



# COMHAIRLE NAN EILEAN SIAR

## PROCUREMENT GUIDE

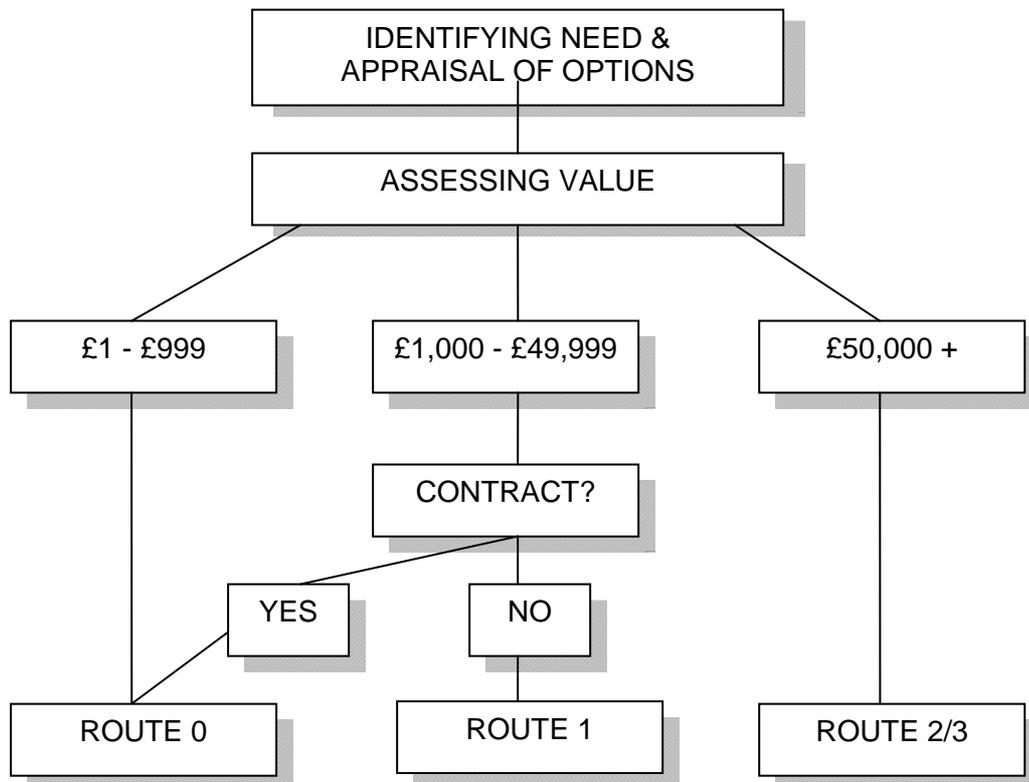
### 1. ABOUT THE GUIDE

This guide contains procedures and recommended good practice for procurement. By following the steps laid out in the guide, employees undertaking procurement can ensure compliance with the law, the Comhairle's [Procurement Policy](#), [Contract Regulations](#) and other Comhairle Policies.

Following the procedures contained in the guide will give a high level of assurance that the way goods, services and works are bought within the Comhairle is effective, complies with Comhairle policy and is legal. The Procurement Guide is not completely exhaustive and neither can it replace knowledge and experience which should be applied to particular or peculiar circumstances.

Throughout this guide reference is made to instances where the Strategic Procurement Section should be consulted and involved.

### 2. THE PROCUREMENT PROCESS



For any procurement where a local contract is required, the possibility of collaborating with another public body should always be considered. More advice on collaborative procurement can be obtained from the Strategic Procurement Section.

There is a policy for the appointment of consultants which is set out in the Contract Regulations. A "[Request to Engage Consultant](#)" form must be used to secure permission to proceed, in advance, from the Chief Executive and Director of Finance and Corporate Resources.

There are some circumstances where the requirements in Route 2 and/or 3 do not need to be followed. These are detailed in Section 7 of this guide.

### 3. IDENTIFICATION OF NEED AND APPRAISAL OF OPTIONS

The procurement process begins with the identification of a need. This may not always result in a purchase and the specific need may be able to be met in another way. "No purchase" is a valid answer and will result in maximum savings for the Comhairle. This may come about through a "make or buy" decision where the most effective option is to deliver the solution internally. It may also come about from a "repair or replace" decision where the most effective option is to repair or otherwise extend the life of an existing asset. As a minimum, the following questions should be asked when identifying need:

#### Goods:

- Does anyone else have one they don't need which we can use?
- Can the one we have be repaired or renovated?
- Can we manage without it?
- Would there be any risks if we did?

