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Outlines the requirements of the Company in relation to all procurement and Contract activities.	
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1 Introduction

1.1 This procedure outlines NY Highways' approach to procurement and contract activities, ensuring compliance with the Procurement Act 2023 (PA2023), Public Contracts Regulations 2015 (PCR2015), and other relevant legislation. It supports the company's commitment to

- a) Legal and regulatory compliance
- b) Value for money and transparency
- c) Effective contract governance
- d) Alignment with business needs and strategic objectives

1.2 These Rules are made by the Company and define the correct procedures to be followed when the Company enters into any Contractual arrangement.

2 Definitions

Above Threshold Process means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant Threshold Amount

Above Threshold Tender means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant Threshold Amount

Buying Manager means the Manager within the Company with responsibility for the Buying team

Best Value Form means the form to be completed to capture the rationale for not seeking bids in accordance with **Rule 5.6**

Board means the Company board of Directors

Central Digital Platform Means the online system established by the Minister for the Cabinet Officer and which may be accessed on <https://www.gov.uk/find-tender>

Centralised Procurement Authority means a contracting authority that is in the business of carrying out procurement for or on behalf of, or for the

purpose of the supply of goods, services or works to, other contracting authorities

Company

means NY Highways Limited

Concession

means a Contract for the supply, for pecuniary interest, of works or services to a Contracting authority where:

- (i) At least part of the consideration for that supply is a right for the supplier to exploit the works or services, and
- (ii) Under the Contract the supplier is exposed to a real operating risk.

Contract

means any agreement made between the Company and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in **Rule 3.2**

Contract Register

means the register of Contracts maintained by the Company as set out in **Rule 5.12.5**

Contractor

means a person or entity with whom the Company has a Contract

CPV

means the common procurement vocabulary which is a single classification system for public procurement to help identify goods, services and works.

Directors

means Directors of the company and includes any person occupying the position of Managing Director.

Senior Management Recommendation

means a written record of the decision and justification to apply one of the exceptions set out in **Rule 5.6.10** to be signed by the Managing Director, Head of Commercial or Head of Operations and kept by the Managing Director (or an Employee designated)

Electronic Signatures	means an advanced electronic signature which is: <ul style="list-style-type: none">(i) uniquely linked to the signatory; and(ii) capable of identifying the signatory; and(iii) created using means that the signatory can maintain under his/her sole control; and(iv) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable
Employee	means a Company employee or other authorised agent
E-Sourcing system	means the Company's chosen E-sourcing system or an approved alternative
Framework	means a contract between a contracting authority and one or more suppliers that provides for the future award of contracts by a contracting authority to the supplier or suppliers.
Goods	means those goods that have a CPV Code starting with 0 up to and including 44 or 48
Governance Process	means the Company's value-based procurement process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points in the procurement cycle
Head of Commercial	the executive with responsibility for client and supply chain relationships and opportunities for business growth
Head of Operations	the executive with responsibility for day-to-day activities in their planning and execution
Internal Audit	means the Company's appointed internal auditors (currently Veritau)
ITB	means an Invitation to Bid

ITT	means an Invitation to Tender
Leasing Agreement	means a Contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Company at the end of the Contract period
Managing Director	the executive in overall charge of the day to day running of the Company and is responsible for the management of the Company's business, for which purpose they may exercise all the powers of the company.
PA2023	means the Procurement Act 2023 as amended from time to time
Participant	means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract
PCR	means the Public Contracts Regulations 2015
Person	means any individual, partnership, company, trust, other local authority, Government department or agency
Procurement Handbook	means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules
Property Contract	means any Contract commissioned by the NY Highways Property team for property maintenance services, works or related goods contract
Purchase Order	the formal document issued by the Company to its supply chain detailing the requirements for the delivery of goods, works or services
Rules	means these Procurement and Contract Procedures

Scheme of Delegation	means a record of all duties and responsibilities as delegated under these Rules which is to be maintained the Managing Director
Services	means those services that have a CPV Code starting with 50 up to and including 98.
PSQ	means the Procurement Specific Questionnaire
Threshold Amounts	means the threshold amount for a Contract of a type referenced to in Schedule 1 of the Procurement Act 2023, currently: <ul style="list-style-type: none">(i) £207,720 inclusive of VAT for services and supplies(ii) £663,540 inclusive of VAT for light touch contracts and(iii) £5,193,000 for works inclusive of VAT
Waiver Request Form	means the prescribed form to be completed when requesting a waiver in accordance with Rule 5.6.12
Works	means any of the activities within the CPV Codes listed in the Procurement Regulations 2024 under Schedule 3.

3 Scope

- 3.1 This procedure applies to all procurement and contract activities undertaken by NY Highways, including goods, services, and works contracts, including those managed by third parties on behalf of the company. It applies to all employees and designated agents involved in procurement, contract management, and decision-making processes.
- 3.2 This procedure does not apply to Contracts in which NY Highways are the supplier (i.e. Trading) or to Contracts that are of the kind listed in Schedule 2 of the PA2023. This includes the following types of Contracts:
- a) Vertical (“Teckal”) Arrangements
 - b) Horizontal (between Contracting Authorities) Arrangements
 - c) Land & building

- d) Broadcasting
- e) Electronic Communications Services (within the meaning given in section 32 and 151 of the Communications Act 2003)
- f) Alternative dispute resolution which includes arbitration, mediation or conciliation services or any other similar services
- g) Legal Services relating to judicial proceedings, notary where mandated by law or in relation to an order of the court or tribunal
- h) Financial Services related to the lending of money, investment services or provision of services by the Bank of England
- i) Employment
- j) Research & Development services

3.3 References in these Rules to:-

- a) any legislation (e.g. Act, Statutory Instrument, WTO requirement) include a reference to any amendment or re-enactment of such legislation;
- b) the value of any Contract is to the total estimated aggregate gross value payable (including VAT where applicable) over the full period of the Contract including any options or extensions to the Contract without any deduction for income due to the Contractor or the Company;
- c) the singular includes the plural and vice versa;
- d) the masculine includes the feminine and vice versa;
- e) Directors, the Head of Commercial and the Head of Operations shall be taken to include such Employees as are designated to undertake the duties and responsibilities set out in these Rules. A record of all duties and responsibilities as delegated under these Rules is to be maintained by the Directors, the Head of Commercial and the Head of Operations.

