

## APPENDIX 2

### 3.6 CONTRACT PROCEDURE RULES

#### 1. Introduction

It is the responsibility of the Chief Executive and the Service Directors to ensure that all purchases of goods, ~~and services~~ and works comply with:

- a) Legal requirements
- b) EU Directives
- c) The Public Contracts Regulations 2015 (all amendments and Procurement Policy Notes that have been applied later)
- d) The Councils Constitution including these Contract Procedure Rules, the Finance Procedure Rules and the Scheme of Delegation
- e) Compliance with the Councils decision making process
- f) An appropriately signed Procurement Plan is in place prior to the commencement of any procurement over £75,000 contract sum.

#### 2. General Principles Applying to all Procurements

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in 2.3.
- 2.3 These Contract Procedure Rules do not apply to:
  - a) Employment contracts
  - b) Contracts relating solely to the purchase or sale of interests in land
  - c) Contracts for retention of legal representation and the appointment of expert witnesses in legal proceeding
  - d) Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies

- e) Joint arrangements to collaborate with other authorities that involve the delegation of functions.
- 2.4 All purchases however small shall be in writing, this will be either in the form of an approved written contract or for smaller purchases an electronic order.
- 2.5 Each Director shall be responsible for the purchasing undertaken by their Directorate and shall appoint a named Responsible Officer for each procurement. (Responsible Officer's duties are laid out in appendix A)
- 2.6 Shall comply with the Council's decision-making processes including complying with the Scheme of Delegation.

### **3. Thresholds**

- 3.1 The financial values, procurements must comply with the following flow charts which form part of the Contracts Standing Orders
  - (a). £0 to £10,000 At least one written quote in advance of ordering see flowchart A
  - (b). £10,001 to £74,999 At least three written quotes in advance see flowchart B
  - (c). £75,000 and above formal tender process see flowchart C

### **4. Submission and Opening of Tenders**

- 4.1 In accordance with flowchart C for all contracts over £75,000 and also where appropriate for those below £75,000, a formal tender process will be followed.
- 4.2 All tenders shall be submitted electronically using the e-sourcing tool in use by the Council.
- 4.3 Late tenders shall not be accepted unless the Director of Finance and Business Improvement is satisfied that there is sufficient evidence that exceptional circumstances apply.

### **5. Placing Contracts**

- 5.1 As required under section 9 of the Financial Procedure Rules all external expenditure except those specifically exempted shall be supported by a contract and/or official order, for those contracts over £75,000 the type of contract will be defined in the Procurement Plan.

- 5.2 Details to be included in a contract/order are dependent on the risk and value associated with that order (refer to section 9.5 in Financial Regulations)

## **6. Extensions and Variations**

- 6.1 Where extensions to existing contracts are made the extensions must be determined in accordance with the contract terms, for a specified period and made in accordance with the principles set out in the Council's Purchasing Guide.

a) Any extension must be:

- i. Fully documented
- ii. Subject to a written report in an approved format to be submitted to a Director which shall include reasons for the extension which demonstrate that the need for the extension is genuinely beneficial.
- iii. Subject to approval by the Director who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely beneficial.

b) Any extension must take into account:

- i. Probity
- ii. Best value/value for money principles.

c) For contracts subject to EU Rules, any extension must meet the conditions set out in the EU Rules in addition to the more general requirements set out above.

- 6.2 Where an extension or variation are required to a contract, which does not allow for these then a waiver procedure must be followed.

## **7. Waivers**

- 7.1 The requirement for the Council to conduct a competitive purchasing process for contracts in excess of £10,000 may be waived in the following circumstances.

