULATIONS

We have to follow particular rules and regulations when we buy goods, works and services. These cover how we advertise and tender. There are also financial limits, which control the approach that we must take. These are detailed below.

Contract Procedure Rules

These regulate how we conduct our business. They set out the procedures for advertising, evaluating and letting contracts of different values. You can view the Council's Contract Procedure Rules on the Council's website at:

www.tmbc.gov.uk/constitution

The table details the various procedures appropriate to Contracts.

Where the value of the contract is below £100,000 full tenders are not generally sought and the Council will seek quotations as set out in the table opposite. The Council will clearly indicate what it requires in order to decide to whom to award the Contract.

We currently make use of the KCC Select List of approved contractors for general building maintenance and repairs. Contractors who wish to bid for such work are encouraged to join the KCC select list. We also make use of Framework contracts. These are contracts which have been set up by public bodies to govern how to procure works supplies and services which are advertised when they are set up. If these are used there will not be any public advertisement to call off works services or supplies when needed under the Framework Agreement.

Value of contract	Type of contract	Procedure to be used
Up to but not exceeding £4,999	works, supplies and services	At least one quote in advance ***
£5,000 up to but not exceeding £99,999	works, supplies and services	At least three written quotes in advance. ***
£100,000 up to but not exceeding £189,329**	works, supplies and service	At least three written tenders in advance, following advertisement by public notice. ***
£189,330** plus **EU Threshold for supplies and services	supplies and services	EU Rules apply – full competitive process following advertisement in the OJ for supplies and 'Part A*' services. Members to approve process in advance. *** For 'Part B*' services reduced requirements apply under the EU Rules but there is a presumption in favour of advertising and a competitive process. Members to approve process in advance. ***
£189,330 up to but not exceeding £4,733,251**	works	Full competitive process with tenders following advertisement by public notice. Members to approve process in advance. ***
£4,733,252** and above **EU Threshold for works	works	EU Rules apply – full competitive process with tenders following advertisement in the OJ. Members to approve process in advance. ***

* For the purposes of the EU Rules services are divided into two types and the EU Rules apply to a different degree.
 ** or relevant threshold in force at the time under the EU Rules.
 *** Where a Framework Agreement is used to let a contract these rules on procedure and advertising will not apply. Instead the process in the Framework Agreement will be followed.

European Rules

If the potential value of a contract exceeds the relevant European Union limits the Council must place an advertisement in the Official Journal of the European Commission, inviting expressions of interest to tender. The relevant limits as at 1 January 2020 are:

Works £4,733,252

Supplies
or services £189,330

When setting up a Framework contract the EU rules on advertising apply but not to any call-offs for works supplies or services let under the Framework contract.

There are European Directives that set the timescales that we have to follow. The rules aim to ensure open and non-discriminatory competition. More information is available at:

<http://simap.ted.eu>

POLICY CONSIDERATIONS

Health and Safety

The Council conforms to all Government health and safety legislation and requires all contractors to have a comprehensive Health and Safety Policy applicable to the nature of their contract with the Council. For high risk high value contracts the Policy must include risk assessments and method statements for all work that is to be undertaken.

We expect contractors to show compliance with current health and safety legislation by having: -

- A commitment to the health and safety of its employees, clients and others.
- Current health and safety policies and procedures.
- Sufficient risk assessment procedures.
- A system for monitoring and reporting on accidents, incidents and ill health.
- A system to monitor contracts for compliance with relevant contract standards and health and safety needs.

Supporting Smaller Businesses

The Council wishes to encourage a greater number of small and medium sized businesses, including those from the voluntary sector, to supply us with goods and services. We have adopted a specific policy to achieve this which can be viewed on the Council's website. In addition to working directly with SMEs, we will also encourage larger companies who work with us to support smaller businesses by sub-contracting more specialist elements of a larger contract and supporting the development of local supply chains which might include SMEs and voluntary bodies.

