



EDC PROCUREMENT POLICY

1. Objective

The Ebbsfleet Development Corporation (EDC), using appropriate systems and processes, aims to achieve efficient and effective procurement of works, good and services to meet its operational and administrative requirements.

Procurement is the process of acquiring goods or services from an external source with the main focus being achieving value for money (VFM). The EDC procurement process demonstrates an escalation process linked to the value of the goods or services being purchased. The higher the value the more thorough you will need to be to demonstrate you have achieved value for money.

The EDC is committed to developing its procurement arrangements to reflect changes in good and emerging practices.

2. Executive Summary

Procurement covers the typical purchase of works, supplies and services required to enable project delivery and provide corporate services.

The EDC is committed to achieving value for money, including but not limited to quality and price, for all its procurement activity. In order to achieve value for money, the EDC will endeavor to clearly communicate its requirements and evaluation criteria, as an informed purchaser, and to establish levels of competition appropriate to the size and complexity of the purchase. Throughout the competitive process, the EDC will also seek to adopt the highest possible standards of probity.

The EDC is committed to ensuring that its procurement obligations are complied with, i.e. Public Contract Regulations 2015 as amended from time to time.

The requirements of this procurement policy, strategy and EDC procedures apply whether procurement is being conducted directly by EDC staff, on its behalf by a public sector partner or by external consultants. Where consultants are used, appropriate oversight should be enforced by the EDC.

3. Governance Arrangements

The EDC Chief Executive is the Accounting Officer (AO) for the Corporation. The AO is responsible for maintaining a sound system of internal control and ensuring that the EDC operates to a high standard of probity and uses its resources efficiently, economically and effectively. A scheme of internal delegations (regularly reviewed and approved by the Board) is in place that enables the day to day management of the EDC to be shared with the Directors of the EDC.

The EDC has a procurement process (see annex A) that must be adhered to. It defines what steps are required to ensure compliance. Directors will approve procurements for amounts up to £10,000. For procurements over £10,000 the Lead Director and the Finance Director must both give approval.

The procurement process is administered by the EDC Programme Team and supported by EDCs Projects Business support officer and the Finance Team.

4. Procurement Levels

NB - the value of any procurement needs to consider the whole life costs of the service or item being procured, rather than the initial price.

NB - Procurement amounts / levels must not be disaggregated to reduce oversight.

- **Expenditure below £10,000**

Lower value purchases do not require formal competition, but staff and consultants acting on behalf of the EDC have a duty to achieve value for money and must retain appropriate evidence of this (e.g. emails/ screen dumps of price comparison activity or documented notes of process followed to establish value). This evidence will be required for audit purposes (internal and external i.e. NAO) and to evidence the PO request. The lead Director will approve any procurements at this level.

- **Expenditure in excess of £10,000 and below £24,999**

Procurement at this level is subject to competition. A minimum of 3 written quotations against a written tender specification are required. In the selection process of the supplier, there must be documented evidence of qualitative and financial assessment using the same criteria against all applicants.

A minimum of **one week** must be given to potential suppliers to allow them to provide a quote.

If fewer than 3 quotations are received back following a procurement invitation then contact Finance for further assistance (staff should retain the evidence of attempts to conduct a procurement exercise, before considering to contract – and may need to consider if the outcome is a Single Tender Action)

- **Expenditure in excess of £25,000 and below the EU threshold**

A minimum of three tenders should be obtained against a written tender specification (using the appropriate EDC procurement templates – available in Teams). In the selection process of the supplier, there must be evidence of qualitative and financial assessment, the criteria for which should be included in the tender specification.

Good practice suggests **three weeks** should be given to potential suppliers to provide a response. Derogations from this three-week duration should be explained / justified and approved by the lead Director and Director of Finance prior to any tender being issued.