(a) For contracts which are not subject to the EU Rules, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or

- (b) the circumstances set out in Regulation 6 apply (whether or not the contract is of a type which is subject to the application of the EU Rules); or
  - (c) the contract is awarded under a Purchasing Scheme of a type where a competition has already been undertaken on behalf of the Council; or
  - (d) at the discretion of the Head of Finance who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing.
- 7.1 A Responsible Officer who seeks a waiver of Contract Procedure Rules other than Procedure Rules 13.1.3 shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Procedure rules is set out in the Council's Purchasing Guide.
- 7.2 All waivers from these Contract Procedure Rules must be:
- (a) Fully documented
  - (b) Subject to a written report in an approved format to be submitted in advance to the appropriate Director which shall include reasons for the waiver which demonstrate that the waiver is genuinely required
  - (c) Subject to approval in advance by the appropriate Director who shall consult the relevant Committee Chairman and record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
- 7.3 All decisions on waivers must take into account:
- (a) Probity
  - (b) Best value/value for money principles.
- 7.4 For contracts subject to the EU Rules, any waiver from the requirement for competition must meet the conditions set out in the EU Rules in addition to the general requirements above.
- 7.5 A waiver shall not be applied for reasons of poor contract planning.

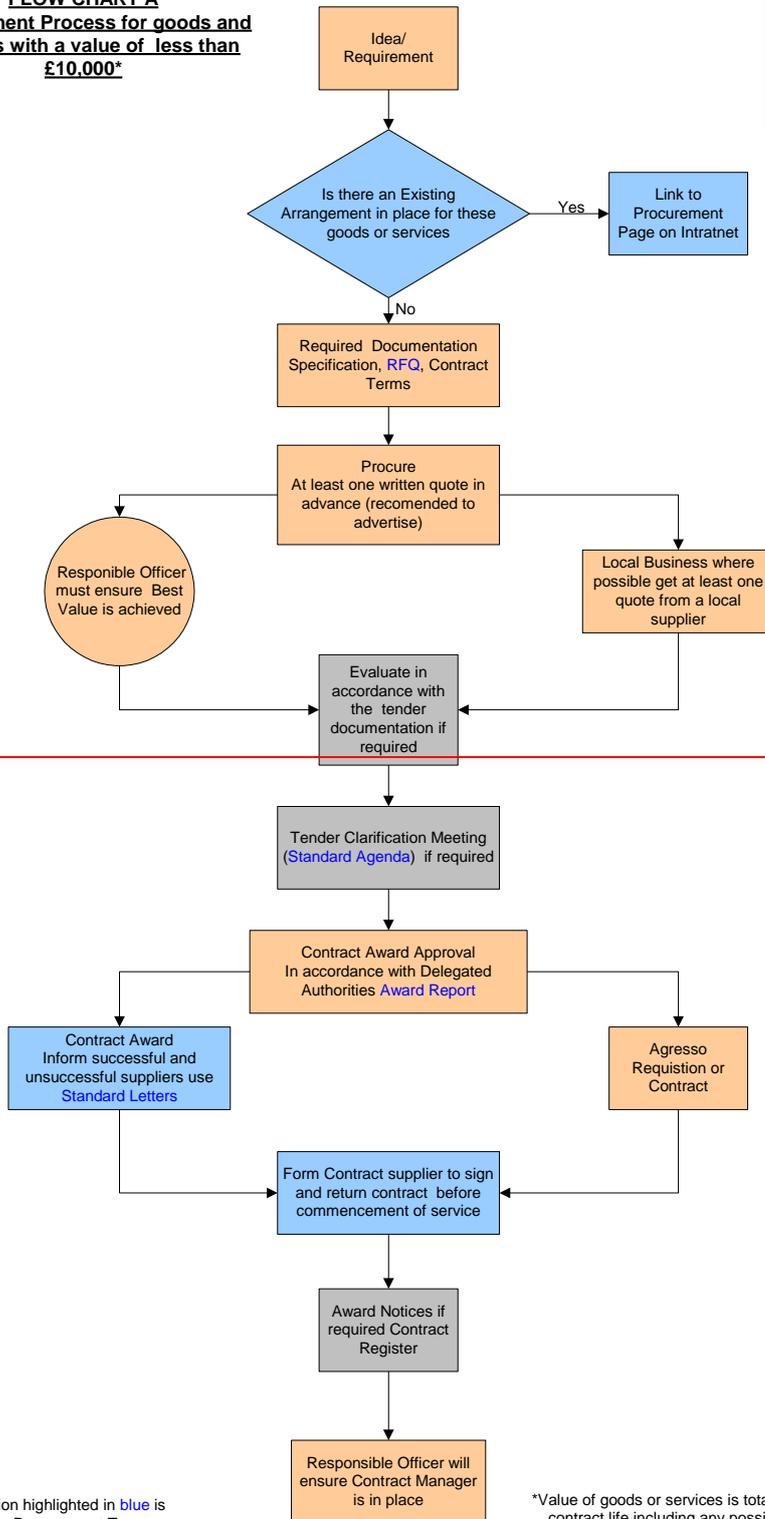
## **8 Approval and Execution of Contracts**

