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**PLEASE NOTE; THIS PROCEDURE MUST BE READ IN CONJUNCTION
WITH GWENT POLICE AUTHORITY STANDING ORDERS (PART II) AND
SCHEME OF DELEGATION**

1.0 SCOPE

This procedure is intended to cover all the expenditure made by the Force with the following exceptions;

1. Pay and pay related expenditure
2. Expenses
3. Transfers of funds and investments
4. Payment in settlement of claims made against the force
5. Acquisition of land and or buildings (whether by auction or not)
6. Statutory charges and payments

2.0 OBJECTIVES

1. To give guidance and instructions on the processes and to clarify the procedures involved to budget holding departments who need to secure the supply of goods, services and works.
NOTE Text appearing in *bold italic* type, other than headings are to be treated as instructions
2. To ensure that the procedures used in the acquisition of goods, services and works are consistent with the requirements of Part II (Contracts) of Gwent Police Authority Standing Orders (GPASO) and European Procurement Directives (where appropriate). ***This procedure must be read in conjunction with Part II of GPASO.***
3. To facilitate the achievement of Best Value in contracting by maximising competition and developing robust contractual arrangements.
4. To ensure that all contracts let, irrespective of value, are let on a basis of non-discrimination. Differentiation between offers on the basis of the information supplied by prospective suppliers and the return of value to the Authority shall be the general determinants of selection.
5. To create an official record of the existence of a contract and a means of demonstrating fairness and transparency in its award.

6. To provide a functional link between the Contracts section of GPASO and Financial Procedure B3 (already issued) which concerns the actual ordering and receipt of goods, services and works.

3.0 PROCEDURE

3.1 Terms used in Contracting and Tendering

3.1.1 Contract.

This is a legally binding agreement between two or more parties in which the responsibilities of each are set out so that one party may provide a benefit to the other usually in return for payment. *All contracts irrespective of value made on behalf of Gwent Police Authority must be in writing.*

Contracts for higher values (in excess of £10,000) are generally made using specific contract documents which require to be signed by both parties and a Purchase Order subsequently raised to create the commitment in the Lawson financial system. Where (for values lower than £10,000) specific contract documents may not be used, a Purchase Order issued in response to an offer made for supply constitutes a contract.

3.1.2 Tendering.

Is the term given to the whole process by which a contract may be awarded. The provision of prices (quotations) is sometimes taken to be the entire process but is one activity within tendering.

3.1.3 Contractor(s).

Is a term used to describe the other party or parties who participate in a contract with the Authority and may be a person, firm or group of firms. Other names include supplier, vendor, service provider, consultant or agency.

3.1.4 Tenderer.

Is the name given to any person or firm who has been invited to submit a tender for a contract. A tenderer does not have the same legal status as a contractor until his tender has been accepted.

3.1.5 Applicant.

Is the name given to any person or firm who has responded to an invitation to join a tendering process. The invitation could be made by means of an advertisement or by a direct invitation made to those thought to be

appropriate. An applicant does not have the same legal status as a contractor.

3.1.6 Quotation or Tender

Both terms refer to the provision of an offer made by a prospective supplier. They must be in writing, include prices and be related to the specification for what is to be supplied under a contract. A quotation or tender may also indicate or vary the terms and conditions under which the contract is to be performed. The acceptance of a quotation or tender is made either by the issue of a Purchase Order or the acceptance and signing of the Contract and constitutes a legal agreement.

In some cases "Budget Estimates" may be supplied by firms seeking to obtain business or to influence those who may be involved in awarding contracts. These are not intended to constitute an offer and such estimates are to be treated with great care as they invariably change once specifications are developed or as work proceeds following a contract award. ***Contracts must never be placed based on budget estimates (other than for certain types of "works" contracts).***

3.1.7 Specification.

One of the most important documents used in the formation of any contract. The specification is the means of describing what is to be the substance of the contract. It will be essential in allowing the tenderer to produce a relevant tender and will play a large part in determining whether or not the contract will be ultimately successful. A specification is usually created by the users of the goods services or works, as a result of an existing or anticipated requirement. Once developed, the specification forms one of the main elements against which a tender submission can be evaluated. ***Specifications used in contracts to be awarded on behalf of Gwent Police Authority must be in a written form*** but can incorporate published information from other sources such as European or British standards or possibly trade brochures (for low value contracts). If samples of goods are to be supplied as part of any contract they can be considered as a part of the specification and should be referred to in the contract document.