If fewer than 3 quotations are received following a procurement exercise, then contact Finance for further assistance (staff should retain evidence of attempts to conduct a procurement exercise in line with existing policy, before considering to contract - and may need to consider if the outcome is a Single Tender Action)

- **EU (OJEU) Threshold and above**

All EDC procurement activity at this level must be in accordance with the Public Contracts Regulations (2015), as amended from time to time. Where the whole life costing of a contract indicates that the expected costs will equal or exceed these limits for Supplies, Services or Works, the EDC will comply with these requirements.

Supplies	£181,302
Services	£181,302
Works	£4,551,413

The OJEU tendering process is complex, time consuming, involves various stages, and can be very resource intensive. Please discuss and plan the OJEU procurement with the Lead Director and the Projects Team prior to starting this process.

5. Use of Procurement Frameworks

The EDC is able (where permitted) to use procurement frameworks that have been created by other public sector organisations (e.g. Crown Commercial Service or Homes England). These frameworks have the benefit of having already been through the OJEU process and have identified suppliers able to carry out specific types of work.

The EDC will need to confirm with the Framework owner if the EDC as an organisation are eligible to utilise the Framework. If the EDC has to formally sign up / contract with the Framework owner, then the EDC CEO will need to sign the agreement.

When using a particular framework, that framework's procedures must be adhered to. These usually involve a standard contract, agreed rates and that a mini-competition process must be used. However, some do allow for direct awards, whilst others require all the suppliers on the framework to be contacted.

Where procurements (using a framework) use the direct award approach or Framework Agreement pricing, the procurement should demonstrate the calculation against Framework rates that arrives at the Most Economically Advantageous Tender (MEAT).

The EDC Projects team have details of what frameworks the EDC is able to use. (EDC staff should satisfy themselves that they are eligible to access a specific Framework Agreement, by contacting the Framework owner to confirm if necessary)

6. Use of Single Tender Awards (STAs)

The EDC is committed to achieving competition and value for money. Therefore, single tender awards are only to be used in exceptional circumstances.

All STA's must be approved by the Chief Executive (using the STA template). The STA template requires an explanation and justification as to why a normal procurement exercise cannot be used. NB – lack of time is generally not a valid justification as this normally indicates a lack of prior procurement planning.

All STA's are reported to the EDC Audit and Risk Committee who monitor usage of them.

7. Other Procurement factors to consider

There are a variety of factors that need to be considered and planned for before commencing any procurement exercise:

- **Terms and Conditions (T&Cs)**

The EDC has its own T&Cs which should be used for all procurements in the first instance. If using a framework then the Frameworks terms and conditions will apply. For smaller procurement levels, it may be more appropriate to use the supplier's terms and conditions. These T&Cs will need to be reviewed/ checked to ensure they are appropriate - Check with the Lead Director or Finance.

NB – If using the suppliers T&C's, then who owns the Intellectual Property (IP) resulting from any work will need to be carefully considered i.e. to avoid instances whereby the EDC then finds it is unable to use the work later and or share it with others etc.

- **All suppliers to be treated equally / unfair advantage**

The procurement process relies upon fair competition between suppliers. All procurement exercises should follow the EU procurement principles of 'Equality, Transparency and Fairness'. EDC must take steps to ensure no supplier has, or is perceived to have, an unfair advantage over other suppliers. Staff will need to consider this at the preparation of the ITT as to whether there is any actual or perceived conflicts with anyone invited to tender. Ultimately there will be situations where nearly every supplier is conflicted in some way, which is when the EDC may need to put additional measures in place such as 'ethical walls' etc.

EDC staff need to ensure that any soft market testing process prior to the issue of a tender treats all suppliers equally.

- **Financial Checking / Evaluation**

Large value procurements (e.g. over £100,000) and procured outside of an existing Framework Agreement may be subject to an assessment of the supplier's financial strength and capacity by the EDC finance team. Please discuss with your Lead Director and the Finance Team if applicable. Any financial check/evaluation will be conducted prior to the conclusion of any procurement process."