Equal Opportunities and Diversity Policy

The Council is an equal opportunities employer and is committed to promoting equality of opportunity for all persons. We will ensure that our contracts are awarded on a fair and equal basis and do not result in discrimination against minority interests. The Council expects all its suppliers to abide by the law and to adopt best practices in this area. As part of the tender process, we will ask all potential suppliers to provide evidence that they have equal opportunity policies and are committed to them.

Sustainability and Environmental Issues

The Council is committed to minimising the environmental impact of its activities and to encouraging others, including its suppliers, to act in an environmentally responsible manner. We therefore encourage suppliers to demonstrate an awareness of environmental best practice and promote those practices either in the work they undertake or via the processes they use to produce the goods we purchase from them. When they apply for relevant Council contracts, we may ask suppliers to explain their environmental practices and procedures and to submit appropriate evidence of them.

TENDERING FOR BUSINESS

There are three different tendering procedures that we can use to award a contract. These are the open, restricted and negotiated procedures. We explain these below. When the Council puts the contract out to tender it will make it clear which of the procedures applies and what it requires any tenderer to do in relation to the contract being advertised.

OPEN procedure

The Council places an advert for the goods, works or services. The Council invites all suppliers who respond to the advert to tender for the contract.

RESTRICTED procedure: this is a two-stage approach.

Stage one - The Council will advertise the potential contract and invite expressions of interest from potential tenderers. In response to expressions of interest from potential tenderers the Council will obtain relevant information about them in order to ascertain their suitability as potential suppliers. To achieve this, the Council may send a 'pre-qualification questionnaire' to those who have responded to the advert.

Stage two: The Council will send an 'invitation to tender' to those short-listed at stage 1. The invitation to tender will invite them to return tender documents by a specific time and date. Where ever possible, this should be by electronic tender submission to the secure mailbox identified in the invitation letter. The Council will send all or some of the following to potential tenderers: -

- **Invitation to tender letter** - this informs the potential tenderers when, to where and how they should return their tenders. It also explains the tendering process and gives instructions for completing the tender documentation.
- **Specification** - states what needs to be achieved and may include policies, procedures and guidelines that the eventual contractor will have to comply with.
- **Pricing Schedule** - the document in which the tenderer will have to set out all prices relevant to the contract.
- **The Bona Fides Certificate** - the tenderer must complete, sign and date the certificate and return it with the tender. The certificate requires the tenderer to declare that there has been no collusion in reaching the price set out in the tender form or pricing schedule.
- **Terms and Conditions** - states how Tonbridge & Malling Borough Council will let the contract, any rules which tenderers must abide by and the proposed relationship between the Council and the chosen contractor.
- **Tender Evaluation Criteria** - defines how the tender submission will be evaluated and the contract awarded.
- **Secure E-mail Address** - the e-mail address of a secure mailbox to which tenders should be sent which will not be opened until the date and time for the return of tenders has passed as notified in the invitation to tender letter.
- **Tender Return Envelope** - the envelope to be used for the return of the tender used when the contractor is unable to complete an electronic tender. The envelope states the time and date by which the tender must be received.
- **The Tender Form** - is the document on which the tenderer must state the total, binding price for the goods or works or services.
- **Any other supporting details** - such that Tonbridge & Malling Borough Council wishes tenderers to follow.

NEGOTIATED procedure

In exceptional circumstances the Council might not advertise a contract but, instead, negotiate its terms with one or more potential suppliers. The European directives permit this in limited circumstances. In addition, the Council's constitution provides for this to happen in exceptional circumstances, for example for the execution of work required as a matter of urgency.

The Contract will not be advertised by the Council if it decides to use the G-Cat framework agreements set up by Office of Government Commerce (OGC) in letting the contract. This will be used where it is considered to be in the authority's best interest.

