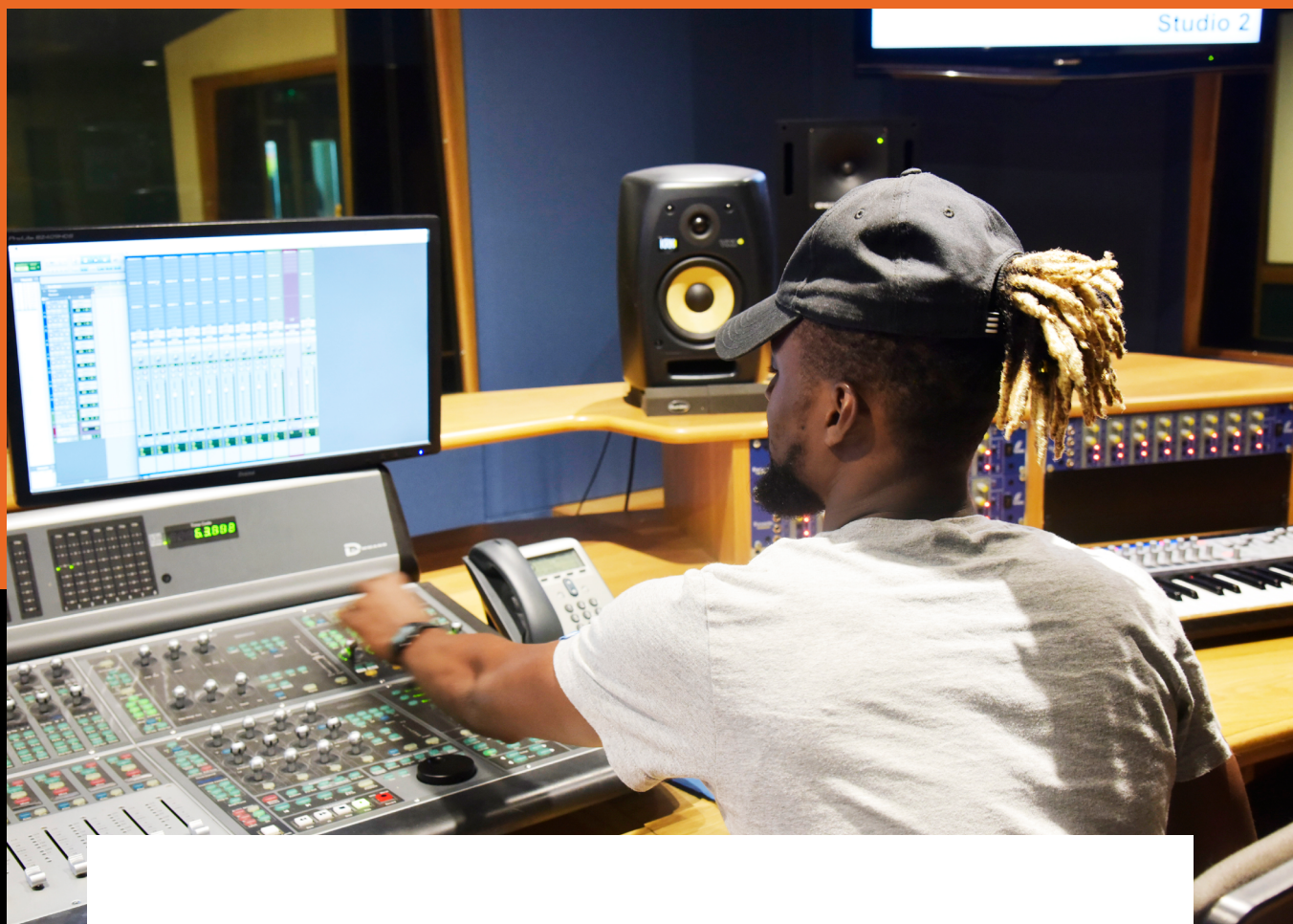




BUCKINGHAMSHIRE
NEW UNIVERSITY

EST. 1891



PROCUREMENT PROCEDURE

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Note: For other University policies and procedures (referenced in italics) please see the Policies page on the main University website (<http://bucks.ac.uk/about-us/governance-and-policies/policies>).

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Section 1: Overview

Background

- 1 The University is considered a contracting authority and has regulatory requirements to comply with the Procurement Regulations PCR 2015. The addendum to the original regulations in the form of the Lord Young Reforms are also applicable.
- 2 Public procurement is the process whereby public sector organisations and contracting authorities acquire goods, services and works. These bodies require the procurement strategy and procedures to be carried out effectively.
- 3 As an organisation in receipt of significant public funds, the University is subject to the scrutiny and appraisal of HM Government through the Department for Innovation, Universities and Skills, Office for Students, the Research Councils and the National Audit Office, Auditors and Funding bodies.
- 4 The University; is subject to the European Procurement Directive covering Supplies, Works and Services. As such, strict procedures for tendering must be followed. Consequences of failure to comply could result in considerable fines and / or legal challenge.

Purpose Statement

- 5 The purpose of this procedure is to reflect and support the University's aims by working with staff and suppliers to optimise the procurement of works, goods and services ensuring best value procurement in all areas of non-pay expenditure by:
 - the promotion of better purchasing practices and policies
 - the development of professional purchasing skills
 - the formulation of effective systems, procedures and controls
 - adherence to the regulatory framework of the University and enshrined in legislation.
- 6 The purpose of the Procurement Department is to ensure that the required goods, services and works arrive at the right place, time, quality and cost in order to support the delivery of the key organisational objectives of the University and in making commercially sound decisions which incorporate:
 - Value for Money
 - Whole Life Costing
 - The Environment
 - Sustainability
 - Compliance with Government Procurement Regulations PCR2015
 - Working within the boundaries of the Criminal Finances Act
 - Compliance with the GDPR Regulations

Applicability and Scope

- 7 This procedure applies to all staff at the University, especially those responsible for procuring works, goods and services.

