This advice note was last updated on 3 February 2026 and was issued by our finance advisor, Parkinson Partnership LLP.

Introduction

This advice note applies to both England and Wales, but there are separate Procurement Regulations for Wales, and references are given to both versions where applicable.

This advice note is intended to give an overview of the rules brought in by the Procurement Act 2023 (the 2023 Act). It is not designed as a substitute for reading the detailed government guidance when a council carries out a large procurement, or where the circumstances of the procurement are unusual.

"Procurement" refers to the process by which councils award and manage contracts to acquire goods, works and services from third parties. It covers the purchase of everything from stationery to the construction of a new building complex. The 2023 Act is not intended to capture purely compensatory or supportive arrangements, such as grants.

One aspect that has been strengthened from the previous Regulations is ensuring that smaller entities can participate in competition for contracts. Councils must have regard to the fact that small and medium-sized enterprises may face barriers to participation and consider whether barriers can be removed or reduced. This requirement is set out in Sections 12 and 86 of the 2023 Act.

The Act also implies 30-day payment terms for undisputed invoices in all contracts over £30,000 (including VAT), and this overrides any longer timescales written into those contracts (see Sections 66 and 88 of the 2023 Act).

Procurement below £30,000

No part of the 2023 Act applies to any procurement where the estimated value is less than £30,000, including VAT. Councils must follow their own financial regulations, which should specify the maximum value for purchases without getting estimates and set the value at which the council will seek fixed-price quotes rather than estimates

Sometimes a contract is expected to be less than £30,000 including VAT, but the value turns out to be higher when the contract is signed. There is no requirement to go back and start the procurement process again, but the council will need to publish a Contract Details Notice as described in the section above.

Note: In Wales, ‘Sell2Wales’ applies rather than the Find Tender service.

Part One — Above threshold procurement

Procurement thresholds

Parliament sets thresholds to ensure fair competition in public procurement every two years. Where the value of a contract is expected to exceed the relevant threshold currently in force, the full requirements of the 2023 Act and the Procurement Regulations 2024 must be followed when carrying out the procurement. A council can be challenged in court if it fails to comply with the rules.

In most situations, a council is legally obliged to use a competitive tendering process to award a contract above the relevant threshold.

The thresholds below apply to councils from 1 January 2026 to 31 December 2027:

- £207,720 including VAT when procuring goods or services, or
- £5,193,000 including VAT for public works (construction).

"Works" are defined in Schedule 3 of the Procurement Regulations 2024 and include construction, demolition, earthworks, repair, restoration, refurbishment, installation of equipment and the work of tradespeople such as plasterers, carpenters and glazers.

Where a contract is below the “works” threshold and includes a mixture of works and goods or services, the council must consider whether the goods or services could be supplied under a separate contract. If they could and the value of that contract would exceed the "goods and services" threshold, the council must follow the rules in Section 5 of the 2023 Act to determine whether the whole contract should be treated as an above-threshold contract.

For a contract that will run for several years, the total value over the life of the contract (not the annual value) is used to determine whether the contract exceeds the relevant threshold. This must include anything that would potentially become payable because of an option in the contract to extend or renew it without competition. For example, if a three-year contract has the option of a two-year extension, the estimated value should be the amount payable over the five-year period.

Councils must not deliberately underestimate the value of contracts or artificially split them to avoid following the rules.

Exemptions

Specific types of contracts (set out in Schedule 2 of the 2023 Act) are exempt from tendering requirements due to the nature of the activity or the relationship between the parties involved.

Examples of contracts excluded due to the nature of the relationship include:

- Contracts with an entity that the council controls (such as a local authority trading company).
- Arrangements between cooperating authorities to achieve common goals for their public functions.
- Contracts excluded due to their nature include:
- Purchase of land, buildings or related rights.
- Legal representation in disputes and the services of notaries.
- Alternative dispute resolution.
- Public broadcasting and public electronic communications services.
- Loans and Investments.
- Employment.
- Emergency services.
- Public transport (which is covered by separate Regulations).

Councils should refer to the detailed definitions in Schedule 2 of the 2023 Act and should not assume that a contract is exempt from tendering without checking.

Local councils are unlikely to be involved in light-touch contracts, which are for specified social, health, education and other public services provided directly to individuals or groups of people.

The rules for utility contracts are unlikely to be relevant to local councils as they relate to the distribution of gas, heat, electricity or water to the public through fixed networks.