- 8.1 Contract award approval is to be in accordance with Delegated Authorities, all contracts must be executed and issued prior to commencement of contract.
- 8.2 Contracts will be executed by hand unless over £1m, a construction contract over £75,000 or considered to be essential by the Monitoring Officer

## **9. Review and Changes to these Contract Procedure Rules**

- 9.1 These Contract Procedure Rules shall be reviewed and updated on a regular basis. Save in the case of revisions to the EU Thresholds, amended Contract Procedure Rules shall be agreed and adopted by the Council. Revisions to the EU Thresholds shall be updated by the Chief Finance Officer.

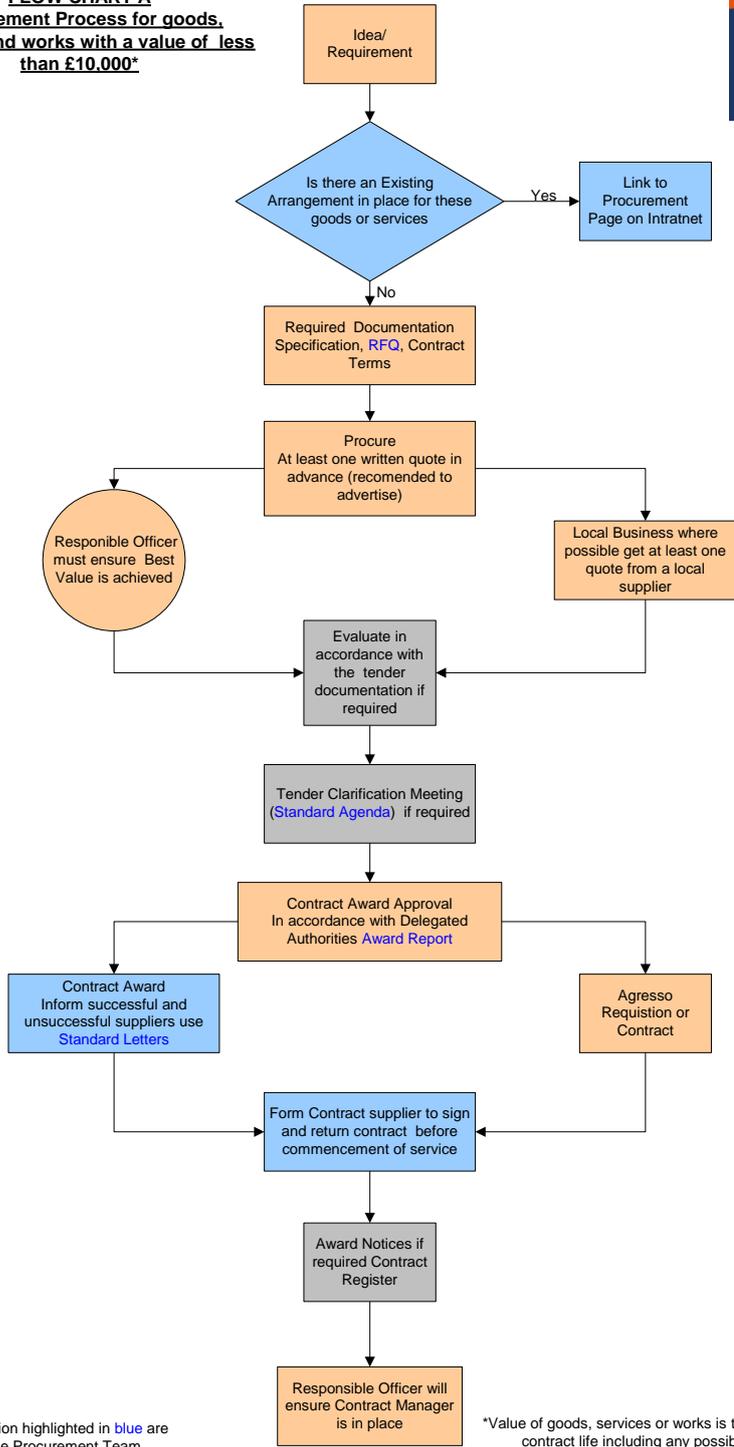
**FLOW CHART A**  
**Procurement Process for goods and services with a value of less than £10,000\***