Responsibilities

- 8 This procedure is endorsed by the Senior Management Team and approved by the Resources Committee.
- 9 This procedure is managed by the Procurement department within the Finance Directorate and to whom any related queries should be forwarded.
- 10 The Procurement Manager is responsible to the Director of Finance for:
 - Ensuring that the University's purchasing procedure is disseminated and available to all involved in purchasing for the University
 - Advising on matters of University purchasing procedure and practice
 - Advising and assisting departments where required on specific departmental purchases
 - Developing appropriate standing supply arrangements on behalf of the University to assist budget holders in meeting their value for money obligations
 - Reviewing all orders as per the appropriate schedules before they leave the University. Values as per Thresholds & Timelines in Section 5.
 - The drafting and negotiation of all large scale purchase contracts undertaken by the University in collaboration with the responsible department. Values as per Thresholds & Timelines in Section 5.
 - Advising the University on compliance to EU regulations on public purchasing policy
 - Utilising procurement framework agreements where possible to reduce time and cost.

Definitions

Value for money

- 11 Value for money is defined as 'the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user's requirement'. This is rarely synonymous with the lowest price. Where an item / service is chosen that does not have the lowest whole life costs, then the additional value added benefits must be clear and justifiable.
- 12 Typical factors that are taken into account in defining value for money:
 - Fitness for purpose
 - Quality
 - Total lifetime costs
 - Risk
 - Environmental and sustainability issues
- 13 Procurement achieves value in various ways:
 - Savings (cash-releasing benefits)
 - Cost Avoidance – value which is released through the procurement process that does not translate into bankable savings
 - Risk reduction
 - Reducing cycle time
 - Gaining competitive advantage
 - Value-adds (enhanced commercial benefits to contracts).

- 14 In doing so, Procurement support the University's *Value for Money Policy* and *Value for Money Strategy*.

Section 2: Procurement

- 15 The University requires all budget holders, irrespective of the source of funds, to obtain supplies, equipment and services at the lowest possible cost consistent with quality, delivery requirements and sustainability and in accordance with sound business practice.

New Supplier Accounts

- 16 All supplier accounts must be requested on Business Connect. The following documentation should be submitted at the application stage:
- All suppliers must have detailed payment and bank details on official letter head paper with authorisation from a designated signatory for the organisation with financial sign off. The title of the signatory must be clearly stated on the document.
 - Where available, a Company Registration number or VAT Registration number
 - Up to date copy of Public Liability Insurance, Employer's Liability Insurance (if applicable), Health and Safety Policy (if in excess of 5 employees)
 - Detailed information on the value and extent of the type of goods / service to be provided with an estimate of the expenditure to be undertaken
 - Copy of appropriate contract / quotation to be submitted
 - If 3 quotations are available, these must be submitted with the supplier application.
- 17 All documentation will be reviewed by the Procurement Department. A credit check to determine financial standing will be undertaken. All risks to the University must be kept to a minimum.
- 18 Sufficient time for due diligence and review by the Procurement Department must be allowed. Refer to Thresholds & Timelines in Section 5 for guidance on time allowances. Contracts or agreements must not be entered into without the approval of the Procurement Department following the supplier approval process. Authorisation will be provided via the Business Connect system.

IR35 – Contracts and Assessments

- 19 IR35 is HMRC legislation which covers the use of people who supply their services to clients via their own company. These are referred to as personal service companies, sole traders, self-employed or a limited liability partnership. HMRC advise that these should be classed as "disguised employees". HMRC does not recognise the contractor in question as being "self-employed" from a taxation perspective and therefore they should be taxed in the same way that a general employee should be. The fact that the supplier may be registered with HMRC as self-employed does not make any difference. The assessment of whether tax needs to be deducted is a separate exercise.
- 20 From April 2017 it became the responsibility of the engaging organisation (i.e. BNU) to undertake the determination of whether or not an engagement falls within the scope of

IR35 and to pay tax, NI and apprenticeship levy due on these engagements to HRMC. It is the substance of the engagement and the contract in place which will determine the taxation status and not whether or not the service is provided by a sole trader or someone who views themselves as self-employed.

- 21 The below process is to ensure that engagements are treated correctly for taxation purposes and must be followed in advance of any service taking place at the University.
- 22 Prior to formally engaging the person, the manager discusses and manages the below:
- Agrees the duties and rates of pay
 - Completes an IR35 form to determine whether tax and NI will be deducted. Form available from Finance and also available on Blackboard / Finance / Forms
 - The individual and engaging manager will need to sign a contract for services
 - They will need to be set up as a supplier
 - They will need to invoice the University for the work undertaken
- 23 All assessments for IR35 will need to be undertaken by the Finance Operations Manager prior to submission for a supplier account. A flow chart, IR35 Questionnaire and Status Fact Finder Form can be viewed from the Forms & procedures page within the Finance Organisation on Blackboard. A copy of the contract detailing the work / hours / payments / deliverables / milestones must be attached to allow for a full assessment. In all cases BNU will follow the result from the HMRC assessment questionnaire.

Purchase Requisitions

- 24 All supplier purchase requisitions must be submitted via Business Connect. The following should be attached to the requisition:
- A minimum of three quotations
 - A document detailing the justification for the supplier selection
 - If an evaluation spreadsheet has been completed, this must be included as part of the justification for the supplier selection and should clearly indicate the reasons for selection
 - Terms and conditions of the contract. These should be reviewed initially by the assessor / requestor and will be followed up by Procurement
 - Sufficient time for due diligence and review by the Procurement Department must be allowed as review can be a lengthy process. Refer to Thresholds & Timelines in Section 5 for more detail
- Note: Time allowable is dependent on complexity of requirement, review of terms and conditions,
- Copies of contract / agreement
 - If the requisition is a transaction which forms part of a larger contract, a copy of the main contract
 - All pricing contained in the requisition must be in line with the contract costings as agreed. If a variance exists, an explanation detailing the reasons for the discrepancy must be included

- A full and detailed breakdown providing evidence of the costings. These must be checked for correctness by the requestor and agreed prior to submission to the Procurement Department. It remains the responsibility of the requestor to ensure that suppliers have charged appropriate and agreed costings and that hidden costs have not been applied
- If a requisition has been raised for consultancy work, a full breakdown of timings / hours / rates must be submitted. This serves as evidence that consultants have met with their contractual obligations. It remains the responsibility of the requestor to ensure that appropriate attendance, timesheets, agreed milestones, deliverables have been approved and met in accordance with the contract.