3.1.8 Terms and Conditions.

These are used to describe the agreement between contracting parties and determines under what conditions the contract is to be performed. The responsibilities of the parties should be contained in this section of the contract as well as the procedure to be adopted in case of dispute or should a variation to the contract be required by either party. In any contract let on behalf of Gwent Police Authority, the Standard Conditions (found on

the reverse of a Purchase Order and in the Appendix to this procedure) must always be used. The Standard Conditions are often supplemented by such other Special Terms and Conditions as may be needed for any particular contract. Special Terms should be developed by those who have specific knowledge of the particular circumstances surrounding the performance of the contract especially where there is a technical or professional element to the contract.

3.1.9 “O.J.E.C.”—Official Journal of the European Communities

Certain contracts, depending on their value and nature, must be awarded under the Directives of the Council of the European Communities and must be advertised in O.J.E.C. The provisions of a particular Directive take precedence over any part of GPASO on any matter to which they both relate. The thresholds, above which the Directives take effect, change from time to time. Procurement Dept. will advise on the application of a Directive. The valuation of contracts and the level of thresholds are covered in Section 3.4 and 3.5 of this procedure.

3.1.10 Tender evaluation

This is the process designed to determine which out of a group of tenders for any contract yields the best value for money for the Authority. Tender evaluation is a process of differentiation, not one of discrimination. The criteria to be used in evaluation must be developed prior to the return of tenders. The areas of evaluation will be discussed in detail in Notes 6, 8 and 13 but must always include an appraisal of the level of charges and of the degree to which the specification will be fulfilled.

3.2 Projects and contracts

Contracts are often awarded in support of the projects undertaken by the Force. Irrespective of the value of the contract or the route used to award it, every contract award required within a project constitutes a “product” under our project methodology and must have a “product description” applied to it. The product must then be allocated to an “owner” usually the officer or department that will manage the tender process.

Where a contract is to be awarded within a project and the value is below £80,000 a report outlining the process undertaken and the recommendation for the award must be submitted to the project board.

The board acts as the representative of the Chief Constable and is able to approve the award. The project executive should be the contract signatory.

Where the value exceeds £80,000 the report must be submitted to the Police Authority who may make the award.

The Clerk should be the contract signatory in this case. Contracts which are awarded as outlined above will still need to have a Purchase Order raised in the normal way, signed by the relevant budget holder. ***The Purchase Order should always refer to the contract*** so that the agreement governs the terms of the P.O.

3.3 Dealing with “the market”

All goods, services and works supplied to anyone who purchases them, are products of their own market. The organisations that inhabit the market (suppliers) are generally in competition with each other and this competition is often a very powerful tool for the purchaser when a contract is to be let. The encouragement of competition has been a fundamental of European law since the Treaty of Rome in 1957 and has been amplified in the present European Procurement Directives. The other areas which are covered in the Directives are “clarity” (the transparency of the tendering process) and “fairness” (the treatment of suppliers in terms of equality of opportunity). The objective of the Treaty and the Directives is actually only the enforcement of good practice.

The guiding principles to be followed are;

1. Avoid detailed discussions with prospective applicants before the tendering process starts. Potential suppliers do not usually relish open competition and will naturally seek to promote their own “solution”. Intelligence gathering is essential but should be done with caution. All the specific questions can be asked within the tendering process. It is good practice not to advise a potential tenderer what the budget is for any procurement nor to indicate how many firms may be competing for the work or who they may be.
2. Once a tender process has started there is a duty to treat those firms involved fairly and equally.

The practice of allowing access to firms involved in a tender to departments or individuals within the Force (other than those directly concerned in the leading tender process) is to be strongly discouraged.