3.4 The Company has produced a Procurement Handbook which sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Handbook.

4 Responsibilities

- a) **Managing Director:** Overall responsibility for procurement governance, contract approval, and compliance monitoring.

- b) **Head of Commercial:** Oversight of procurement strategy, supplier relationships, and contract execution.
- c) **Head of Operations:** Responsible for operational procurement activities and contract implementation.
- d) **Buying Manager:** Maintains contract register, oversees quotations process.
- e) **Employees:** Responsible for adhering to procedures, seeking appropriate approvals, and maintaining records.
- f) **Internal Audit (Veritau):** Conducts audits and ensures compliance with procurement rules.

5 Procedure

5.1 General

- 5.1.1 Where a Contract for the acquisition or hire of goods or services involves any form of Leasing Agreement to finance the transaction then the Managing Director shall undertake the negotiation of terms and authorise the arrangement in accordance with the Company's Finance Procedures.
- 5.1.2 The Managing Director shall ensure that all documentation relating to Contracts and procurement processes is retained in accordance with the Company's Record Management Policy.
- 5.1.3 Where the Company has awarded a Contract to any person to supervise or otherwise manage a Contract on its behalf such a person shall be required to comply with these Rules as if he were an Employee of the Company.
- 5.1.4 Wherever appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Handbook applying to PSQ / CAS, ITTs or ITBs. Wherever alternative documents are to be used they must be approved by the Managing Director, Head of Commercial or Head of Operations.
- 5.1.5 All Employees shall adhere to any approved Procurement Strategy of the Company.
- 5.1.6 Where the Company is procuring in partnership with bodies governed by public law who are the lead procurer, subject to agreement from the Managing Director, the Company will follow the lead procurers Procurement and Contract Procedures or equivalent.

- 5.1.7 Where the total Contract value for procurement is within the values in the first column of Table 1 and Table 2, below, the award procedure in the second column must be followed.
- 5.1.8 Where a proposed procurement includes two or more types of provision (i.e. Goods, Services or Works) the value shall be based on the provision that characterises the main subject of the Contract in question.

Table 1 Goods and Services

Total Contract Value (including VAT)	Award Procedure	Transparency Requirements	Signing Arrangement and Approval
£0 – £6,000	Single Quotation invited in accordance with Rule 5.6.	n/a	<u>One Signature</u> The Managing Director, Head of Commercial or Head of Operations (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation).
£6,000 - £12,000	Property Contracts Single Quotation invited in accordance with Rule 5.6. Goods/Service Contracts (excluding Property Contracts) Minimum Three Quotes or Best Value Form Process in accordance with Rule 5.6.	The Employee responsible for the Contract <u>must</u> notify the Buying Manager of any Contract awarded to enable the Contract details to be published on the Company's Contracts Register.	
£12,000 - £30,000	Minimum Three Quotes or Best Value Form Process in accordance with Rule 5.6.	A below-threshold tender notice <u>must</u> be published on the Central Digital Platform and advertised using the E-Sourcing system if the opportunity is advertised openly.	
£30,000 - Threshold Amount (£207,720)		The Employee responsible for the Contract <u>must</u> notify the Buying Manager of any Contract awarded to enable the Contract details to be published on the Company's Contracts Register. After entering a contract, a contract details notice <u>must</u> be published on the Central Digital Platform.	

Total Contract Value (including VAT)	Award Procedure	Transparency Requirements	Signing Arrangement and Approval
Above Threshold Amount (£207,720)	Above Threshold Process in accordance with Rule 5.7.	<p>The Governance process <u>must</u> be followed in accordance with Rule 5.13.</p> <p>A preliminary market engagement notice should be published on the Central Digital Platform when market engagement has been undertaken followed by a tender notice and advertised using the E-Sourcing system.</p> <p>Assessment Summaries must be sent to each participant.</p> <p>A contract award notice must be published on the Central Digital Platform if the contract is awarded. If the contract is not awarded, a procurement termination notice must be published.</p> <p>These Contracts <u>must</u> be published on the Company's Contracts Register.</p> <p>After entering a contract, a contract details notice <u>must</u> be published on the Central Digital Platform.</p> <p>Contracts over £5,000,000 must also have a redacted copy published with at least 3 key performance indicators. A contract performance notice will then need to be published on at least an annual basis.</p> <p>On contract termination a contract termination notice must be published.</p>	<p><u>Under hand Contracts</u> Two signatures.</p> <p>The Managing Director (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation) AND One of either the Head of Commercial or the Head of Operations (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation).</p> <p><u>Executed Contract as a Deed</u> Two signatures.</p> <p>The Managing Director (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation) AND One of either the Head of Commercial or the Head of Operations as witness.</p>

Table 2 Works

Total Contract Value (including VAT)	Award Procedure	Transparency Requirements	Signing Arrangement and Approval
£0 – £6,000	Property Contracts Single Quotation invited in accordance with Rule 5.6.	n/a	<u>One Signature</u> The Managing Director, Head of Commercial or Head of Operations (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation).
£6,000 - £12,000	Works Contracts (excluding Property Contracts) Minimum Three Quotes or Best Value Form Process in accordance with Rule 5.6.	The Employee responsible for the Contract <u>must</u> notify the Buying Manager of any Contract awarded to enable the Contract details to be published on the Company's Contracts Register.	
£12,000 - £30,000	Minimum Three Quotes or Best Value Form Process in accordance with Rule 5.6.	The Employee responsible for the Contract <u>must</u> notify the Buying Manager of any Contract awarded to enable the Contract details to be published on the Company's Contracts Register.	
£30,000 - £1,000,000		After entering a contract, a contract details notice <u>must</u> be published on the Central Digital Platform.	
£1,000,000 - Threshold Amount		The Governance process <u>must</u> be followed in accordance with Rule 5.13. The Employee responsible for the Contract <u>must</u> notify the Buying Manager of any Contract awarded to enable the Contract details to be published on the Company's Contracts Register.	