All documentation highlighted in blue is available from the Procurement Team

\*Value of goods or services is total value for whole contract life including any possible extensions

**FLOW CHART A**  
**Procurement Process for goods,**  
**services and works with a value of less**  
**than £10,000\***

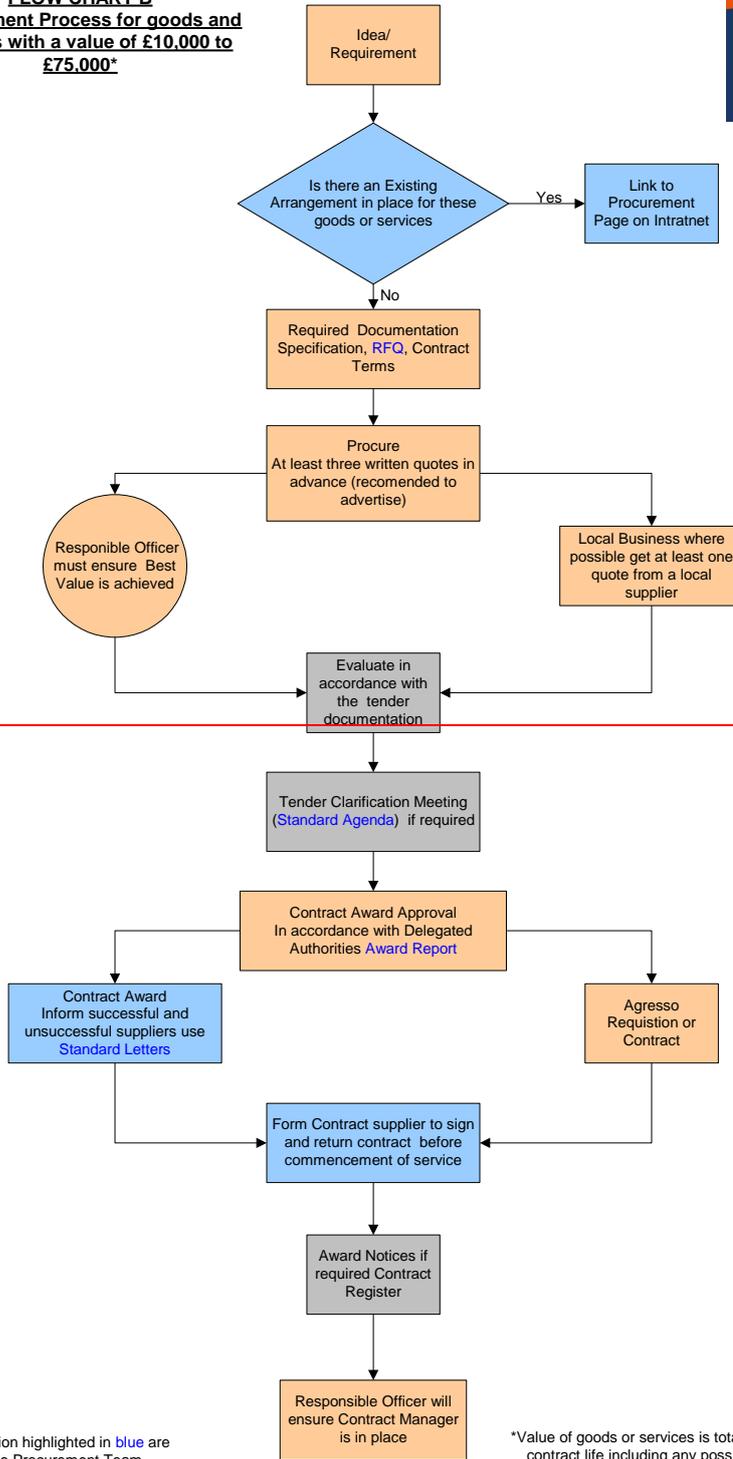