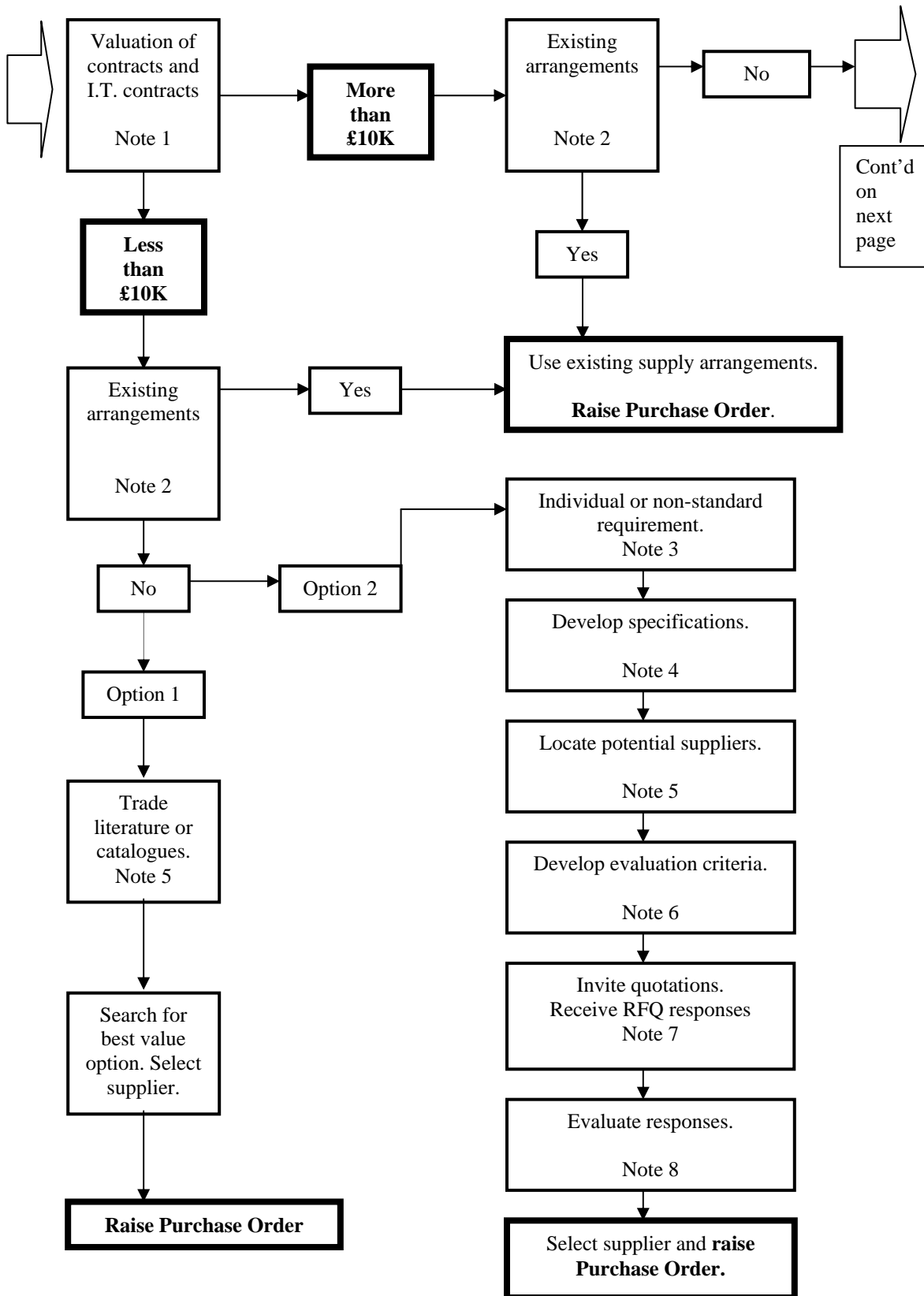
Tendering firms must not be made aware of the others participating nor, under any circumstances, is the content of any tender submission to be divulged.

It is not safe to assume that firms in apparent competition do not communicate with each other from time to time and this should be borne in mind when making any statement to them.