NB - Any procurement exercises conducted under a Framework Agreement will already have included a financial strength and capacity assessment as part of the supplier qualification phase when setting up the Framework.

- **Conflicts of Interest**

Any conflicts of interests, where known in advance, will need to be considered before commencing any procurement exercise. Please check with the Lead Director /

Finance Director. If necessary, legal advice may be required. A Conflicts of Interest template should be included with any tender documentation for suppliers to complete as part of their response.

- **Sustainability**

The EDC is committed to sustainable development and as such our procurement arrangements are under continual review to ensure that they support these wider aspirations. As with all public bodies the EDC is obliged to establish increasing levels of understanding and application of sustainability across our business and management of our premises.

- **Collaborative Purchasing**

The EDC is committed to making sensible use of solutions established by Crown Commercial Service and other central purchasing bodies and making use of such solutions where practical

- **Small and Medium Size Companies (SME)**

The procurement arrangements of the EDC have the primary purpose of meeting its continuing business needs. However, EDC recognises the need to ensure that, where possible, SMEs are able to access and compete for procurement opportunities as they arise.

- **Equality and Diversity**

In line with the Government's policy on Diversity, the EDC will, as part of competitive procurements, establish the arrangements of bidders for Equality and Diversity and where appropriate ask for evidence of these arrangements within their organisations. Depending on the nature of individual procurements, specific diversity requirements may be included and form part of the final award decision.

- **Training**

The EDC is committed to providing procurement and contract management training to all staff that are involved in the procurement process. Please contact your line manager if you require this.

- **eProcurement**

The EDC currently operates its procurements via a separate email process. However, the EDC is in the process of the implementation of a sourcing and contract management tool. The sourcing element will be used to run and manage competitive tender exercises. The contract management element will be used to manage present and future contracts. This portal will be rolled out to relevant EDC colleagues in due course. Training will be arranged for affected staff as required.

- **Pre-market Engagement**

The practice of engaging with the supply chain prior to the issuing of a tender has now been formally enshrined in the regulations. As such, EDC can discuss potential procurement exercises with suppliers if it felt this could improve the quality of the

documentation and in turn, lead to a contract award that most effectively meets EDC requirements. It is recommended that to ensure adherence with the spirit of the regulations, that early engagement notices are published on Contracts Finder for sub-OJEU requirements, and Prior Information Notices published on Tenders Electronic Daily (TED) for above-OJEU requirements.

The tender / procurement process requires the EDC to make a choice from various suppliers who have submitted a proposal. Suppliers are more likely to respond to a tender if they have some notice about EDC's intentions to run a procurement process.

- **Contracts Finder**

The Public Contract Regulations (2015) require in-scope bodies to publish all advertised UK public sector procurement opportunities and contract awards above certain thresholds on Contracts Finder:

- This is currently set at £25,000 for wider public sector bodies

As the single publishing portal for all public sector procurement opportunities, Contracts Finder is a critical part of delivering the government's commitments for transparency in procurement and for making it easier and more accessible for smaller businesses and voluntary or charitable organisations to do business with the public sector.

The EDC's new e-procurement software will automatically update the Contracts Finder with EDC procurement opportunities over £25,000.

8. Start the procurement process

Once all the factors have been considered then the procurement process can be started.

- **Ensure all procurements over £10k follow the EDC procurement process**

See the detailed procurement process at the end of this document (Annex B) and ensure that the process is followed.

NB Certain parts of the process are deliberately restricted to a few staff e.g. the procurement email inbox. This is to ensure that tender submissions are not manipulated in any way. As part of the process, at least two staff must be present to "open" email tender submissions and record the information submitted (This process may change with the roll out of the new e-procurement system)

- **Ensure the Procurement Proforma is signed off**

The EDC procurement proforma (Annex C) is required to be signed off at various stages in the procurement process. NB please note that for OJEU amounts, the procurement process and therefore the procurement proforma is different

- **Queries / clarifications**

Queries and clarifications are part of the normal procurement process, but all suppliers must be treated equally so clarification responses must be made available to all (unless the clarification is of a commercial nature. In circumstances where a commercial query is received, EDC should confirm with the tenderer if they are willing for their question and response to be anonymised and shared. Care should be taken to ensure all clarifications are anonymised).