#### Services:

- Could we do this ourselves?
- Could another department of the Comhairle do this for us?
- Could we manage without this?
- Would there be any risks if we did?

#### Works:

- Have these works been authorised as part of a programme or classified as a piece of essential repair or maintenance?
- Are there any additional revenue costs arising from completion of these works?
- Is there capacity in-house to do these works?
- Are there any statutory approvals required to do these works, such as planning permission or a building warrant?

If a requirement to purchase is the most effective option it must be described in output terms, i.e. by defining what is to be achieved and not by specifying a particular or potential solution or product to address a need. This will enable effective challenge of the status quo.

### 4. ASSESSING VALUE

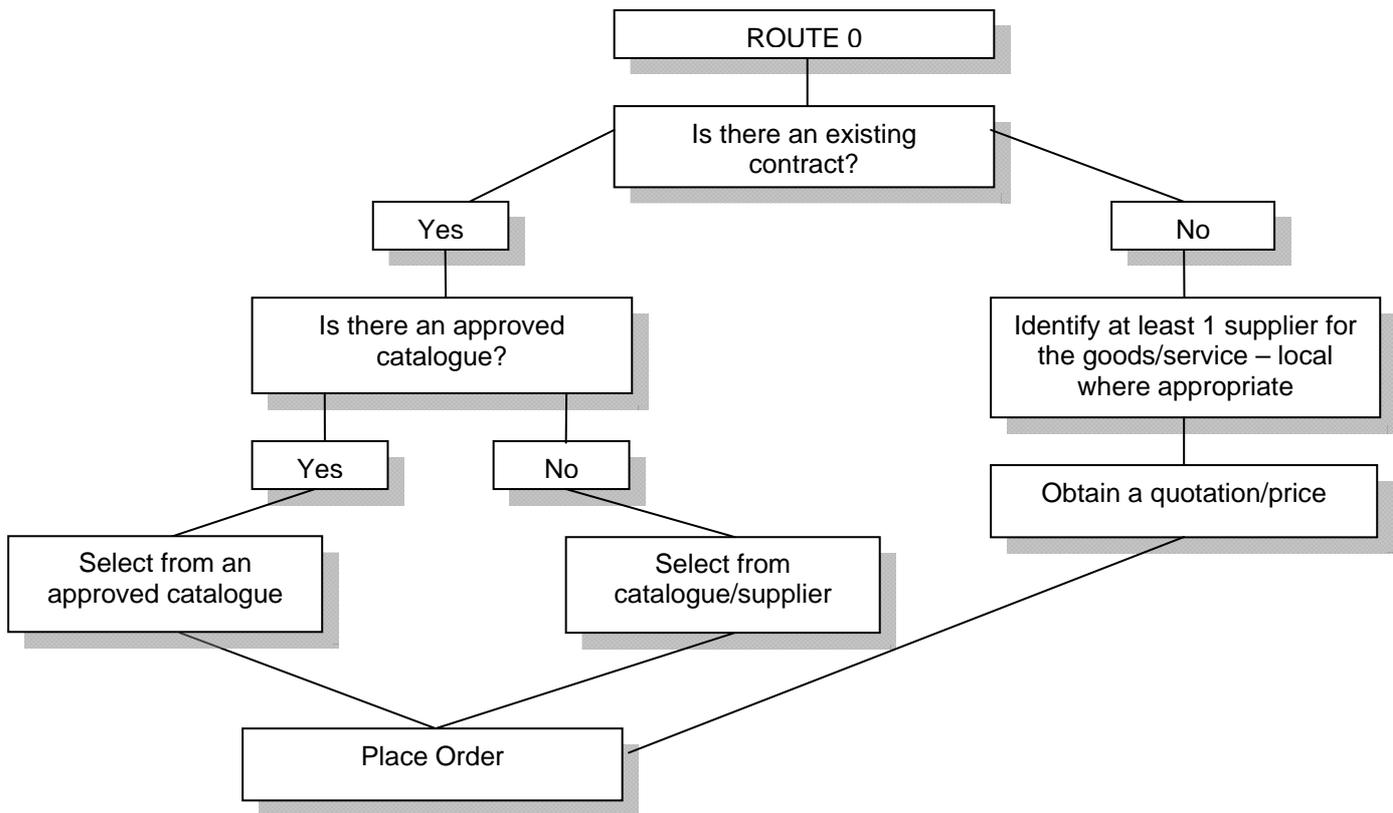
Separating or sub-dividing any procurement into two or more contracts in order to avoid application of the Comhairle's Contract Regulations or the Public Procurement Regime is not allowed.