Purchase Orders

- 25 The ordering of goods and services shall be in accordance with the University's detailed financial procedures / purchasing policies set out in the *Financial Regulations*.
- 26 Once the purchase requisition has been approved by Procurement and the appropriate budget holders, a purchase order will be automatically raised within Business Connect. It is the responsibility of the Director of Finance (through the University's Procurement Manager) to ensure that all purchase orders refer to the University's conditions of contract. When issuing a purchase order via Business Connect, a standard set of terms and conditions are automatically generated.
- 27 When transferring goods or services between departments, please refer to your Finance Business Partner.

Procurement Cards

- 28 Where appropriate, the Director of Finance may approve the issuing of procurement cards. The Director of Finance will be responsible for setting in place a system to monitor the use of all cards (through the Financial Controller) and to ensure that all expenses charged through them are properly accounted for.
- 29 Holders of procurement cards must use them only for the purposes for which they have been issued and within the authorised purchase limits. The misuse of such cards may be grounds for disciplinary action. Cards must not be loaned to another person, nor should they be used for personal or private purchases. Cardholders should obtain approval to purchase from the relevant budget holder and should ensure that there is sufficient budget available to meet the costs.
- 30 The Director of Finance (through the Financial Controller) shall determine what information is required on purchases made with procurement cards from cardholders and deadlines for receipt in the finance department to enable financial control to be maintained and cardholders must provide that information.
- 31 Details of the operation of the scheme are set in the financial procedures. Procurement Card Guidance is available to view from the Procurement page within the Finance Organisation on Blackboard.

Tenders and Quotations

- 32 Deputy / Pro Vice-Chancellors, Heads of Schools, Directors and delegated budget holders must comply with the University's tendering procedures contained in the financial procedures. Procurement must be contacted in advance of the requirement to

allow for sufficient time to comply with the PCR 2015 regulations and the university Financial Regulations. An EU procurement process may take 6-9 months, discussions with procurement should take place 12 months prior to contract commencement. Refer to Thresholds & Timelines in Section 5.

- 33 Only partnership arrangements for the supply of goods or services specifically approved by the Resources Committee or the Council will fall outside these arrangements for tenders and quotations.
- 34 The evaluation of tenders must be carried out in a fair and transparent manner. The results of which should be recorded to an auditable standard. The evaluation criteria must be clearly defined at the tender stage and recorded on an evaluation spreadsheet.
- 35 Any post tender bid clarification with suppliers will be led by the Procurement Department. Any communication with the suppliers involved in the tender process will be facilitated by the Procurement Department.
- 36 Evaluation spreadsheets will include the justification of marking, contain the marks allocated and any reasoning applied. Comments should be fair and based on factual information contained within the tender responses. Any reasoning applied at this stage will be reported back to the suppliers detailing their scores, their position within the tendering results and reasons for rejection / success. This could result in a legal challenge if the supplier views their score as unfair or biased. If this were to occur, the result would be a halt in the entire tendering process to allow for the legal process to commence.

Soft Market Testing

- 37 The Public Contracts Regulations 2015 allow contracting authorities to conduct market consultations with a view to preparing a procurement / tender and informing economic operators of the procurement plans and requirements. This exercise is an invitation for ideas and advice from suppliers. The University may use those ideas and advice in the planning and conduct of the procurement procedure provided that it does not have the effect of distorting competition and does not result in a violation of transparency, equal treatment and non-discrimination. Soft market testing guidance is available to view from the Procurement page within the Finance Organisation on Blackboard.

Conflicts of Interest

- 38 The University is required to take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of the procurement so as to avoid any distortion of competition and to ensure equal treatment of all economic operators. This should be monitored throughout the soft market testing exercise to ensure those conflicts do not arrive, or if they do, they are dealt with appropriately and in accordance with the Regulations.

Contracts

- 39 Heads of School / Directors have authority to sign contracts within their signatory limits in the course of the ordinary business of their Department; in respect only of available and budgeted funds for which they are responsible.

- 40 The Pro Vice-Chancellor shall approve and sign all contracts relating to sponsored research activity, together with the Director of Finance according to the threshold where required by the research authority. Refer to Thresholds & Timelines in Section 5.
- 41 Contracts which affect more than one department should be signed by budget holders for each of the affected departments or by a senior manager with responsibility for all of the departments involved. Such contracts should also be counter-signed by the Director of Finance.
- 42 The achievement of value for money will be an objective in the letting of all contracts.
- 43 The contracts should be entered onto a contracts register which is available for review by the University's internal auditors and which will be reviewed annually by the Audit Committee.
- 44 It is the responsibility of the manager signing the contract to make the Procurement Manager aware of the terms of the contract in advance of signing the contract and it is the responsibility of the Procurement Manager to maintain the contracts register.

Collaborative Framework Agreements

- 45 Procurement currently work closely with other universities and various purchasing consortiums. As a University, we are members of the Southern Universities Purchasing Consortium (SUPC).
- 46 On behalf of their members, purchasing consortiums undertake large procurement spend to obtain economies of scale, therefore achieving the best value for money and benefitting from competitive pricing. The reduction in resources, timescales and administrative costs are extensive and advantageous. Call-off from framework agreements have agreed procedures in place. It is a route to market which results in compliance to the procurement regulations.
- 47 In addition to achieving economies of scale, we are also able to benefit in the following ways as each supplier, prior to tender must qualify in the following areas:
- Experience
 - Insurances
 - Financial stability
 - Market share
 - Competitiveness
 - Health and safety
 - Sustainability / Environmental planning and practices
 - References
 - Technical ability
 - Quality and Quality Assurance
 - Other Service aspects
- 48 We are also able to source from the following purchasing consortiums:
- APUC (Scotland)
 - HEPCW (Wales)
 - LUPC (London)

- NEUPC (North East)
- NWUPC (North West)
- Crown Commercial Services
- Crescent Purchasing Consortium
- TUCO
- TEC