		After entering a contract, a contract details notice <u>must</u> be published on the Central Digital Platform.	
Above Threshold Amount	Above Threshold Process in accordance with Rule 5.7.	<p>The Governance process <u>must</u> be followed in accordance with Rule 5.13.</p> <p>A preliminary market engagement notice should be published on the Central Digital Platform when market engagement has been undertaken followed by a tender notice and advertised using the E-Sourcing system.</p> <p>Assessment Summaries must be sent to each participant.</p> <p>A contract award notice must be published on the Central Digital Platform if the contract is awarded. If the contract is not awarded, a procurement termination notice must be published.</p> <p>These Contracts <u>must</u> be published on the Company's Contracts Register.</p> <p>After entering a contract, a contract details notice <u>must</u> be published on the Central Digital Platform.</p> <p>Contracts over £5,000,000 must also have a redacted copy published with at least 3 key performance indicators. A contract performance notice will then be to be published on at least an annual basis.</p> <p>On contract termination a contract termination notice must be published.</p>	<p><u>Under hand Contracts</u> Two signatures.</p> <p>The Managing Director (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation) AND One of either the Head of Commercial or the Head of Operations (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation).</p> <p><u>Executed Contract as a Deed</u> Two signatures.</p> <p>The Managing Director (or by an Employee authorised to sign on their behalf, as defined in the Scheme of Delegation) AND One of either the Head of Commercial or the Head of Operations as witness.</p>

5.2 Compliance with Legislation and Standards

- 5.2.1 Every Contract shall comply with all relevant applicable legislation and government guidance.
- 5.2.2 Where relevant, every Contract shall specify that materials used, Goods provided, Services supplied or Works undertaken (as the case may be) shall comply with applicable standards.

5.3 Powers

- 5.3.1 In consultation with the Managing Director, Employees shall ensure that the Company has the legal power to enter into any Contract and that in respect of all Contracts, regardless of whether they involve the procurement or provision by the Company of Works, Goods, or Services. Employees shall ensure that no Contract shall be entered into which is ultra vires.
- 5.3.2 The Managing Director shall ensure that a written record of the decision to procure a Contract is made in accordance with the Governance process where Rule 5.13 applies.

5.4 Form Of Contract

- 5.4.1 Every Contract shall be evidenced in writing and must be signed (as appropriate) by both parties. Signature by the Company shall be in accordance with the requirements set out Rule 5.1 and Rule 5.5.
- 5.4.2 Wherever appropriate, and for all Contracts exceeding £100,000 including VAT in value, such written agreements shall be made on the basis of terms and conditions agreed by the Managing Director, Head of Commercial or Head of Operations. Such terms and conditions may be incorporated into standard order conditions. The Company may accept different terms and conditions proposed by a Contractor provided that the advice of the Managing Director, Head of Commercial or Head of Operations as to their effect has been sought and considered.
- 5.4.3 The written form of agreement must clearly specify the obligations of the Company and the Contractor and shall include:-
 - a) the work to be done or the Goods and/or Services to be provided
 - b) the standards which will apply to what is provided
 - c) the price or other consideration payable
 - d) the time in which the Contract is to be carried out

e) the remedies which will apply to any breach of Contract.

5.4.4 The written form of agreement for all Contracts exceeding £100,000 including VAT in value must include appropriate clauses, in relation to:-

a) anti-bribery and corruption; and

b) termination by the Company for persistent and material breach by the Contractor

5.4.5 Appropriate clauses, relating to the Freedom of Information Act 2000 and the Data Protection Act 2018 shall, wherever possible, be included in all Contracts.

5.5 Signature Of Contracts

5.5.1 Every written Contract must be signed in accordance with this Rule. The Managing Director (or an Employee authorised by the Managing Director) will determine based on the complexity and risk of the Works, Services or Goods whether a Contract must be signed as a simple Contract or as a deed.

5.5.2 The Managing Director also authorises such Contracts to be signed as prescribed in Rule 5.1.7, Table 1 and Table 2 provided that:-

a) appropriate authority exists for the Company to enter into the Contract, and

b) the Contract is either:-

i. in a nationally recognised form; or

ii. a standard form prepared or approved by the Managing Director, Commercial Manager or Head of Operations; or

iii. is otherwise in a form approved by the Managing Director, Commercial Manager or Head of Operations; and

c) any variations to approved forms of Contract must themselves be approved by the Managing Director, Commercial Manager or Head of Operations, whether or not they are affected by amending the Contract itself or by correspondence.

5.5.3 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.

5.5.4 Electronic Signatures may only be affixed using the Company's chosen electronic signature system or an approved alternative, as agreed by the Managing Director, Head of Commercial or Head of Operations.

5.5.5 The use of Electronic Signatures is not permitted in circumstances where:

- a) the Contract is a deed;
- b) a physical handwritten signature needs to be filed;
- c) there is a proviso in the Contract which prevents the use of an Electronic Signature;
- d) the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- e) the Contract needs to be notarised.

5.6 Quotes

Single Quotation

5.6.1 Where the estimated value of a Contract is less than or equal to the relevant upper limit set in Table 3 below (taking into account the whole life cost of the Contract, including extensions and/or variations) a single quote can be obtained and followed by the issuing of a Purchase Order.