Similarly, a few councils will be affected by the rules for concession contracts, where part of the consideration for the supply is a right for the supplier to exploit the works or services. These rules only apply above the "works" threshold.

Direct awards

A council may also directly award a contract without competition in specific circumstances set out in Schedule 5 of the 2023 Act. This includes:

- Avoiding receiving goods that are incompatible with existing stock (for example, obtaining street light columns that match the existing ones).
- Creation of a work of art or artistic performance.
- Situations where there is only one supplier and the goods or services cannot be obtained anywhere else.
- Contracts where the terms are particularly advantageous due to the fact that a supplier is undergoing insolvency proceedings.
- Situations of unforeseen extreme urgency, not arising from any action or omission of the council.
- Preliminary Market Engagement

Before inviting tenders, a council may engage with potential suppliers and others to develop the council's requirements and approach. This can include designing a procedure, conditions of participation or award criteria, preparing the tender documents and contractual terms, identifying the existence of potential suppliers or building capacity among suppliers.

Preliminary market engagement is not part of the tender process; it is something that takes place before a council invites participation. A council must ensure that anyone involved in the preliminary engagement does not gain an unfair advantage and that competition is not distorted. Where an advantage cannot be avoided, a council may have to exclude the supplier involved from participation in the tender process.

Duty to consider lots

Before publishing an above-threshold tender notice, a council must consider whether the goods, services or works could reasonably be supplied under more than one contract, and if so, whether such contracts could be awarded in lots.

Splitting a procurement into smaller lots does not remove the requirement to carry out the tendering process in accordance with the 2023 Act.

Tender process

The 2023 Act sets out principles that a council must have regard to:

- Delivering value for money.
- Maximising public benefit.
- Sharing information to let suppliers understand the council's procedures.
- Acting, and being seen to act, with integrity.

For above-threshold contracts that are not exempt, the 2023 Act requires councils to use a competitive tendering procedure that provides suppliers with the chance to bid for public contracts on a level playing field.

A tender process ensures that all bids are kept secret and opened together so that nobody can give any bidder an advantage by disclosing their competitor's figures. It also generally involves pricing against a detailed specification, rather than simply giving a fixed price for the work, to make it easier for councils to compare tenders.

The invitation to tender notice (Form UK4) must be advertised on the government's Central Digital Platform (Find-Tender) in accordance with the 2023 Act, and there are two procedures a council can follow:

Open tender procedure — Anyone can submit a tender, and all responses are assessed together.

Competitive flexible procedure — Can include several stages to reduce the number of bids considered, such as inviting requests to participate or imposing conditions of participation.

Procedures must be proportionate to the contract's nature and complexity.

Before publishing a tender invitation, a council must define its criteria for assessing the tenders, indicate the relative importance of each criterion and describe how tenders will be measured against them.

One of the key requirements for any award criteria is that they must be sufficiently clear, measurable and specific. A council may find it useful to read the Government guidance on award criteria before designing a tender selection process, to ensure that they can clearly explain how they reached their decision.

Framework agreements

A framework agreement is where a council contracts with one or more suppliers for the future award of contracts for a period of up to four years. These are typically used to set fixed prices for regular work. A competitive process is used to set up the agreement and allow suppliers to participate. This generally sets prices in advance, so the council doesn't have to go out to competition for every contract.

Local councils are unlikely to have their own framework agreements, and the guidance for the 2023 Act indicates that the government aren't expecting to see framework agreements below the £207,720 threshold.

If a principal authority has a framework agreement in place for certain services and has included local parishes within that agreement, councils may be entitled to procure services (for example, tree works or street light column installation) through the framework agreement, rather than having to seek quotes.

The Crown Commercial Service has a number of framework agreements available to the public sector, and its website gives a description of how the process works.

Awarding an above-threshold contract

A council may award a contract to the supplier that it considers has submitted the most advantageous tender. This should be the tender that satisfies the council's requirements and best meets the award criteria that the tenders were assessed against.

Before awarding a contract above the relevant threshold, a council must provide an assessment summary to each supplier that submitted an assessed tender under Section 50 of the 2023 Act, explaining their assessment of the submitted tender and also the successful tender.

A "contract award notice" (Form UK6) must then be published on Find-Tender, and the council must wait eight working days (the "standstill period") before the contract can be awarded.