EU Regulations

- 49 As a public body, the University is subject to the European Procurement Directive covering Supplies, Works and Services thus encouraging / stimulating an open market place for public procurement throughout the EU.
- 50 The Procurement Manager is responsible for ensuring the University has procedures in place, which will comply with the legal obligations concerning EU procurement legislation. EU procurement regulations apply to written contracts for all forms of procurement, purchase or hire with a total value exceeding the threshold values.
- 51 The European Procurement Directives set out the legal framework for public procurement. Detailed procedures must be followed prior to a contract award. The regulations apply irrespective of the sources of funding. To allow for compliance to the lengthy EU process and regulations, Procurement must be approached 12 months in advance of the requirement to commence the contract. In the first instance, the Procurement Department will seek available framework agreements if they are applicable. Refer to Thresholds & Timelines in Section 5.
- 52 The length of the contract should be no more than 5 years in duration. Tendering can be undertaken for 3 years (3 years + 1+ 1) with optional years to be added if the contract is a successful one and the University / supplier wish to continue with the arrangement.
- 53 The aggregate value of the entire contract should be taken into account to determine whether the threshold will be met or exceeded. For example, a contract with an annual value of £50k (excluding VAT) for a 5 year period will exceed the EU threshold. Contracts must not be disaggregated or renewed annually to avoid the EU regulations as this can result in a legal challenge by a supplier or a fine. The Regulations state that fines must be "effective, proportionate and dissuasive"; this is a high risk to the University.
- 54 Summary of aggregated values detailed in the thresholds and timelines exclude VAT. As the University are unable to claim VAT, therefore, any budgets for expenditure should always include a VAT allocation.
- For a fixed period contract – the total price to be paid or which might be paid during the whole of the contract period.
 - For recurrent transactions for the same type of item – the aggregated value of those transactions in the coming 12 months
 - For a contract of uncertain duration – monthly payment x 48
 - For feasibility studies (pilot schemes) – value of the follow-on scheme
 - For separate contracts, the aggregated value meeting a single requirement / category.

- 55 If the correct procedures are not followed or a supplier believes that they have not been treated in a fair and transparent manner, the supplier may instigate a legal challenge to a contract. As a result, a contract could be declared as “ineffective” as part of the remedies regime applicable to public contracts. In England, a court has the power to declare a contract “ineffective” as part of the remedies regime applicable to public contracts.
- 56 There are three main circumstances when this remedy may be available to suppliers:
- a Where the University has directly awarded a contract without placing an OJEU advertisement in circumstances where an OJEU advertisement is required by the legislation.
 - b Where there has been a breach of the rules relating to the standstill period and that breach has denied the supplier an opportunity to challenge the contract award in relation to a separate, earlier breach.
 - c Where a call-off contract under a framework agreement for goods or services with a value over the EC procurement threshold has been entered into without following the relevant call-off procedures under that framework.

Standstill Period

- 57 Once the University formally wishes to award a contract, a 10 day standstill period between supplier notification of tender results and contract award must be upheld. This will allow sufficient time for suppliers to question the decision making process or raise a legal challenge of award.
- 58 The correspondence must clearly state the reasons for rejection / success and the scoring against the evaluation criteria. The successful bidder, standstill dates and contract commencement dates must be clearly identified.

E-Tendering Portal

- 59 For EU tenders, the process is managed and recorded on the e-tendering portal. Suppliers should register in advance to ensure that they can be included in the tendering process.

Regulation 84

- 60 At all times throughout the project (from soft market testing, choice of procedure through to running the chosen process and awarding contracts) regard should be had to retaining records of justifications for decisions taken as well as the evidence and records required by Regulation 84.
- 61 The Crown Commercial Service can request to see this report and a copy could also be sought by a member of the public under the Freedom of Information Act or by an aggrieved supplier as part of the disclosure process in any procurement challenge. An example template for information is available to view from the Procurement page within the Finance Organisation on Blackboard.

Projects and Procurement

- 62 Prior to applying for project funding whether internal / external, specialist expertise and advice must be sought from internal departments.

- 63 The following aspects should be considered as part of the proposal:
- Which resources will be required; are they available; has the Head of School / Director confirmed that the resource is available at the time required?
 - Compatibility with existing equipment
 - Suitable space
 - Insurance requirements
 - Funding reporting requirements
 - Timescales for procurement
 - Departmental expertise and input required i.e. IT / Estates / Procurement / Health and Safety
 - Implementation
 - Practical installations / physical impact
 - Lifecycle costings – what maintenance will be required / costs incurred for maintenance / annual servicing / any other costing implication
 - Disposal costs
 - Engagement of any suppliers may be subject to tax liability.
 - IR35 assessments and applicable governance
 - General Data Protection Regulations
 - Terms and Conditions
 - Modern Slavery
 - Ethical Supply Chains
 - Sustainability.

Funding Bodies

- 64 When applying for funding for projects, the rules from the funding body must be taken into account. Funding bodies may stipulate stringent procurement procedures which are conditional to the grant. Failure to comply with the strict procedures can result in clawback of funding regardless of whether the expenditure has already occurred.
- 65 Depending upon the characteristics of the breach, up to 100% of the grant may be recovered from the grant recipient if a breach of Public Procurement Law or the Treaty Principles is identified. There are also separate penalties for breaches of the National Rules.
- 66 For example, guidance states that no organisation should apply for ESIF unless it has fully considered and planned how it will be able to demonstrate compliance with Public Procurement Law, the Treaty Principles or National rules as appropriate in selecting the suppliers of goods, works or services which have been part-funded through ESIF.

Section 3: Legislation

Freedom of Information

- 67 The Freedom of Information Act (FOIA) gives successful or unsuccessful bidders rights to certain information which would be previously have been deemed confidential. All requested information must be made available within the designated time limits.

The Bribery Act

- 68 The Bribery Act 2010 (the Act) was passed in April 2010 and came into force on 1 July 2011. The four key principle points to note in relation to offences under the Act are:
- a The Act extends the crime of bribery to cover all private and public sector transactions (previously bribery offences were confined to transactions involving public officials and agents). These offences cover all legal persons (which includes companies and individuals).
 - b The Act creates a new offence of failing to prevent bribery which applies to commercial organisations. A commercial organisation is stated as being a company, corporate body or partnership but not a sole trader. Section 7 provides that a relevant commercial organisation, ('C'), commits an offence if a person, ('A'), associated with it, bribes another person intending either to obtain or retain business for C or an advantage in the conduct of business for C. An offence is committed if the conduct complained of would constitute the commission by A of an offence contrary to two other sections of the Act (which cover the general offence of bribery and the more specific offence of bribing a foreign public official). The Act defines A as a person who performs services for or on behalf of C. A may therefore be a service provider, subsidiary, contractor, agent or employee and they may be based in or outside of England and Wales. An organisation will only have a defence to this offence if it can show it had 'adequate procedures' in place to prevent bribery.
 - c The scope of the Act is extensive – the offences are very broadly defined and it has significant extra-territorial reach.
 - d The offences contained in the Act carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and / or an unlimited fine can be imposed; for companies, an unlimited fine can be imposed.
- 69 The University, its employees and contractors / bidders are covered by the Act.