Table 3 Single Quote Upper Limits based on Spend Area

Spend Area	Upper Limits (including VAT)
Goods/Service Contracts (excluding Property Contracts)	£6,000
Property Contracts	£12,000
Works Contracts	£0

5.6.2 There is no requirement to use the E-Sourcing system or publish the opportunity.

5.6.3 The Employee is responsible for notifying the Buying Manager of any Contract awarded above £5,000 (excluding VAT) to enable the Contract to be published on the Company's Contracts Register.

Minimum Three Quotes Process / Best Value Form

5.6.4 Where the estimated value of a Contract is above the upper limits for single quote (see Table 3) but is less than or equal to the relevant upper limit set in Table 4 below (taking into account the whole life cost of the Contract, including extensions and/or variations) a minimum of three quotes should be sought.

Table 4 Minimum Three Quote Upper Limits based on Spend Area

Spend Area	Upper Limits (including VAT)
Goods/Service Contracts	£207,720
Works Contracts	£5,193,000

- 5.6.5 It is the Employee's responsibility to keep a record of quotes sought for audit purposes and to demonstrate best value has been achieved.
- 5.6.6 If two quotes are not received, the Contract may be directly awarded using the Best Value Form. It is the Employee's responsibility to complete the Best Value Form.
- 5.6.7 The Employee is responsible for notifying the Buying Manager of any Contract awarded above £5,000 (excluding VAT) to enable the Contract to be published on the Company's Contracts Register.
- 5.6.8 Where the estimated value of a Contract is above £30,000 including VAT (taking into account the whole life cost of the Contract, including extensions and/or variations):
- a) A below-threshold tender notice must be published on the Central Digital Platform if the opportunity is to be advertised openly; and
 - b) After entering into a Contract, a contract details notice must be published on the Central Digital Platform.

Exceptions to quotes

- 5.6.9 The Managing Director, Head of Commercial and Head of Operations do not need to obtain quotes in accordance with Rule 5.6, in the following circumstances:-
- a) purchases via public contracts which have been established either by the Company or by another public sector body or consortia (including, but not limited to Centralised Procurement Authorities) and where such arrangements are lawfully accessible to the Company. Contracts awarded from such public contracts shall be awarded in accordance with the provisions of that public contract; or
 - b) the Contract is awarded to a Teckal company which is legally controlled by the North Yorkshire Council; or

- c) where funding is received by the Company, either in its own right or as an accountable body, and the terms of such funding state that it must be applied in accordance with those terms; or
- d) purchases at public auctions (including internet auction sites, e.g. eBay) where the Managing Director is satisfied that value for money will be achieved; or
- e) the purchase of Goods, Works or Services which are of such a specialised nature as to be obtainable from one Contractor only; or
- f) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such Goods from an alternative supplier would invalidate the warranty or Contractual provisions with the existing supplier; or
- g) the Service is currently supplied by a supplier to the satisfaction of the Managing Director, is considered to be offering value for money and where the foreseeable disruption to service cannot justify the bid process; or
- h) purchases in relation to pilot schemes for a proof of Contract/trialling a product or area of innovation; or
- i) Contracts where the Managing Director with the agreement of the Board agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Company, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Managing Director, whenever this Rule applies.

5.6.10 Where any of the exceptions set out in 5.6.9a) to 5.6.9c) above are applied The Employee will be responsible for informing The Buying Manager of any exemptions used in Rule 5.6.

5.6.11 Where any of the exceptions set out in 5.6.9d) to 5.6.9i) above are applied a Senior Management Recommendation can be approved by the Managing Director, Head of Commercial or Head of Operations. The Recommendation shall be signed, dated and kept. The Managing Director (or an Employee designated) shall maintain a register of all recommendations made under this Rule.

Waivers

5.6.12 Specific exceptions to Rule 5.6 are permitted in such other circumstances as the Managing Director may agree.

5.6.13 Requests for waivers shall be made using the Waiver Request Form prescribed by the Managing Director which shall specify the reasons for the request.

5.6.14 The Managing Director (or an Employee designated) shall maintain a register of all requests made under this Rule.

5.7 Above Threshold Tenders

5.7.1 Where the estimated value of the Contracts exceeds the Threshold Amount, Above Threshold Tenders shall be invited and awarded in accordance with the PA2023 and as prescribed in Rules 5.7 and 5.8.

General Requirements

5.7.2 Before an Above Threshold Tender is requested the evaluation criteria to be applied to the Above Threshold Tender must be recorded in writing in the PSQ and/or ITT documents. The evaluation criteria must be identified and the weighting between price and quality established and stated in the PSQ and/or ITT sent to Participants.

5.7.3 Irrespective of the procurement process being undertaken a preliminary market engagement notice should be published on the Central Digital Platform followed by a tender notice.

5.7.4 All Participants invited to submit Above Threshold Tenders shall be provided in all instances with identical instructions and information.

5.7.5 Where considered appropriate, the Managing Director may permit Participants to submit variant Above Threshold Tenders (i.e. tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant Above Threshold Tenders shall be given to all Participants. Variant Above Threshold Tenders shall only be considered if the Participant also submits a compliant primary tender.

5.7.6 The evaluation of the Above Threshold Tenders submissions shall be carried out by Employees who are considered appropriate having regard for the subject matter and value of the Contract.

5.7.7 All Tenders undertaken in accordance with Rule 0 shall have a minimum of three appropriate Employees (excluding the consensus moderator) to undertake the evaluation process. The evaluation process will include:

- a) Individual evaluation assessment and scoring
- b) Consensus marking exercise, chaired by a member of North Yorkshire Council's Procurement and Contract Management Service
- c) Independent verification, where required

d) Moderation by evaluation panel, where required

5.7.8 All evaluation panel members must have completed suitable evaluation training prior to completing any evaluation process.