The value of a contract is the total estimated value of the **whole** contract, not the estimated annual value of the contract. The value of a contract is calculated by multiplying the annual contract cost by the term of the contract. If the contract is for an indefinite number of years the annual cost must be multiplied by 4 to reach an indicative contract value.

All contracts for the provision of works, goods or services having a value equal to or exceeding the EU thresholds are subject to the requirements of EU Directives on Public Procurement and to the UK or Scottish Legislation or Regulations implementing the Directives. Current values are available from the Strategic Procurement Section. Where the estimated value of a contract is 80% or more of the EU threshold, specific advice should be sought from the Strategic Procurement Section.

New rules are also in place relating to the procurement process for contracts valued at over £50,000 (goods and services) and £2m (works) as a result of the Procurement Reform (Scotland) Act 2015.

**5. ROUTE 0**



The Strategic Procurement Section will be able to advise on whether a contract is in place. Information about contracts is also available on the Intranet.

**6. USING SCOTTISH GOVERNMENT PROCUREMENT JOURNEY**

The Scottish Government has produced guidance and templates for use when carrying out a tendering process. The Comhairle has approved the use of these guidelines for all procurement over £50,000. The guidance can be accessed via this link:

<https://www.procurementjourney.scot/node>

Detailed planning and evaluation of risk is essential at the earliest possible stage of any procurement and a risk register relating to the procurement process and delivery of the overall project will be put in place. The importance of the regular review of risk as a project develops also cannot be overstated.

For Design Consultancy Services such as architecture, structural engineering or quantity surveying, the terms and conditions of appointment should be in accordance with the Standard Forms of Appointment used for the respective discipline with a detailed indication of the Schedule of Services in line with the Standard Forms. The Director of Technical Services can provide advice on procurement of design consultancy.

There are a number of local variations which need to be followed in addition to the Procurement Journey including processes specifically for Works contracts. These are listed in the following sections.

Please consult with the Strategic Procurement Section before starting the Route 1-3 procurement process.

**Route 1**

The Brief

While it is good practice to use the Route 1 process for all purchases over £1,000, it is recognised that preparing a “brief” document may be over complicated for a low risk or low value good/service.

The Strategic Procurement Section are able to advise on whether a full brief should be prepared.

Securing Quotations

It is good practice, and the most effective method, to use the Quick Quote Function on the Public Contracts Scotland Portal for all non-contract purchases between £1,000 and £49,999. The minimum requirement under Contract Regulations is that three quotations are obtained. Should less than three be submitted evidence or invitations to quote should be retained for audit purposes to demonstrate compliance with procedures. The use of Quick Quote is the easiest way to secure the required number of quotations and should be used wherever practicable.

Award of Quick Quote

Where the quote is within the threshold and budget, the work may be awarded by the procuring officer. In the event that the lowest price/most economically advantageous quote exceeds the threshold, then, expect in exceptional circumstances it will be re-issued as a tender following Route 2. Award in exceptional circumstances will only be made with the approval of the Chief Executive. In the event that the lowest price/most economically advantageous quote exceeds the budget, the quote can only be awarded once the relevant budget manager has confirmed that sufficient budget is in place.

**Route 2/3**

For all procurement exercises the following steps/authorisation must be followed:

	<b>Sign Off</b>	<b>Quality Assured</b>	<b>Approval</b>
Procurement Strategy Document (Project Initiation Document) and checklist	Head of Service	Procurement	Procurement Steering Group
Budget Sign Off	Director	Accountancy	Director of Finance & Corporate Resources
Specification (see below)	Director	Procurement	Procurement Steering Group

	<b>Sign Off</b>	<b>Quality Assured</b>	<b>Approval</b>
Evaluation Criteria	Director	Procurement	Chief Executive
Contract Terms & Conditions	Director	Legal Services	Head of Executive Office
Contract Award Report	Director	Procurement	Chief Executive
Contract Management Plan	Service Manager	Procurement	Director

### Specification – Community and Stakeholder Engagement

When determining the specification for a requirement, the lead officer must ensure appropriate engagement with stakeholders, service users and/or the wider community. This is particularly important in contracts which directly deliver services for people in the Western Isles. The Strategic Procurement Section can provide advice and support for this process if required.