The Criminal Finances Act

- 70 The purpose of the bill is to amend the Proceeds of Crime Act 2002; make provision in connection with terrorist property; create corporate offences for cases where a person associated with a body corporate or partnership facilitates the commission by another person of a tax evasion offence; and for connected purposes.
- 71 The Government has introduced the Criminal Finances Act 2017 to address tax evasion and corruption, money laundering and terrorist financing. The Act introduces a new 'corporate criminal offence of failure to prevent the facilitation of tax evasion'. This places greater responsibility on the University to prevent its employees / agents / associates from facilitating the evasion of tax by another party within the UK or overseas.
- 72 The CFA imposes strict liability on organisations, successful prosecution could lead to:
- An unlimited fine
 - A public record of conviction
 - Significant reputational damage and adverse publicity

- 73 There are two possible impacts of the CFA. The first is an exclusion for 5 years for economic operators (suppliers to the University) who may have committed an offence under Regulation 57(3) of the Regulations.
- 74 Secondly, the CFA rules apply to all of the organisations with whom BNU has a contractual relationship. In essence, this means anyone who performs services for the company or partnership, including employees, agents and subcontractors. As a result, it could capture an employee who subsequently becomes self-employed and provides services through a corporate vehicle. It would also, for example, apply to an overseas marketing agent employed to recruit students.
- 75 To ensure that the University remain within the boundaries of the Act:
- The Head of School / Director to be fully transparent about which suppliers are in the contractual relationship, including any and all any sub-contracted suppliers. This information must be passed to Procurement. Any conflicts of interest must be highlighted in particular where an individual has been / is a member of staff.
 - All suppliers must have detailed payment and bank details on official letter head paper with authorisation from a designated signatory for the organisation with financial sign off. The title of the signatory must be clearly stated on the document.
 - A credit check will be undertaken on the financial standing of the organisation.
 - Payments must be made directly into the bank account listed on the approved document on presentation of an appropriate invoice for goods / services received.
 - International suppliers must be able to produce the official letter head as described. A Financial Identification Form cannot replace the need for the signed documentation.
 - The rules apply to all transactions and supplier accounts irrespective of the source of expenditure or income i.e. whether a project partner / supplier.
 - If it is deemed necessary by the department to make a payment without complying with the Criminal Finances Act or procedures set in place, an Out of Process document must be completed. This is similar to a business case which explains the reasoning for the payment request outside of the current process. Payments / values / supplier / justification must be included. This document will need to be presented to the Senior Management Team and authorised at this level prior to payment or approval of the supplier account on Business Connect.
- 76 The full detail of the Criminal Finances Act is available to view from the Procurement page within the Finance Organisation on Blackboard.

General Data Protection Regulations – GDPR

- 77 The EU General Data Protection Regulation (GDPR) comes into force on 25 May 2018. This affects all organisations processing personal data, brings new obligations on data controllers and data processors.
- 78 One of the major change is for protection of the individual and their right to removal. In that event, the University must be able to quickly and effectively remove all traces of that personal information and must be in a position to give the same instruction to the individual / suppliers with whom we have a contractual relationship.
- 79 GDPR will affect commercial relationships between controllers and processors, the change must be set out in contracts with specific terms included. Existing contracts

involving personal data processing must be addressed. All new contracts must incorporate the terms which will apply.

- 80 Contracts should be assessed for their level of risk and prioritised as follows:
- High Risk – There is complex treatment of personal data, sensitive personal data or where the parties are joint controllers
 - Medium Risk – There is personal data processing but it is not sensitive personal data and the parties are not joint controllers
 - Low Risk – There is minimal or no personal data involved.
- 81 You should follow the below steps for each contract:
- Step 1 – Identify the risk for each contract
 - Step 2 – Establish who is processing the personal data and who is determining how, when and where the personal data will be processed
 - Step 3 – Contact the suppliers to amend and agree the new terms going forward
 - Step 4 – Ensure that the amended / agreed terms and conditions reflect the level of risk associated with the contract
 - Step 5 – Assurances from processers should be obtained from all organisations that are processing personal data that they have the relevant technical and organisational measures in place to manage the contract and lower any risk for the University.

Section 4: Operational Impacts

Stock Holding

- 82 Deputy / Pro Vice-Chancellors and Heads of School are responsible for maintaining inventories in a form prescribed by the Director of Finance (through the Financial Controller), for all plant, equipment, furniture and stores in their departments with a value in excess of £2,500. The inventory must include items donated or held on trust.

Inventories

- 83 It is the Heads of School / Director's responsibility to ensure that all University equipment, furniture and fittings is maintained securely in line with all warranties and that any losses are promptly identified, recorded and reported to the Finance Business Partner who will contact any interested parties.

Stocks and Stores

- 84 Deputy / Pro Vice-Chancellors, Heads of School and Directors are responsible for the care, custody and security of the buildings, stocks, stores, furniture under their control. They will consult the Director of Finance in any case where security is thought to be defective or where it is considered that special security arrangement may be needed.
- 85 Stocks must be kept to the optimum level compatible with operational requirements, Directorates should have a stock management system in place covering the items held in their stores. Only those items whose immediate availability is essential to maintain an efficient service should be stocked.

- 86 There should be a regular value-for-money exercise to ensure that the existence and maintenance of stocks achieves more efficient operations.

Disposal of Assets

- 87 Disposal of equipment and furniture must be in accordance with procedures agreed by the Resources Committee and in accordance with WEEE directive for controlled disposal if applicable.
- 88 No items can be sold to staff, students or outside organisations except in exceptional circumstances and in consultation / approval by the Director of Finance.
- 89 IT equipment must never be sold to staff due to the nature of the risk. The sale of other items could only be considered in exceptional circumstances.