All documentation highlighted in blue are available from the Procurement Team

\*Value of goods, services or works is total value for whole contract life including any possible extensions

Field Code Changed

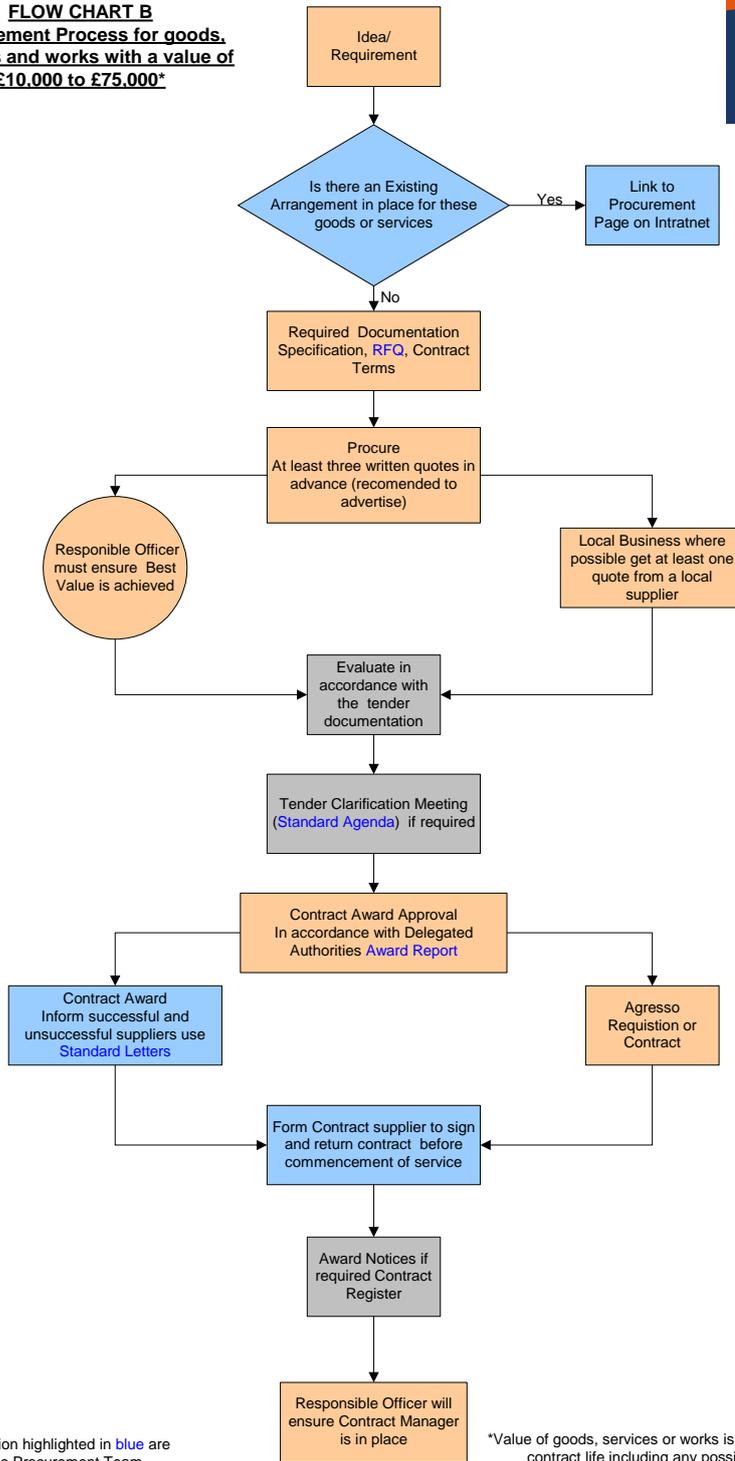
**FLOW CHART B**  
**Procurement Process for goods and services with a value of £10,000 to £75,000\***