5.7.9 Where a Contract is terminated within the first six months of the Contract commencement date, the Company may award the Contract to the second-placed supplier, with agreement of the Managing Director provided this demonstrates Best Value and none of the original award criteria has changed.

5.8 Options For Above Threshold Tenders

5.8.1 The Governance Process shall identify which of the following Above Threshold Tenders Procedures shall be used to invite tenders for Contracts with a value in excess of the relevant Procurement Threshold Amount:

- a) a single-stage tendering procedure without a restriction on who can submit tenders (an open procedure), or
- b) such other competitive tendering procedure as the Company considers appropriate for the purpose of awarding the Contract (a “competitive flexible procedure”)

5.9 Receipt and Opening of Above Threshold Tenders

5.9.1 A written Above Threshold Tender may only be considered if:-

- a) it has been received electronically through the E-Sourcing System, or (where permitted in exceptional circumstances) it has been received electronically through an appropriate alternative method such as a secure email inbox; or
- b) (where permitted) it has been received in hard copy in a sealed envelope marked “Tender” and indicating the subject matter of the Tender, and the identity of the Participant cannot be ascertained from the tender envelope; and
- c) (subject to Rule 5.9.4) it has been received by the Above Threshold Tender closing date and time.

5.9.2 The Managing Director (or an Employee designated) shall be responsible for the reception and safe custody of Above Threshold Tenders until they are opened.

5.9.3 Above Threshold Tenders, whether electronic or hard copy must be opened at the same time, in an auditable way, by an independent Employee designated by the Managing Director or an independent employee from North Yorkshire Council’s Procurement and Contract Management Service.

- 5.9.4 Where permitted, Above Threshold Tenders which are returned in hard copy format a written record shall be maintained of the Above Threshold Tenders received. Such a record shall include the date and time of Above Threshold Tender opening, the identity of the Employee(s) present, the identities of Participants and the tendered sums (where readily ascertainable).
- 5.9.5 Above Threshold Tender submitted in hard copy must be opened at the same time and in the presence of the Managing Director (or an Employee designated).
- 5.9.6 If an Above Threshold Tender is received after the specified closing date and time it may not be considered unless the Managing Director, Head of Commercial or Head of Operations is satisfied that the Above Threshold Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the Participant.
- 5.10 Above Threshold Tender Evaluation and Acceptance
- 5.10.1 The Employees on the evaluation panel shall evaluate Above Threshold Tender using the evaluation criteria published in accordance with Rule 5.7.2.
- 5.10.2 Before a Contract is awarded the Managing Director (or an Employee designated) shall determine if it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be undertaken in accordance with the Governance Process (Stage 2) where appropriate.
- 5.10.3 On completion of the evaluation of the Above Threshold Tender received and once all internal approvals have been obtained through the Governance Process (Stage 2), the Managing Director (or an Employee designated) shall write to all Participants providing them with an assessment summary, in accordance with Section 50 of the PA2023.
- 5.10.4 A contract award notice must then be published on the Central Digital Platform which sets out the intention to award.
- 5.10.5 The Managing Director (or an Employee designated) shall wait a minimum of eight working days from the date on which the Contract award notice is published before completing the Contract with the successful Participant, except where not required for example for call-offs under an existing Framework.
- 5.10.6 The Managing Director (or an Employee designated) or a member of North Yorkshire Council's Procurement and Contract Management Service shall send for

publication a Contract Details Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract.

5.11 Exceptions to Above Threshold Tenders

5.11.1 The Managing Director does not need to invite Above Threshold Tenders in accordance with Rule 5.7 and 5.8, in the following circumstances:-

a) purchases via public contracts which have been established either by the Company or by another public sector body or consortia (including, but not limited to Centralised Procurement Authorities) and where such arrangements are lawfully accessible to the Company. Contracts awarded from such public contracts shall be awarded in accordance with the provisions of that public contract. Where appropriate Employees should apply a minimum 8 working day standstill period for all call-off Contracts awarded under an existing public contract. This is not mandatory but is deemed best practice; or

b) where:

- i. Section 41 (Direct Award in special cases), Section 42 (Direct award to protect life, etc) or Section 43 (Switching to direct award) of the PA2023 apply; or
- ii. any other specific exclusions as set out in the PA2023 apply;

and the Managing Director and Board are in agreement. A written record shall be signed and dated whenever this Rule applies and the Managing Director (or an Employee designated) shall maintain a register of such written records.

5.12 Compliance, Contract Register and Forward Procurement Plans

5.12.1 Every Employee shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.

5.12.2 The Managing Director shall be responsible for monitoring adherence to these Rules.

5.12.3 The Managing Director, Head of Commercial and Head of Operations shall take all such steps as are reasonably necessary to ensure that Employees are aware of and comply with these Rules and the Procurement Handbook.

5.12.4 An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Board.

5.12.5 The Company maintains a Contract Register the purpose of which is to record key details of all Contracts with an aggregate value of £5,000 (excluding VAT) or more.

5.12.6 The Managing Director (or an Employee designated) shall ensure that:-

- a) all relevant Contracts (including those Contracts to which Rule 5.11 applies) are entered onto the Contract Register
- b) the Contract Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with any Record Management Policy in force at that time for the Company.

Central Digital Platform

5.12.7 When a Contract in excess of £30,000 (including VAT) is awarded the Buying Manager (or an Employee designated) or a member of North Yorkshire Council's Procurement and Contract Management Service shall ensure that such information as is prescribed in the PA2023 is published on the Central Digital Platform.

Governance Process Reports

5.13.1 When a procurement is being considered which is expected to exceed the financial value thresholds specific in Rule 5.13.2 the Governance Process must be completed and signed off, as detailed in the Table 5 below.