The EDC sets strict timescales for raising queries within the process that must be adhered to.

- **Feed Back to unsuccessful Tenderers**

Submitting a tender proposal is time consuming and costly for a supplier. Unsuccessful suppliers are therefore likely to request feedback on why their submission wasn't selected.

For lower value procurements, the EDC will give written feedback (generally by email) to any unsuccessful bidders that request it. For OJEU amounts, all unsuccessful suppliers shall be provided with a written response (again usually by email), outlining the relative merits of the successful Tenderers response.

- **Audit evidence of procurement process**

Suppliers can take legal action where they consider there have been errors or malpractice. It is therefore important that the EDC follows its procurement process and keeps evidence to show this has been done in a compliant manner. Things to consider are: tender deadlines are adhered to, tenders are opened by more than one-person, tender evaluations are scored (and recorded) by the evaluation panel etc. Provided the procurement process is followed and all suppliers are treated equally then there should be no issues. All the individual evaluation and interview sheets must be retained along with the individual scores.

- **Challenges / legal advice**

If a supplier makes a challenge about the process or outcome of an EDC procurement exercise, then the EDC may need to seek legal advice to resolve it. Please discuss with the appropriate Director.

9. Awarding the Contract

Once the procurement exercise has been completed and the final supplier selected / notified, the contract will need to be signed.

- **Contract signing**

The EDC scheme of delegation states that only the Chief Executive can enter into contracts on behalf of the Corporation.

Once signed, the hard copy of the contract must be given to the Finance Team (as per the procurement process (see Annex A)

NB As stated in section 7, for smaller procurements it may be more appropriate to use the suppliers T&Cs. A copy of these must be given to the Finance Team.

- **Contract extensions**

Contract extensions are possible but these need to comply with s72 of the Public Contract Regulations 2015 (where applicable) and aren't being used as a way of manipulating the procurement rules / procedures (for contract extensions which seek to increase the contract value, where no provision for extension was included in the original contract, then a new procurement exercise or STA justification may be required, rather than a contract extension to the existing supplier). Wherever possible, EDC should look to include contract extensions as part of the initial requirement and tender documentation.

- **Contract Management Principles**

Contract management is the responsibility of the EDC business area that ordered the goods or services. It is the process of systematically and efficiently managing contract delivery whilst maximising financial and operational performance and minimising risk.

Contract management aims to ensure:

- that goods/services are delivered as agreed, to the required level of performance and quality;
- that the relationship between the EDC and the supplier(s) remains open and constructive, aiming to resolve or ease tensions and identify problems early;
- that formal contract governance is maintained and used to resolve performance issues and drive innovation and continuous improvement;
- that changes to the contract are agreed via the appropriate procedures and clearly documented;
- that value for money secured during the procurement process continues to be realised throughout the term of the contract;
- that the management of the contract is transparent and auditable.

The EDC has a separate **Contract Management policy**.

10. **Impact of Brexit**

At the time of writing, the outcome / timing of Brexit is uncertain. However, the UK Government Cabinet Office has issued a policy note (Action Note PPN 02/19(2) March 2019) that states:

“In either a deal or no deal scenario, the public procurement regime (the procurement procedures, financial thresholds, etc.) will remain broadly unchanged”.

Therefore, EDC staff should continue to adhere to this policy and the values currently indicated.

NB - Also need to consider if Contracts Finder is still necessary with the launch of UKGov eNotices website to support post-Brexit tendering.

Annex A - Summary - EDC Procurement process / procedure:

Stage 1 – identify the requirement, and where possible, an estimated amount (£'s) proposed to be spent / procured on a whole life cost basis. This can be reviewed as the scope of the requirement is developed.