All documentation highlighted in blue are available from the Procurement Team

\*Value of goods or services is total value for whole contract life including any possible extensions

**FLOW CHART B**  
**Procurement Process for goods, services and works with a value of £10,000 to £75,000\***

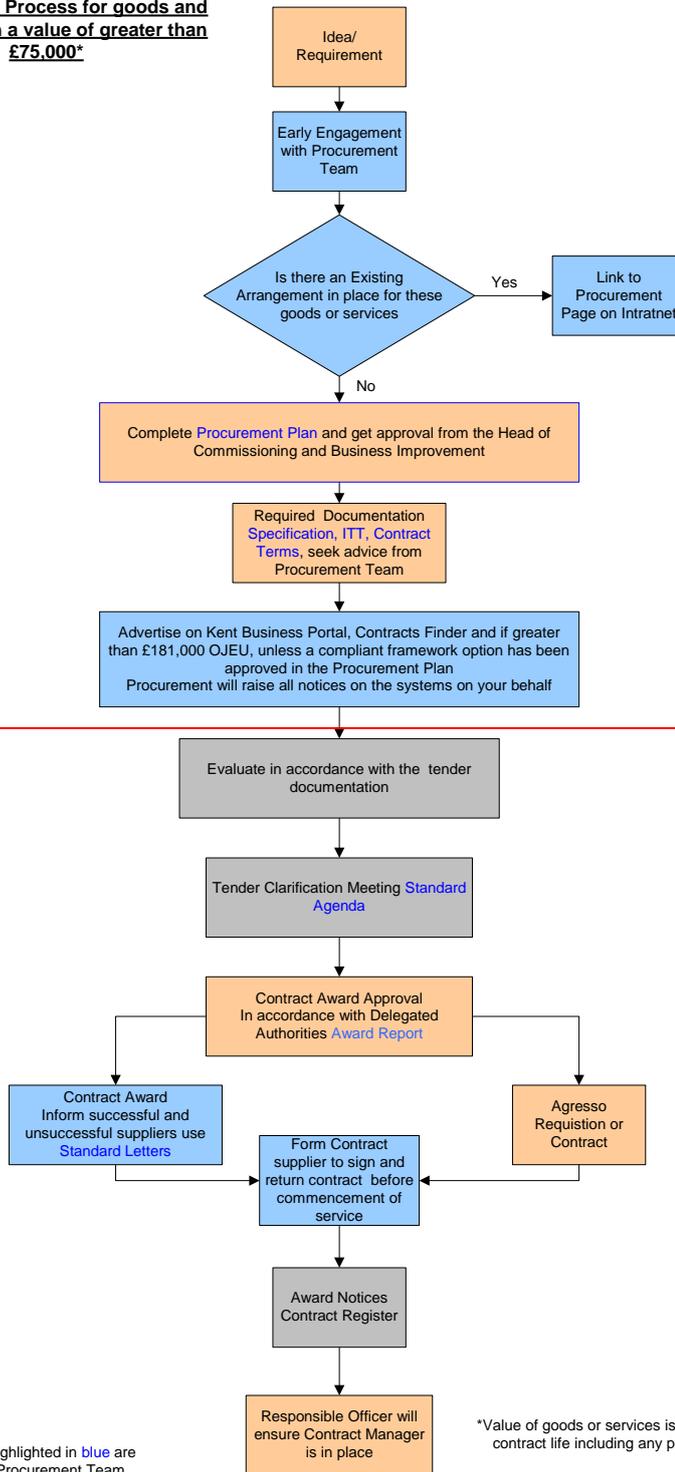


All documentation highlighted in blue are available from the Procurement Team

\*Value of goods, services or works is total value for whole contract life including any possible extensions