Table 5 Governance Process - Authorisation to Approve

Governance Process	Approval process
Stage 1 – Options Appraisal	Any two of the Managing Director, Head of Commercial, Head of Operations or Buying Manager
Stage 2 – Statement of Award	Any two of the Managing Director, Head of Commercial, Head of Operations or Buying Manager
Stage 3(a) – Contract Modifications	Managing Director or Head of Commercial
Stage 3(b) – Contract Termination (during Contract period)	Managing Director or Head of Commercial

5.13.2 The whole Contract financial value thresholds for the purposes of Rule 5.13.1 are:

- a) Works and Concession Contracts - £1,000,000 inclusive of VAT

b) Goods and Services Contracts - £207,720 inclusive of VAT.

Stage 1 report

- 5.13.3 When a procurement outside of an existing arrangement is being considered which is expected to exceed the whole Contract financial value Threshold as indicated in Rule 5.13.2, the Employee must complete the Governance process Stage 1 report and obtain relevant approvals in line with Rule 5.13.1, Table 5. The Stage 1 report shall include the estimated “whole life” financial value of the Contract, the procurement methodology and any other relevant factors.
- 5.13.4 No action leading towards procurement, including any steps to undertake a further competition under an existing framework arrangement, shall be undertaken until approval of the process has been given as set out in Rule 5.13.3.

Stage 2 report

- 5.13.5 When a procurement process has concluded the Employee must complete a statement of award and obtain relevant approvals in line with Rule 5.13.1, Table 5. The statement shall include the final cost, the successful supplier, Contract terms and any other relevant factors.

Stage 3(a) report

- 5.13.6 Contracts with a value in excess of the relevant whole Contract financial value Threshold, as indicated in Rule 5.13.2, may be varied in accordance with the terms of that Contract or as outlined in Regulation 74 of the PA2023.
- 5.13.7 If the Contract was originally below the relevant whole Contract financial value, as indicated in Rule 5.13.2, but the variation would result in the Contract value exceeding this value a Stage 3 report must be undertaken.
- 5.13.8 Approval to proceed must be given and the report signed by the Managing Director.

Stage 3(b) report

- 5.13.9 If an Employee requires a Contract to be terminated, then this must be done in accordance with the terms of the Contract.
- 5.13.10 Approval to proceed must be given and the report signed by the Managing Director.

5.14 Contract Management

- 5.14.1 All Contracts entered into by the Company shall be assigned an Employee as the contract manager.

5.14.2 The Employee managing the Contract shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Employee shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Governance Process report. Such records shall also be used on the basis for any permitted extension to the Contract.

5.14.3 Where appropriate the Employee involved in Contract management shall have received a level of formal training commensurate with the nature of the Contract.

Contract Modifications

5.14.4 Contracts with a value below the relevant PA2023 Threshold Amount may be modified in accordance with the terms of that Contract. Any proposed modifications which have the effect of materially changing the Contract must be approved by the Managing Director, whether or not they are affected by amending the Contract itself or by correspondence.

5.14.5 Above threshold contracts awarded under the PCR2015 or PA2023 may be modified in accordance with the terms of that Contract and/or as outlined in Regulation 72 of the PCR2015 or Regulation 74 of the PA2023 respectively. Approval must be sought in accordance with Rule 5.13.1 (Table 5 Governance Process - Authorisation to Approve).

Contract Termination

5.14.6 Contracts with a value below the relevant PA2023 Threshold Amount may be terminated in accordance with the terms of that Contract.

5.14.7 If an Employee requires a Contract which exceeds the PA2023 Threshold Amount as detailed within Rule 5.13.2 to be terminated, then this must be done in accordance with the terms of the Contract. Approval must be sought in accordance Rule 5.13.1 (Table 5 Governance Process - Authorisation to Approve).

5.14.8 Where an above Threshold Contract awarded under the PA2023 is terminated or has expired, a contract termination notice must be published in accordance with the PA2023 no more than 30 days after the Contract is terminated.

5.15 Training For Procurement

5.15.1 Where appropriate any Employee involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

5.16 Declaration Of Interests

5.16.1 A Conflict of Interest declaration must be completed by all members of the procurement team. A Confidentiality Agreement or Declaration form must also be completed by any members of the evaluation panel who are not directly employed by the Company or North Yorkshire Council unless there are alternative appropriate confidentiality provisions within the persons appointment documents (such as a Consultancy Agreement).

5.16.2 If it comes to the knowledge of an Employee that a Contract in which they have an interest has been or is proposed to be entered into by the Company, they shall immediately give written notice to the Head of Commercial, Buying Manager or a member of North Yorkshire Council's Procurement and Contract Management Service.

5.17 Hiring And Engaging Staff

5.17.1 Where an Employee is hiring or engaging a staff member who is not on the Company payroll there is a legal requirement to determine whether it is the responsibility of the Company to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35).

6 Records

Ref. & Title

Contract Register: Maintained by the Buying Manager for all contracts over £5,000 (excluding VAT).

Governance Process Reports: Stage 1 (Options Appraisal), Stage 2 (Statement of Award), Stage 3 (Modifications/Termination).

Best Value Forms: Used when fewer than three quotes are obtained.

Waiver Request Forms: For exceptions to standard procurement rules.

Central Digital Platform: Used for publishing contract notices and award details.

Senior Management Recommendation Register: Maintained by the Buying Manager for all approved Senior Management Recommendations.

Waiver Request Register: Maintained by the Buying Manager for all approved Waiver Requests.