Sustainability

- 90 The University's *Environmental Policy* stipulates that sustainability must be taken into consideration when making purchasing decisions for goods, services and supplies to the University. Procurement decisions should be taken in the spirit of the policy and that associated carbon savings are included within the *Carbon Management Plan*.
- 91 Prior to commencement of any procurement, sustainability should form part of the viability assessment and whether the decision is subsequently to proceed
- Do we need to proceed? Can we utilise existing goods / services / resources?
 - Cost and waste reduction
 - Environmental, social and economic consequences of design
 - Non-renewable material use
 - Logistics
 - Service delivery
 - Use
 - Operation / maintenance
 - Re-use
 - Recycling options
 - Disposal

Health & Safety

- 92 The Health and Safety at Work Act places a general duty on the University to ensure that plant, articles and substances used at work are safe and without risks to health.
- 93 The Management of Health and Safety at Work Regulations require the University to ensure that by effective planning, risks are controlled by careful selection and design of equipment, articles and substances. Refer to the *Health and Safety Policy* for further information.

School / Directorate Responsibilities

- 94 It is the responsibility of the Head of School or Director authorising the purchase to ensure that goods and services are selected which are suitably safe and without risks to health. The manner in which the School or Directorate intends to employ the goods or service will be subject to a risk assessment. The specification of the goods or service must then be in accordance with the assessment. If they are in any doubt

about health and safety legislation or responsibilities, departments should consult their Area Health and Safety Co-ordinator, the Health and Safety Manager or the Procurement Manager.

- 95 Outlined below are some of the main health and safety requirements which relate to the purchasing of equipment and substances. Heads of School or Directors must ensure that these requirements are met within their School or Directorate.
- 96 Further guidance and information can be obtained from Health & Safety Manager within the Estates & Facilities Directorate.

Specific Legal Requirements

Work Equipment

- 97 The Provision and Use of Work Equipment Regulations require the University to select equipment that has been designed and constructed to comply with any EC Essential Safety Requirements relating to that equipment. All equipment purchased (or acquired second hand) must be safe to use and maintain and must be suitable in terms of its initial integrity, the place where it will be used and the purpose for which it will be used. Before new equipment is put into use, a risk assessment must be carried to determine its suitability. When selecting work equipment, departments must take account of ergonomic factors and should select the least hazardous type of equipment that can adequately perform the task. For example, preference should be given to equipment that reduces health and safety risks to users to as low as is reasonably practicable.
- 98 Safety features such as the following, should be selected whenever possible:
- Low noise or vibration levels
 - Low voltage electrical equipment
 - Lightweight (reducing manual handling risks)
- 99 Written instructions provided by the supplier must be made available to those using the equipment and spare copies should be kept.

Display Screen Equipment (DSE)

- 100 The Health and Safety (Display Screen Equipment) Regulations require the University to ensure that Display Screen Equipment (DSE) used by DSE users meets the requirements laid down in the Schedule to the Regulations. Further guidance on the suitability of DSE equipment can be obtained from the Procurement Department or Health & Safety Manager.

Furniture and Furnishings

- 101 The Furniture and Furnishings (Fire) (Safety) Regulations require the University to purchase furniture and furnishings which are flame retardant, comply with the relevant British Standards and are labelled accordingly.

Hazardous Substances

- 102 The Control of Substances Hazardous to Health Regulations prohibits the University from carrying out work with hazardous substances unless a suitable and sufficient assessment of the health risks from exposure to that substance has first been undertaken. Information, in the form of material safety data sheets, regarding the

hazard(s) of the substances proposed to be used, must be obtained from the supplier and considered as part of the COSHH assessment. As far as is reasonably practicable, the least hazardous substance, or form of the substance, should be selected. The buyer should always consider the safe disposal of hazardous substances, prior to making the purchase.

Personal Protective Equipment (PPE)

- 103 The Personal Protective Equipment at Work Regulations require the University to select and provide suitable personal protective equipment (PPE) in accordance with the findings of the risk assessment for the activity in question. Such PPE must be provided to employees free of charge. PPE purchased must comply with the appropriate European Standards (BS EN) and should be CE-marked accordingly.

Supplier Responsibilities

- 104 The Sale of Goods Act requires the supplier to supply goods which are fit for their purpose. They must also be of merchantable quality unless defects are specifically drawn to the buyer's attention before the contract is made or, if the buyer examines the goods before the contract is made, as regards defects which that examination ought to reveal.
- 105 The Health and Safety at Work Act lays a duty on those who design, manufacture, import or supply any article for use at work to ensure that the article is designed, constructed and installed so as to be safe and without risks to health when used. In addition the person supplied with the article must be provided with adequate information such that it may be used safely and without risks to health.
- 106 The Supply of Machinery (Safety) Regulations set out the essential health and safety requirements that must be met by manufacturers and suppliers before new (CE-marked) machinery is placed on the market.
- 107 Suppliers of electrical equipment must also ensure that their products comply with the requirements of The Low Voltage Electrical Equipment (Safety) Regulations, The Electromagnetic Compatibility Regulations, and The Electrical Equipment (Safety) Regulations.
- 108 All contractors and consultants must comply with the University site rules. These can be obtained via the Estates department. Where appropriate, these instructions should be included within any tenders and contracts issued.

Retention of Documentation

- 109 Records created in the course of procurement activities are crucial in providing evidence of University effectiveness and in handling any litigation that may arise. These are also essential for auditing purposes providing evidence of:

- accuracy
- value for money
- what has occurred
- evidence in the event of accusations of error, fraud or impropriety
- precedents for future action, including any re-tendering process.

- 110 Please refer to the *Records Lifecycle Management Scheme* for further details.

Section 5: Finance Commercial Terms

Definition of a Contract

111 A contract is an agreement between two or more parties that creates in each party a duty to do or not do something.

112 Current contracts - who we currently engage with / contract with:

- Suppliers
- Student Recruitment Agents
- Consultants
- Partners
- Funding Bodies
- Employees
- Regulatory Bodies
- Subsidiaries

113 Essential areas to be addressed prior to agreement of contracts / requisition / signatures:

- Contract value (aggregated value)
- Threshold value for compliant procurement route
- Terms and Conditions
- Modern Slavery
- Sustainability
- General Data Protection Regulations
- Payment Terms
- Sustainability
- Insurances
- IR35
- Ethics
- Brand reputation

Procurement Cycle



114 Prior to each procurement always consider the following:

- Is the requirement essential?
- Is the service / provision already utilised within the university, perhaps within a different department?
- Does a framework agreement exist which can be utilised?
- Are we getting the best value for money?
- Do we have sufficient resources to support the requirement?
- Do we need to make any additional commitments as a result of the requirement?
- Have those additional costs been included / allowed for in the total budget?
- Consider whole life costing, from conception, procurement, utilisation and disposal.
- What are the annual running costs?
- Are there specific installation requirements?
- Who do we want to engage with for the requirement, are they a good fit for the University -brand / reputation / reflect our core values?
- Consider the financial standing, is the organisation financially stable?
- Are we behaving in a fair and transparent manner?
- Are we being inclusive and open to new suppliers / entrants to the market?