Field Code Changed

**FLOW CHART C**  
**Procurement Process for goods and services with a value of greater than £75,000\***



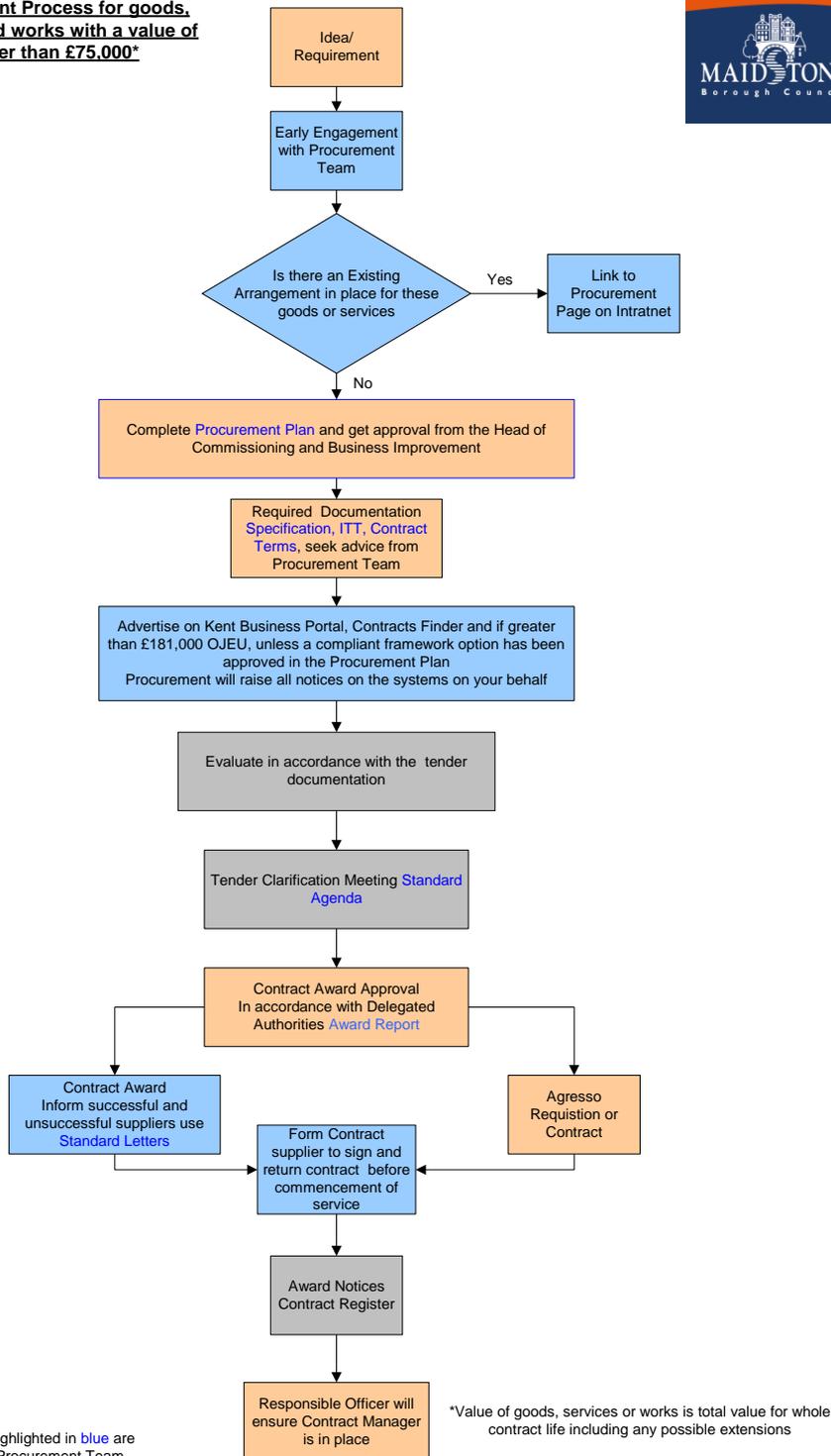
All documentation highlighted in blue are available from the Procurement Team