CONTRACT MANAGEMENT & MONITORING

The Council will monitor delivery of the contract to ensure that the requirements of the contract are being met. Such monitoring will entail, for example, regular communication with a contract administrator and submission of activity records where appropriate.

HOW IS THE CONTRACT AWARDED?

The Council undertakes a comprehensive, equitable and auditable evaluation of all tenders. In order to ensure fairness, the Council will explain the evaluation criteria and method (including any weightings) in the tender documentation. In order to select a supplier/contractor, the Council will consider how the tenderer proposes to deliver the contract (quality) and the cost of the contract (price). In essence the Council seeks to obtain the best balance between quality and price and will not necessarily accept the lowest price. We will use additional criteria in certain circumstances and, if so, we will identify them in the tender documentation.

We will award contracts to the supplier who offers the best value for money and who best meets the Council's specification. The evaluation process may also incorporate consideration of some, or all, of the following elements:-

- After-sales service
- Competence
- Delivery timescales
- Equality and sustainability issues
- Experience in the marketplace
- Financial viability
- Quality
- Reference sites
- Technical support

The Council shall award contracts in accordance with its Contract Procedure Rules.

WHAT ARE THE COUNCIL'S ASPIRATIONS OF CONTRACTORS?

The Council aims to ensure that contracts offer value-for-money. In turn we expect excellent performance from contractors. This can be demonstrated by:

Low total cost – this relates to not only low price but also includes administration and quality. Suppliers need to consider the total, whole-life costs of supply when submitting their tenders.

Quality – contractors/suppliers must provide goods, works or services to a standard of quality sufficient to meet the requirements stated in the specification.

Compliance with Council policies and procedures – the Council is committed to delivering quality services whilst, simultaneously, taking into account issues such as sustainability, equalities, and health and safety. During the evaluation process, it will look for indications as to whether potential suppliers or contractors believe that this is feasible.

Integrity – the Council expects honesty in all aspects of its working relationship with its contractors/suppliers and with any other interested parties. It is a criminal offence to make, or offer, any gift, or inducement, or reward to a local government councillor or official in connection with the award of a contract.

Innovation – suppliers are encouraged to be innovative; to suggest new ideas that may add value-for-money; and to aim to improve their performance.

Communication – the Council expects suppliers to maintain good communications throughout the period of any Contract.

PARTNERING

The Council will examine the possibility of a partnership approach to service delivery for all its major projects. The aim will be the creation of mutually advantageous, flexible, long-term relationships based on the achievement of continuous improvement and on sharing risk and reward. The partnerships could involve the public or the private or the voluntary sector and, in some cases, a combination thereof. If the Council wishes to take this approach, it will make this clear in the contract advert and tender documentation.

E-PROCUREMENT

To improve efficiency the Council prefers to do business electronically from requisition of goods through to payment and prefers to pay suppliers by BACS. It also prefers to receive tender documents electronically wherever possible

HOW WE PAY SUPPLIERS

The Prompt Payment Code 

We are an Approved Signatory of the Department for Business Innovation & Skills Prompt Payment Code and endeavour to support our suppliers by paying them electronically via BACS within 10 days upon receipt of a valid invoice. Where this is not possible we comply with supplier payment terms or the 30 day limit set out in the prompt payment legislation. If we dispute your invoice, we will contact you promptly. We expect our contractors in turn to pay their sub-contractors promptly and in any event within 30 days and to impose similar obligations on them as we have imposed on the contractor.

INSURANCE

Where appropriate, we expect contractors to produce evidence of adequate public liability (minimum £5 million) and employers' liability (minimum £10 million) insurance cover. In addition a few contracts will require professional indemnity or product liability cover. There may also be occasions when the Council will require its interest to be noted on a contractor's policy.

GIFTS AND HOSPITALITY

The Council cannot accept gifts and hospitality from any of its suppliers.

If you are having difficulty reading this document and would like the information in another format please call 01732 876267 or email mark.raymond@tmbc.gov.uk

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