7 References

Standard / Arrangement / Policy / Procedure Ref.	Title	Description
	Assessment Summaries	A document that must be provided to each supplier who submitted an assessed tender in a competitive procurement process. It explains why their tender was successful or unsuccessful, based on the evaluation against the published award criteria
	Below-Threshold Tender Notice	A formal announcement used when a public contract falls below the financial thresholds defined in the Procurement Act 2023. While these contracts are not subject to full public procurement rules, they still require transparency. The notice must be published on the central digital platform and include key details such as contract scope, value, and submission deadlines
FM_10_8	Best Value Form	This form is for use where two quotes have not been obtained. It captures the rationale for directly awarding to a supplier, along with the appropriate approvals. This form can now be found as an electronic form on the Comms Hub titled 'Exceptions to Procurement & Contract Procedures'.
	Central Digital Platform [online]	The UK government's official online portal for public procurement, established under the Procurement Act 2023. NYH use it to publish notices and manage procurement data. It supports transparency, standardisation, and data sharing across the procurement lifecycle - https://www.gov.uk/find-tender
	Common Assessment Standard (CAS)	An industry-recognised pre-qualification framework developed by Build UK to streamline and standardise the procurement process in the construction sector. It replaces multiple assessment schemes with a single, annually certified standard accepted by a wide range of contractors and clients. CAS consists of a comprehensive question set covering areas such as: <ul style="list-style-type: none"> • Health & Safety • Environmental Management • Quality Assurance • Building Safety • Financial Standing • Information Security • Fairness, Inclusion & Respect
	Communications Act 2023 [Online]	The UK's primary legislation governing communications and broadcasting. It establishes the legal framework for how electronic communications (e.g. phone and internet services), broadcasting (TV and radio), and online safety are regulated. - https://www.legislation.gov.uk/ukpga/2003/21/contents
FM_16_6	Conflicts of Interest Declaration	A mandatory document for all staff involved in procurement activities. It requires individuals to disclose any personal, financial, or professional interests that could improperly influence, or appear to influence, decisions during the procurement process. The form helps ensure transparency, fairness, and integrity in public spending by identifying and managing potential conflicts before they affect procurement outcomes.
	Contract Award Notice	A formal publication issued by Contracting Authorities to announce their intention to enter into a contract. Under the PA2023, this notice must be published on the Central Digital Platform before the contract is signed, triggering a mandatory standstill period of at least eight working days. This period allows unsuccessful bidders to raise concerns or challenge the decision. The notice includes key details such as the contract value, scope, supplier information, and the number of tenders received. It enhances transparency and

Standard / Arrangement / Policy / Procedure Ref.	Title	Description
		accountability in public procurement and is a legal requirement for most above-threshold contracts.
	Contract Details Notice	A mandatory publication under Section 53 of the PA2023, issued after a public contract has been formally entered into. It provides key information about the contract, including its value, duration, and subject matter. For contracts over £5 million, the notice must also include a copy of the contract and the three KPIs deemed most critical to performance. The notice must be published on the Central Digital Platform within 30 days of contract signature (or 120 days for light-touch contracts). It enhances transparency by confirming that the contract has been awarded.
	Contract Register	Maintained by NY Highways Ltd, this is a central record of all active contracts for goods, works, and services. It includes details such as contract titles, suppliers, values, durations, and procurement routes.
	Contract Termination Notice	A mandatory publication under Section 80 of the PA2023, issued when a public contract ends for any reason including expiry, mutual agreement, or early termination. The notice must be published on the Central Digital Platform and includes the reason and date of termination. It enhances transparency and allows stakeholders to scrutinise contract performance, understand changes in contract value or duration, and assess the reasons for early termination.
	Data Protection Act 2018	The UK's primary legislation governing the processing of personal data. It supplements the UK General Data Protection Regulation (UK GDPR) and provides a legal framework for how personal information is used by organisations, businesses, and the government - https://www.legislation.gov.uk/ukpga/2018/12/contents .
	Electronic Signature System [Online]	DocuSign, enables NYH to securely send, sign, and manage digital agreements - https://account.docusign.com/oauth/auth?response_type=code&scope=all%20click.manage%20me_profile%20room_forms%20room_fields%20inproductcommunication_read%20data_explorer_signing_insights%20notary_read%20notary_write%20search_read%20search_write%20webforms
	E-Sourcing System [Online]	YORTender, powered by Merrell, enables public sector buyers and suppliers to manage the full procurement lifecycle digitally—from tender publication to contract award. Key features include: <ul style="list-style-type: none"> Centralised access to tender opportunities Supplier registration and CPV code alerts Secure submission of bids and supporting documents Real-time tracking of procurement activities Integration with the Central Digital Platform under the Procurement Act 2023 The system supports both above- and below-threshold procurements and ensures compliance with UK public procurement regulations. It is designed to reduce lead times, improve transparency, and foster collaboration between buyers and suppliers - https://yortender.eu-supply.com/login.asp?B=YORTENDER
PR OC 000 006	Finance Procedures	Internal rules, processes, and controls that govern how NYH manages its financial operations. These procedures ensure that public funds are used efficiently, transparently, and in compliance with legal and regulatory requirements.
	Freedom of Information Act 2000 [Online]	Grants the public a legal right to access recorded information held by public authorities in England, Wales, and Northern Ireland. It promotes transparency and accountability by requiring public bodies to disclose information upon request, unless specific exemptions