\*Value of goods or services is total value for whole contract life including any possible extensions

**FLOW CHART C**  
**Procurement Process for goods, services and works with a value of greater than £75,000\***



Field Code Changed



## Appendix A

<b>Responsible Officer's required actions for a procurement.</b>			
The Responsible Officer will be the officer named in the Procurement Plan or by the Director responsible for the budget or in the absence of the above the officer responsible for the budget expenditure is being made against subject to delegated authority being adequate.			
Action	£0 - £10,000	£10,001 - £74,999	£75,000 +
Procurement Plan	Not required	Optional	Procurement Plan must be completed seek advice from Procurement Team, signed by Head of Commissioning & Business Improvement
Tender Documentation	Ensuring tender documentation contains a clear specification, contract terms and evaluation criteria	Ensuring tender documentation contains a clear specification, contract terms and evaluation criteria	Ensuring tender documentation contains a clear specification, contract terms and evaluation criteria, seek advice from the Procurement Team and Legal if required.
Advertising	Optional but recommended to advertise on Kent Business Portal (Advert will be raised by Procurement Team)	Optional but recommended to advertise on Kent Business Portal (Advert will be raised by Procurement Team)	Required for all tenders over £75,000 on Kent Business Portal additionally for all tenders over £181,000 services or £4,511,00 works a notice is required in the Official Journal of the European Community (OJEU), seek advice at the earliest possible stage from the Procurement Team (Advert will be raised by Procurement Team)
Audit Trail	Ensure written record of all information is stored in a shared area and kept for timescale in accordance with the Council's Records Retention Schedule.	Ensure written record of all information is stored in a shared area and kept for timescale in accordance with the Council's Records Retention Schedule.	Ensure written record of all information is stored in a shared area and kept for timescale in accordance with the Council's Records Retention Schedule.
Evaluation	Carry out evaluation in accordance with the requirements of the	Carry out evaluation in accordance with the requirements of the	Carry out evaluation in accordance with the requirements of the

	tender, record results.	tender, record results.	tender, record results. Procurement Team will support and provide moderation if required.
Award	Obtain and record authorisation to award contract from appropriate officer before awarding contract. Notify suppliers if successful or unsuccessful provide feedback if requested.	Obtain and record authorisation to award contract from appropriate officer before awarding contract. Notify suppliers if successful or unsuccessful provide feedback if requested.	Complete <a href="#">Award Report</a> and get approval to award in accordance with the Finance Procedure Rules. Notify suppliers if successful or unsuccessful provide feedback in letters. For tenders above OJEU thresholds a more formal process is required and support should be sought from the Procurement Team
Contract	Ensure contract or order is in place before works start, in accordance with the contract terms included in the tender.	Ensure contract or order is in place before works start, in accordance with the contract terms included in the tender.	Ensure contract or order is in place before works start, in accordance with the contract terms included in the tender.
Contract Register	Optional	If contract is more than £25k then it should be added to the contract register including the name of the Contract Manager the Procurement Team can assist in adding to the register.	Add contract register including the name of the Contract Manager the Procurement Team can assist in adding to the register.
Contract Management	Name contract manager responsible for the delivery of the goods or service, where no manager is named it will be assumed that the Responsible Officer is fulfilling that role.	Name contract manager responsible for the delivery of the goods or service, where no manager is named it will be assumed that the Responsible Officer is fulfilling that role.	Name contract manager responsible for the delivery of the goods or service, where no manager is named it will be assumed that the Responsible Officer is fulfilling that role.
Contract File	Set up and maintain contract file including details of award, waivers, contract, payments, variations, extensions and correspondence.	Set up and maintain contract file including details of award, waivers, contract, payments, variations, extensions and correspondence.	Set up and maintain contract file including details of award, waivers, contract, payments, variations, extensions and correspondence.