Stage 2 - Identify the available budget for any proposed spend (capital, resource or both). This can be obtained by checking with Finance / Programme Office.

Stage 3 – Obtain support / approval from the appropriate EDC Lead Director and determine if any further approval will be required.

The EDC Scheme of Delegation states the following approval amounts / levels: **(but these are subject to full compliance with stages 4 and 5, listed below)**

- EDC Directors – up to £20,000,
- EDC Chief Executive – up to £125,000
- EDC Board – for spend above £125,000
- EDC Board **and** MHCLG – for spend above £250,000

In addition:

The Infrastructure and Investment Panel (IIP) assists the Corporation's Board with discharging its responsibilities for reviewing and approving project investment decisions. The IIP reviews all capital and revenue project investment proposals and makes recommendations to the Corporation's Board for final decision (for amounts over £125,000). The panel does this by reviewing the associated project briefs, business cases, taking into account deliverability, affordability, VfM, risk management and transparency of procurement / future delivery.

Stage 4 – Is the proposed spend “caught” by the Government's Spending Control restrictions? If so, as well as the approval required in Stage 3, the appropriate spending control's approval will need to be sought before any procurement activity starts. See the separate **MHCLG Spending Controls Guidance Document**.

Stage 5 – Carry out procurement activities – in line with this document

Stage 6 – Request Purchase Order from Finance

Stage 7 – Appoint supplier and sign contract

Procurement Process – Obtaining a Purchase Order (PO)

All EDC spend (apart from payroll and reimbursable expenses (which are covered by a separate expenses policy)) must have a PO raised before any goods, services or works are ordered from the supplier.

PO requests must be made to the Finance Team.

Annex B - Procurement Process - Detailed

No	Action	Responsible Person(s)	Link to template (if necessary)	Approved / Completed Date
Work starts with relevant Project Manager / Lead (herein referred to as Procuring Manager)				
1	Revenue spend approval gained via Project Brief and/or Business Case Approval or via CEO investment approval form	Procuring Manager	Spend Approval, Raising and Invoicing POs	
2	Review suitable frameworks or agree a suitable procurement approach as per the procurement policy (i.e. 3 quotes via procurement email).	Procuring Manager		
3	Ratio of Quality to Cost and specific criteria/questions agreed, and whether interviews are required	Procuring Manager, Lead Director / CEO and Finance Director		
4	Agree procurement process, contract arrangements and timetable	Procuring Manager, Finance Team and Assistant Programme Manager		
5	Agree evaluation and interview panel	Lead Director / CEO and Procuring Manager		
6	Draft ITT circulated (1 week review period). To be reviewed by: Director of Projects Finance Director Chief Planning Officer Relevant Specialists	Procuring Manager		
7	Contract considerations: GDPR implications Bespoke terms specific to service	Procuring Manager		
8	First draft circulated (1 week review period). To be reviewed by: Director of Projects Finance Director Chief Planning Officer Relevant Specialists	Procuring Manager		

9	Review Final ITT	Lead Director and Director of Projects Finance Director / Assistant Director of Finance Chief Planning Officer Relevant Specialists		
10	Procurement Proforma – Initiation Section completed and signed and electronic copy saved for audit.	Procuring Manager Signatures required from Lead Director / CEO and Finance Director.	Procurement Proforma	
Procurement handed to Procurement Admin				
11	ITT issued via Homes England Procurement Portal or Procurement Email only.	Procurement Admin		
12	Clarifications logged and distributed to Procuring Manager	Procurement Admin		
13	Clarification response provided	Procuring Manager		
14	Clarification responses sent to Bidders	Procurement Admin		
15	Tender closes and Bids opened and receipted	Procurement Admin and Finance Team		
16	Tender compliance assessment – rejection or acceptance of tenders before financial review	Procuring Manager and Finance Director		
17	Tender Costs (financial review) assessed by Finance	Finance Team and Procuring Manager		
18	Tender Costs (quality review) assessed by Evaluation Panel	Evaluation and Interview Panel and Procuring Manager		
19	Interview and Evaluation sheets drafted	Evaluation and Interview Panel and Procuring Manager		
18	Interviews Held and Evaluation forms completed	Evaluation and Interview Panel and Procuring Manager		
19	Final Evaluation spreadsheet reviewed	Finance Team and Procurement Admin		
20	Overall Tender review	Lead Director / CEO, Finance Team and Procuring Manager		