This is a notice that the council intends to award a contract and the standstill period gives time for an aggrieved participant to commence legal proceedings. Section 101 of the 2023 Act prevents a council from awarding a contract where it has been notified that proceedings have commenced.

Once it has awarded an above-threshold contract, the council must publish a Contract Details Notice (Form UK7) on Find-Tender within 30 days of awarding the contract to a supplier, regardless of the process used to choose the contractor. Form UK7 is designed to gather the information required by the Regulations.

Part Two — Below threshold procurement

Ensuring competition

Where the full requirements of the 2023 Act do not apply, councillors and officers still have a general duty to achieve economy, efficiency and effectiveness (often referred to as value for money) when spending public funds. Auditors are required to check that these arrangements are in place.

Section 135 of the Local Government Act 1972 requires that councils have Standing Orders "for securing competition for contracts" and "regulating the manner in which tenders are invited". Using a formal tender process for every purchase would be slow and time-consuming, so the Act allows councils to exempt contracts from tendering if they are below a chosen value, or where exemption is justified by special circumstances.

Each council must set a level at which it will use a formal tender process to ensure fair competition. The default value in the NALC Model Financial Regulations is £60,000 plus VAT, but councils can change this to suit their own needs.

Formal tenders are not required for items below the value the council specifies. A council can seek quotes or estimates in accordance with its Financial Regulations.

Publication of below-threshold tender invitations

It is a common misconception that all contracts over £30,000 must be advertised and must use a tender process. Note 538 to the 2023 Act explains that this is not the case: A contracting authority conducting a below-threshold procurement is not required to advertise the contract in question but may choose to do so. Subsection [87](1) requires that if a contracting authority intends to advertise a procurement publicly, it must first publish a "below-threshold tender notice", as defined in subsection [87](5).

Paragraph 15 of the government's Guidance: Below-Threshold Contracts explains: This gives contracting authorities undertaking a below-threshold procurement greater flexibility in designing and running a procurement and awarding and managing the resulting contract. This flexibility (which may be subject to local policies and procedures) might include, for example, the ability to choose to award a contract without competition, to request quotes from targeted known suppliers only, or to restrict the award of contracts to suppliers that are UK-based or located in a specific county or borough of the UK or to suppliers who are small and medium-sized enterprises (SMEs), or voluntary, community and social enterprises (VCSEs).

Paragraph 23 adds that "There is no requirement to publish a below-threshold tender notice where the contracting authority invites quotes, proposals or tenders from a closed group of pre-selected suppliers, or from one or more targeted individual suppliers, provided it does not advertise the procurement in any other way".

Contracts above £30,000, including VAT (that are not exempt from the 2023 Act), are referred to as "Notifiable below-threshold contracts". A council has specific notification obligations if it decides to issue an open invitation to tender above that value, and also when it awards a contract above that value to a supplier. These are explained below.

Section 87(1) of the 2023 Act requires that a council issuing an open invitation to tender must publish the invitation notice on Find-Tender before it appears anywhere else, if the estimated value is above £30,000, including VAT. Notification is not required if a council restricts the tender invitation to "particular or pre-selected suppliers".

Unlike the Public Contracts Regulations 2015, which referred to "contract opportunities", the 2023 Act specifically refers to tender invitations. The requirement to advertise does not apply if a council seeks fixed price quotes, design proposals or uses any approach other than a tender invitation.

Section 85 of the 2023 Act generally prevents councils from including a pre-qualification stage (such as a pre-qualification questionnaire) in a below-threshold tender process. They must not restrict any supplier from submitting a tender by assessing their legal, financial, technical or other suitability to perform the contract before the invitation is issued. That assessment should only be done once tenders are received.

There is an exception to this rule, and a supplier’s suitability can be assessed in advance for "works" contracts that are estimated to be above the value of the goods and services threshold (currently £207,720 including VAT).

Publishing the details of an awarded contract

For any notifiable contract over £30,000 including VAT, the council must publish a Contract Details Notice (Form UK7) on Find-Tender within 90 days of awarding the contract to a supplier, regardless of the process used to choose the contractor. The post-award publication requirement in Section 87(3) of the 2023 Act refers to "contracts" rather than "tenders".

The content of the notice is specified in Regulation 36 of the Procurement Regulations 2024 (Regulation 37 of the regulations for Wales), and Form UK7 is designed to gather the required information. There is guidance in paragraphs 25 and 39-43 of the government guidance for below-threshold contracts.