Contract Lifecycle



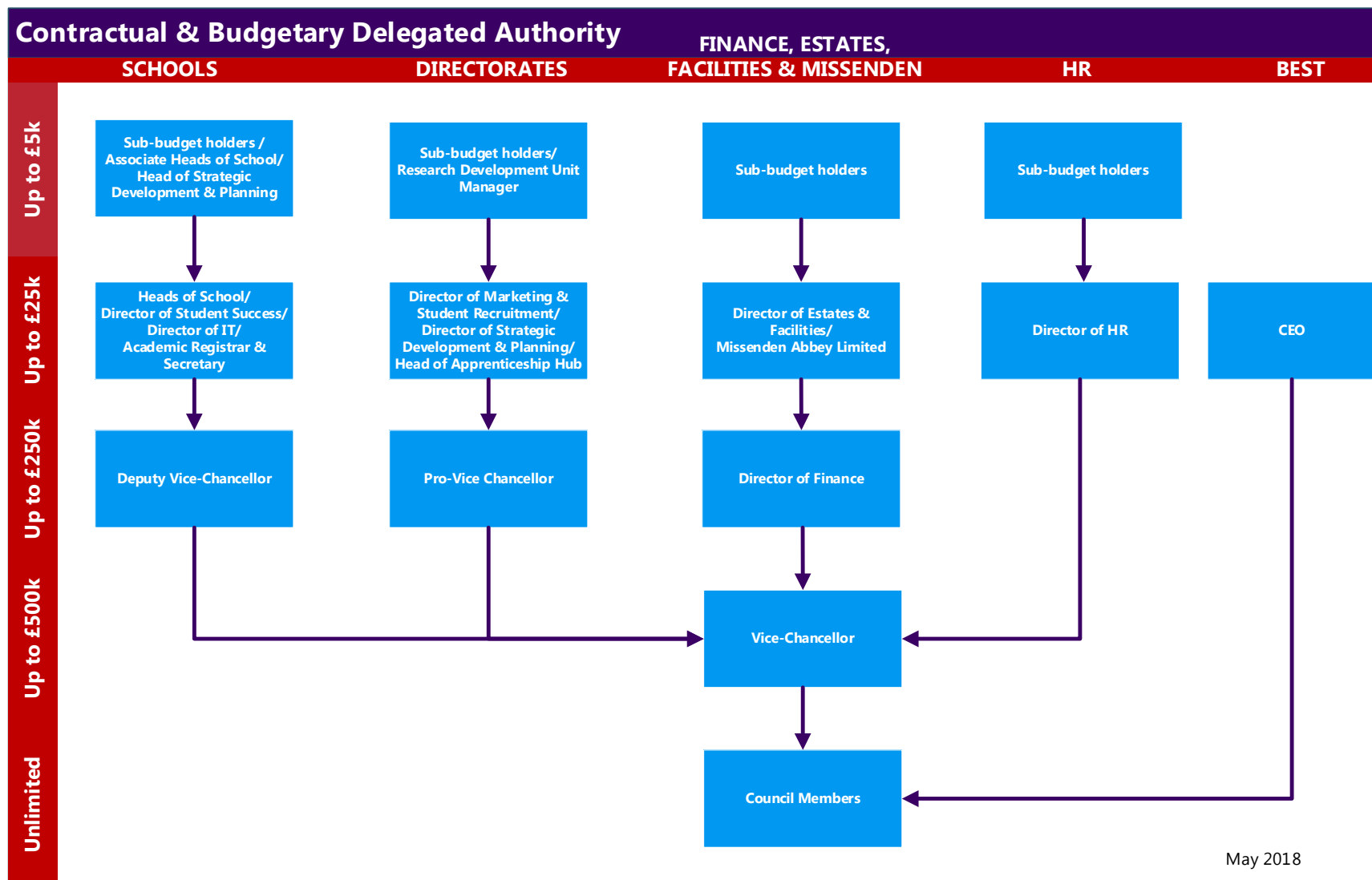
115 Prior to entering into a contract always consider the following:

- A contract is required for any agreement with a third party for works / services to be performed or goods to be purchased
- Wherever possible, suppliers and partners must adhere to the University's standard terms and conditions
- Contracts should be signed in accordance with the Contractual and Budgetary Delegated Authority
- Contract signatories must ensure that they have understood the terms of the agreement they are signing, are satisfied that it is in the best commercial interests of the University and the University policies have been complied with.

Contract & Budgetary Delegated Authority

Financial Threshold	Delegated Authority	Budgetary	Contractual
Up to £5,000	Sub-budget holders	Y	Y
	Associate Heads of School	Y	Y
Up to £25,000	CEO BEST	Y	Y

Financial Threshold	Delegated Authority	Budgetary	Contractual
	Heads of School	Y	Y
	Directors	Y	Y
	Academic Registrar & Secretary	Y	Y
	Missenden Abbey Ltd	Y	Y
Up to £250,000	Deputy Vice-Chancellor / Pro-Vice Chancellor / Director of Finance	Y	Y
Up to £500,000	Vice Chancellor	Y	Y
Unlimited	Council	Y	Y



Thresholds and Timelines

116 The University *Financial Regulations* stipulate the procurement thresholds:

- The procurement thresholds exclude VAT. However, you must account for VAT within your budget.
- The aggregated value should be taken into account, for the entire duration / cost of the requirement e.g. if a contract is £10,000 per year for a 3 year contract, allow £30,000 + VAT
- The timelines below are strictly for the procurement process. Additional time should be allowed for scoping of requirements prior to approaching Procurement.

117 Less than £500 + VAT – minimum time applied to source requirement

Competitive Quotes

< £5,000 Goods
< £5,000 Services
< £10,000 Works Estates

- Market assessment for best value-for-money.
- Obtain 3 written quotes where possible.
- Allow 2-4 weeks depending on the complexity of the requirement.