21	Appointment Agreed	Lead Director / CEO and Procuring Manager		
22	Procurement Proforma – Finalisation Section completed and signed, and electronic copy saved for audit.	Procuring Manager	Procurement Proforma	
23	Appointment issued	Procurement Admin		
24	Unsuccessful candidates informed	Procurement Admin		
25	Feedback issued if requested	Procuring Manager		
Procurement handed to Finance for contract negotiation and management				
26	Contract agreed (ensuring GDPR terms included)	Finance Team and Procuring Manager		
27	Contract signed	Finance Team and Procuring Manager		
28	Procurement Proforma – Contract Section completed and signed, and electronic copy saved for audit.			
29	Hard copy of Proforma stored with hard copy of contract with Finance.			
30	Follow process for raising purchase orders and invoicing arrangements	Finance Team and Procuring Manager	Spend Approval, Raising and Invoicing POs	
Procurement handed to Procuring Manager to manage contract				
31	Contract managed and any necessary action taken	Procuring Manager and Lead Director / CEO		
32	Contract closed, Finance Team and Assistant Programme Manager notified to close associated PO's and update contract log.	Procuring Manager and Finance Team		

Annex C - Procurement Proforma (example)

To be completed and approved prior to any procurement being undertaken by the Programme Team.

Procurement Initiation	
Project Name	
Scope of Works	
Key Deliverables	
Evaluation Ratio (Quality: Price)	
Maximum Budget	
Estimated Cost of Works	
High Level Timetable	Estimated start date of procurement: Estimated start date of works:
Evaluating Panel	
Will interviews be conducted?	Yes / No (delete as appropriate)
Who have you consulted internally?	Please list (e.g. Chief Planning Officer, Head of Design, Head of Place-making)
Who are you inviting to tender?	Please list consultant names and professions
Tender Initiation Approval	
Tender Initiation Approval Lead Director / CEO	I have approved / not approved the commencement of the above procurement including the final ITT that shall be used for the procurement. (delete as appropriate)
Comments (if applicable)	
Signed:	_____
Print:	_____
Date:	_____
Tender Initiation Approval:	I have approved / not approved the commencement of the above procurement including the final ITT that shall be used for the procurement.

Director of Finance	(delete as appropriate)
Comments (if applicable)	
Signed:	_____
Print:	_____
Date:	_____

Once Procurement Initiation form is approved, please send to Assistant Programme Manager and proceed to drafting the ITT.

Procurement Finalisation	
Date of Final Evaluation	
Company Awarded Contract	
Date of standstill period if required	
Date letters issued to those unsuccessful	
Contract Value	£
Contract Length	
Contract Award Approval: Lead Director / CEO	
Signed:	_____
Print:	_____
Date:	_____
Contract Award Approval: Director of Finance	
Signed:	_____
Print:	_____
Date:	_____

Once the evaluation panel has approved the contract award, please send to the Assistant Programme Manager who will notify both successful and unsuccessful candidates.

Following contract negotiation, please pass the signed hard copy of this form along with the signed hard copy of the contract to the Finance Team for filing.

Contract Initiation and Storage of Hard Copies	
Date Contract Signed	
Date Signed Contract Passed to Finance	
Confirmation of Receipt: Director of Finance	
Signed:	_____
Print:	_____
Date:	_____