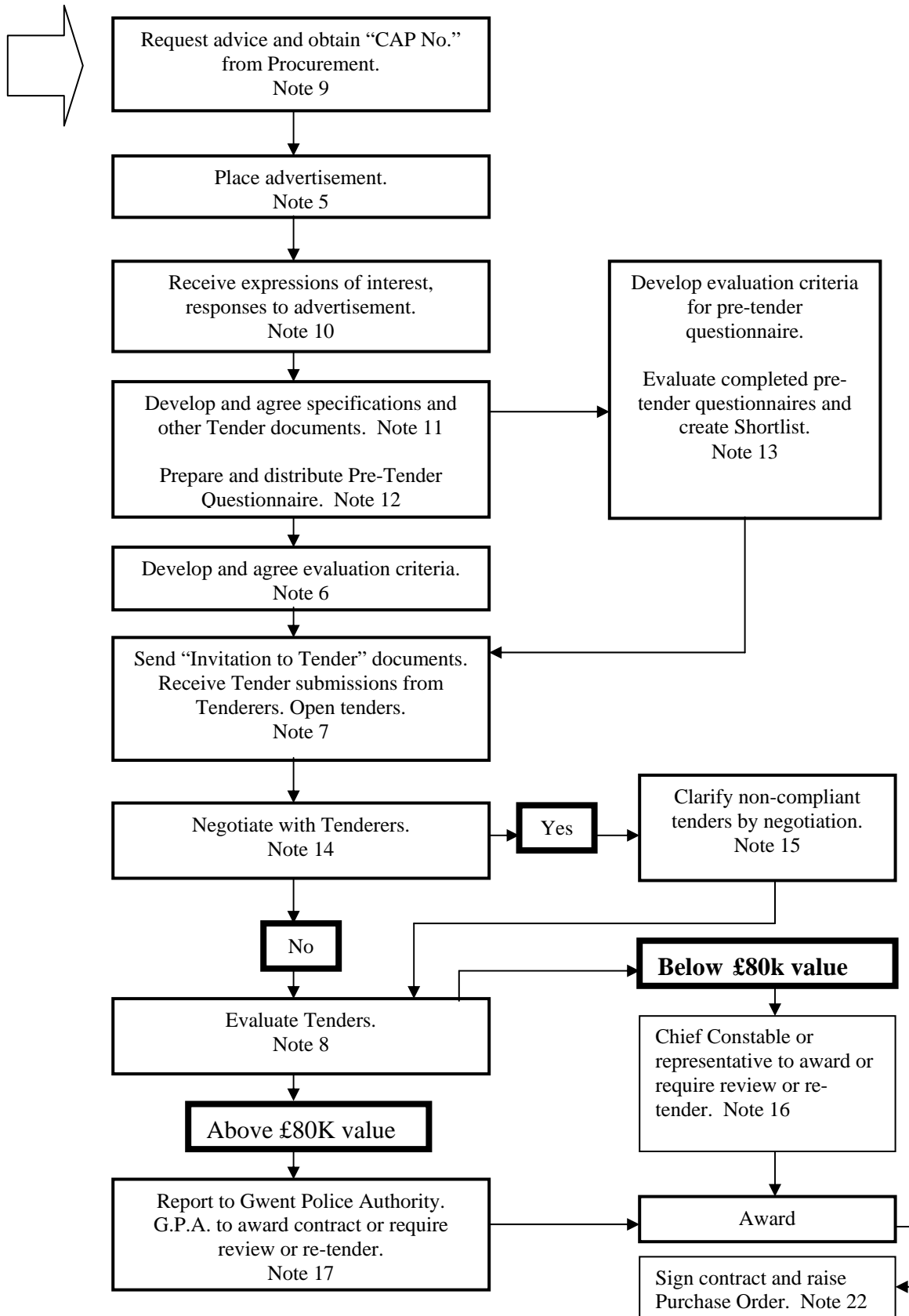
If firms have questions about a contract whilst the tender process is running, they should be invited to write in and receive a written answer which all the other tenderers should receive.

3. Negotiation with a tenderer is allowed under certain circumstances (see Notes 14 and 15 of Section 3.5 on Page 19) but must be done with care so as not to give the opportunity for an aggrieved (rejected) tenderer grounds for a complaint. Complaints are a serious matter and if made under European law could result in the expense of defending the case as well as a heavy fine being levied on the U.K. Government should the complaint be upheld.