Particular attention will also be paid to ensuring the Comhairle's obligations in relation to equalities are taken into account.

### Specification – Seeking Committee Approval

Matters which relate to addressing service needs and/or which would impact on the cost of the project (in cases where there are alternative means of proceeding) such as, the length of a pier or whether a stretch of road should be single or double track, the capacity of a care home or school, should be determined by the Service Committee on the advice of and following an options appraisal by Officers. In relation to revenue contracts, matters such as the age of the vehicles, the frequency of services are to be provided e.g. in relation to buses or grounds maintenance should be referred to the Service Committee on the same basis.

Additional guidance on terms and conditions is contained in the report entitled [Contracts - Proposed Procedures Prior to Award](#).

### Development of a Procurement (Commodity) Strategy

A procurement strategy, for approval by the Procurement Steering Group, must be developed for all requirements over the tendering limit as approved in the Contract Regulations.

Where possible early market engagement should be carried out to inform the development of the strategy.

The strategy will also demonstrate how lotting strategy and market engagement supports the delivery of the outcomes as approved in the Comhairle's Procurement Strategy. The use of whole life costing will also be considered at this stage along with issues like health and safety and equalities which are statutory requirements under the Procurement Reform (Scotland) Act.

### Undertaking the Tendering Exercise

Only officers who have approval to undertake a level 3 or 4 procurement role are permitted to lead a tendering exercise.

All tenders will be advertised on the Public Contracts Scotland Portal, PCS Tender and, where appropriate, in the Official Journal of the European Union.

## Evaluation

In relation to evaluation, objectivity, external perception of objectivity and double-checking are all key to this process. It is therefore suggested that evaluation be carried out by a team including client officers and, where appropriate technical advisers. Scores will be determined through a moderation process unless otherwise agreed at the procurement strategy stage.

A guide for evaluation panels has been developed and is issued to all panel members prior to the evaluation process.

## Contract Award and Notification

All contracts must be approved by the Chief Executive following consideration of a detailed contract award report prepared by the lead procurement officer.

All contract awards will be published on Public Contracts Scotland.

## Contract Implementation and Management

It is important to ensure that the steps in the Procurement Journey post contract award are followed. The Head of Service must sign off the Contract and Supplier Management Plan and following quality assurance submit the Plan to the Director for approval.

## **Additional guidance for procurement for Works**

The Director of Technical Services takes the lead for procuring and overseeing all construction works relating to projects lead by his departments. Construction Works include building and civil and other engineering works as defined in Regulation 2 of the Construction (Design and Management ) Regulations (CDM 2015 Regulations) and may include both notifiable and non-notifiable works. Occasionally it may also include "Design and Build" projects as well as traditional contracts.

Prior to commencing any tendering exercise, it should be confirmed whether or not the Comhairle's in house Property Maintenance Delivery Team has capacity to undertake the required construction work within the best value framework.

A Procurement Strategy approved by the Procurement Steering Group and evaluation criteria approved by the Chief Executive are required before the tendering process commences.

Only officers who have approval to undertake a level 3 or 4 procurement role for Works contracts are permitted to lead a tendering exercise.

## **7. EXEMPTIONS TO CONTRACT PROCUREMENT RULES**

The following circumstances are detailed in the Contract Regulations as being those where Route 2/3 tendering processes need not be followed:

- Any procurement where the value is less than EU thresholds and a Comhairle decision has been taken not to seek tenders;
- Urgent professional services including structural engineering, the appointment of Counsel or other legal specialists;
- Contracts of employment

- Contract relating to heritable property;
- Contract awarded through a Framework Agreement;
- An urgent requirement for goods or services (as determined by the Chief Executive);
- Collaborative procurement undertaken by another body where a Comhairle decision has been made to participate; and
- Special circumstances (as determined by the Chief Executive) including:
  - An instance where the proposed supplier is, by reason of recent experience within the last three months, the best value for money and would be likely to remain so in another competition;
  - Where the proposed supplier is the only one known to possess unique or specialised goods or services and there are no satisfactory alternatives; and
  - Where the goods or services cannot be obtained from another source and there are no satisfactory alternatives.

Legal Services or the Strategic Procurement Section can provide advice on whether an exemption is applicable.

Approval must be sought at the outset and a Procurement Strategy, which includes more than just the procurement route **must** be completed and approved by the Procurement Steering Group for requirements where the contract value is in excess of £50k.