Competitive Tendering

£5,000 <> £181,302 Goods
£5,000 <> £181,302 Services
£10,000 <> £4,551,413 Works

- Allow 6-8 weeks to conduct a competitive tendering process

Requirements of > £25k - work alongside Procurement

- Allow 8-12 weeks to conduct a competitive tendering process
- Tender to be conducted via the InTend portal
- A 5% margin should be allowed for the OJEU threshold.
- If the requirement falls within the 5% margin, in excess of £172,236.90, a full OJEU route is best practice and is required by this policy. This is essential in order to avoid a situation where unanticipated additional expenditure causes the University to breach OJEU rules.

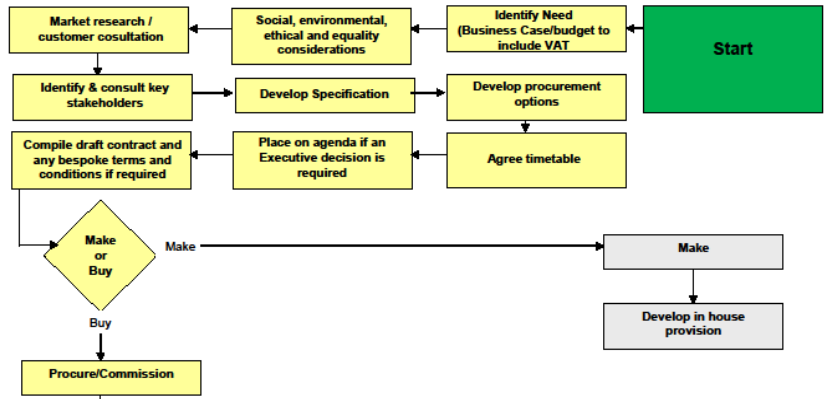
Competitive Tendering compliant with the Public Contracts Regulations 2015 - OJEU

Note: OJEU – Official Journal of the European Union

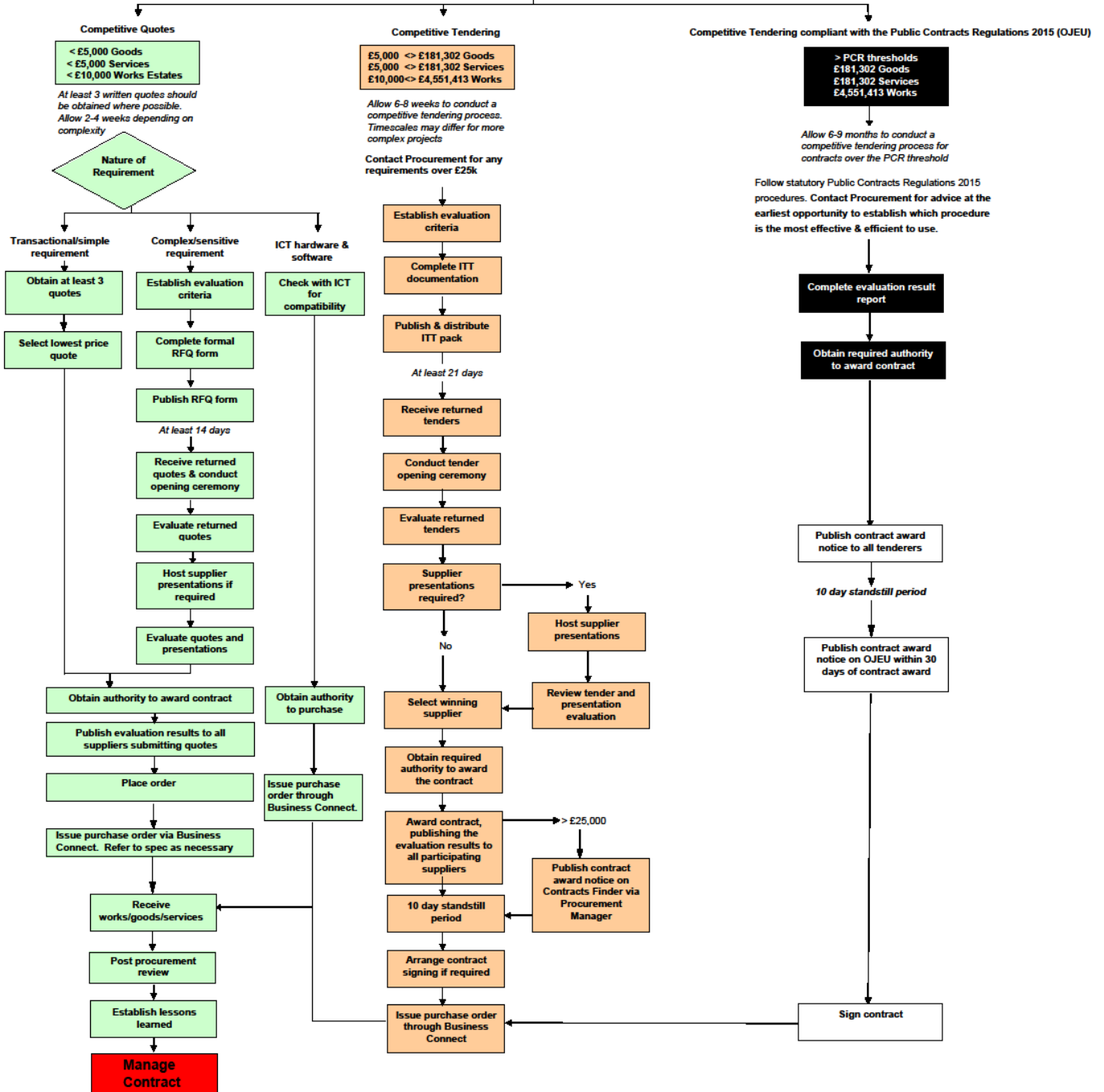
> PCR thresholds
£181,302 Goods
£181,302 Services
£4,551,413 Works

- Allow 6-9 months to conduct a competitive tendering process for contracts over the PCR threshold
- Follow statutory Public Contracts Regulations 2015 procedures
- Tender to be conducted via the InTend portal.

All budgets must include an allocation of VAT



Please note: All timescales provided below do not allow for planning/scoping of requirements. This must be done before coming to Procurement and before the tender timescale will begin.



Section 6: Policies

Regulatory Information

118 Detailed regulatory information is available to view from the Procurement page within the Finance Organisation on Blackboard and also from our website <https://bucks.ac.uk/about-us/governance-and-policies/policies>