Standard / Arrangement / Policy / Procedure Ref.	Title	Description
		apply. The Act also introduced criminal penalties for deliberately altering or destroying records to prevent disclosure (Section 77) - https://www.legislation.gov.uk/ukpga/2000/36/contents
FM_175	Governance Process Reports	Used to document and review key decisions and risk assessments throughout the procurement lifecycle for high-value or complex contracts.
	Invitation to Bid (ITB)	<p>A formal procurement document issued to solicit competitive offers for goods, services, or works. It is typically used for below-threshold processes where the scope and specifications are clearly defined. The ITB outlines:</p> <ul style="list-style-type: none"> • The project requirements and technical specifications • Submission instructions and deadlines • Evaluation criteria and contract terms • Legal and compliance obligations <p>Suppliers respond with fixed-price bids, and the contract is usually awarded to the lowest compliant bidder. ITBs are published via YORTender and may also appear on Contracts Finder or the Central Digital Platform, depending on the contract value and type.</p>
	Invitation to Tender (ITT)	<p>A formal procurement document issued for contracts above the public procurement thresholds. It invites suppliers to submit detailed proposals for delivering specified goods, services, or works under competitive conditions.</p> <p>The ITT includes:</p> <ul style="list-style-type: none"> • A full specification of requirements • Instructions for tender submission • Evaluation criteria and scoring methodology • Contract terms and conditions • Timelines and contact details <p>ITT processes are managed through YORTender, and ensures fairness, transparency, and value for money in line with the Procurement Act 2023.</p>
	Pre-Qualification Questionnaire (PSQ)	<p>A standardised pre-qualification document introduced under the PA2023, replacing the former Selection Questionnaire (SQ). It is used to assess a supplier's eligibility, compliance, and capability before evaluating their full tender.</p> <p>The PSQ is divided into three parts:</p> <ol style="list-style-type: none"> 1. Core Supplier Information – Legal, financial, and operational details submitted via the Central Digital Platform (CDP). 2. Exclusions Information – Disclosure of any grounds for exclusion (e.g. criminal convictions, conflicts of interest). 3. Conditions of Participation – Specific requirements set by the contracting authority, such as technical ability or financial standing. <p>Completion of the PSQ is mandatory for suppliers bidding on above-threshold contracts that include a selection stage. It simplifies the procurement process, reduces duplication, and supports fairer, more consistent supplier evaluations.</p>
	Preliminary Market Engagement Notice	<p>A formal publication under Section 17 of the PA2023, used by contracting authorities to signal their intent to engage with the market before launching a procurement. It serves two main purposes:</p> <ul style="list-style-type: none"> • Inviting suppliers to participate in early engagement activities (e.g. surveys, workshops, soft market testing)

Standard / Arrangement / Policy / Procedure Ref.	Title	Description
		<ul style="list-style-type: none"> Notifying the market that such engagement has already taken place <p>This notice helps ensure transparency, avoids giving any supplier an unfair advantage, and encourages broader participation. It must be published on the Central Digital Platform.</p>
	Procurement Act 2023 (PA2023) [Online]	<p>The UK's primary legislation governing public procurement, replacing the EU-derived rules under the Public Contracts Regulations 2015 - https://www.legislation.gov.uk/ukpga/2023/54/contents</p>
GU_024	Procurement Handbook	<p>An internal guidance document used by NYH to support planning, conducting, and managing procurement activities. It complements the Procurement and Contract Procedures and provides practical advice on applying procurement law and policy in day-to-day operations.</p>
POL 0040	Record Management Policy	<p>This Policy outlines how NYH manages the lifecycle of documents and data. It ensures that records are:</p> <ul style="list-style-type: none"> Retained for appropriate periods based on legal, regulatory, and operational requirements Securely stored to protect confidentiality and integrity Disposed of in a controlled and auditable manner when no longer needed <p>It supports compliance with the Data Protection Act 2018, UK GDPR, and internal governance standards. It applies to both physical and electronic records, including procurement documents, contracts, financial records, and correspondence.</p>
FM_171	Senior Management Recommendation	<p>A formal document used to justify the direct award of a contract without a competitive bid process. It must be completed when the estimated contract value exceeds the quotation threshold but remains below the Procurement Act 2023 threshold. The form captures the rationale for applying an exception under PCP Rules, ensuring that the decision to bypass competition is transparent, properly documented, and approved by senior management in line with procurement governance requirements. This form can now be found as an electronic form on the Comms Hub titled 'Exceptions to Procurement & Contract Procedures'.</p>
	Senior Management Recommendation Register	<p>Maintained by NYH as a section of the 'Contracts Register', this section keeps a record of all approved Senior Management Recommendation requests.</p>
	Tender Notice	<p>A formal announcement published to invite suppliers to bid for a contract. Under Section 21 of the PA2023, it is a legal requirement for all competitive tendering procedures. The notice must include:</p> <ul style="list-style-type: none"> A clear statement of NYH's intention to award a contract Details of the goods, services, or works required Submission deadlines and instructions Evaluation criteria and contract terms <p>Tender Notices are published on the Central Digital Platform and must be accompanied by all relevant associated tender documents, ensuring suppliers have sufficient information to prepare a compliant bid. This process supports transparency, competition, and value for money in public procurement.</p>

Standard / Arrangement / Policy / Procedure Ref.	Title	Description
	Public Contracts Regulations 2015 (PCR2015) [Online] / auth. UK Parliament. - https://www.legislation.gov.uk/uksi/2015/102/content/made	<p>The UK's primary legal framework for public procurement prior to the PA2023. They implemented EU Directive 2014/24/EU and governed how public sector bodies awarded contracts for goods, services, and works. Key features included:</p> <ul style="list-style-type: none"> • Defined thresholds for when full procurement rules applied • Set out procedures such as open, restricted, and competitive dialogue • Required publication of notices on Find a Tender and Contracts Finder • Introduced rules on transparency, non-discrimination, and equal treatment • Mandated 30-day payment terms for undisputed invoices • Included provisions for remedies and supplier challenges <p>Although now largely revoked and replaced by the PA2023, PCR2015 still applies to procurements started before the new Act's commencement date.</p>
FM_12_7	Waiver Request Form	<p>A formal document used to justify the direct award of a contract without a competitive bid process. It must be completed when the estimated contract value exceeds the quotation threshold but remains below the Procurement Act 2023 threshold, and the Senior Management Recommendation process does not apply. The form captures the rationale for applying a waiver to the Procedure, ensuring that the decision to bypass competition is transparent, properly documented, and approved by the Managing Director. This form can now be found as an electronic form on the Comms Hub titled 'Exceptions to Procurement & Contract Procedures'.</p>
	Waiver Request Register	<p>Maintained by NYH as a section of the 'Contracts Register', this section keeps a record of all approved Waiver requests.</p>

8 Review

This document will be reviewed as defined on the footer of this procedure or if changes to the process or responsibilities occur or following significant and relevant changes in UK legislation.