3.4 SCHEMATIC DIAGRAM FOR TENDERING PROCEDURE



(from top right of previous page)



3.5 Notes on Procedures

Note 1 Valuation of contracts

The value of a contract, or its anticipated value, is the main factor in determining how the contract is to be let.

All contracts must be valued using one of the following methods;

- (a) The estimated aggregate value during the 12 months following the first delivery or during the term of the contract where this is greater than 12 months, up to 48 months or
- (b) where a single payment is to be made, the estimated value (excluding tax) of that payment, or
- (c) in the case of periodical instalments, all payments to the equivalent of 48 months or the anticipated duration of the contract whichever may be the lesser time, or
- (d) where an item of equipment is purchased, together with related maintenance arrangements, the cost of subsequent maintenance over 48 months or, if shorter, the useful life of the equipment must be included. This provision includes computer software and/or equipment and the continuing licence/maintenance agreements, unless the maintenance is to be the subject of a separate contract.

The thresholds that govern the application of the European Directives are;

For Goods and Services,	£154,477.00
For Works,	£3,861,932.00
Effective as at 01.01.2002	

The selection of the valuation method, the division or apportionment of contracts, or the deferral of payments, must not be used as a means of avoiding the provisions of any part of Standing Orders or any applicable E.C. or U.K. legislation.

I.T contracts, which include any contract for the supply or maintenance of hardware or software or any communications equipment, are to be valued as described above.

No contract procedure for the acquisition of I.T. or Telecommunications equipment must be undertaken without the prior involvement of the Information Services Department.

For the purposes of this procedure and guidance any contract value in excess of £10,000 will be termed “high value” and for less than £10,000

“low value”. The contracting processes involved will be termed “Tender Process” for high value and “RFQ Process” for low value contracts.

Note 2 Existing arrangements

Contracts are often arranged so that repeated purchases can be made under their provisions (call-off contracts) eg. Furniture, stationery, power, fuel, uniform, estate services, vehicles and building cleaning.

Other agencies sometimes put arrangements in place, which are available to the Authority. These include; certain computer software, operational equipment (eg body armour), photocopiers, breath testing equipment, power and travel.

Where such arrangements are available they should be used unless there is a compelling circumstance which dictates otherwise. Where contracts are let which may be suitable for Forcewide use, the Procurement Department will issue a “Contract Data Sheet” giving the necessary information to budget holders. Best value is not usually served by developing separate, similar contracts.

Where no existing arrangement can be utilised one of the processes in this Procedure (depending on value) must be used unless there is a provision in GPASO to obtain the goods or work by other means.

NOTE.“Existing arrangements” means where goods, services or works have been made available by a previously completed tender exercise. Examples of this are; the force furniture contract, the stationery contract, the removals contract, the software contract with Microsoft and body armour. The fact that a particular supplier may have been used in the past does not constitute in itself an existing arrangement.

If there is any doubt about the existence or suitability of an existing arrangement the Procurement Dept should be consulted

Note 3 Individual or non-standard requirements

This applies to any goods, services or works which are in some way individual and are unlikely to be generally available in the exact form required. The most effective way to acquire any product falling into this category is to prepare a specification against which offers may be received.

Note 4 Developing specifications

As outlined in 3.1.7 above, the specification for any goods, services or works is the main method by which the requirements of the users are communicated to the tenderers. Specifications should be clear, as unambiguous as possible and be output based i.e. a statement of the outcomes required or the functions to be performed. The users are central to the production of any specification.

Some guidelines in drafting specifications;

1. ***Specifications must be in writing*** and be as clear and concise as possible. The more “woolly” a specification is the harder it is to get redress should things go wrong and the greater chance there is that things will go wrong.
2. ***The user of the goods, service or works must be the owner of the specification.***
3. Avoid making reference to the product of a particular supplier.
4. Avoid making a specification so unnecessarily prescriptive that only a single supplier could respond.
5. Avoid “overspecification”. The specification should reflect only what is needed. Additional or unduly onerous specifications generally result only in increased charges without adding anything to value.
6. ***Specifications must, where appropriate, make reference to European or national standards, as well as to applicable legislation.***
7. Specifications should not instruct tenderers how things are to be made, done or provided, as the tenderer must be treated as the “expert”. It is always better to try to specify what outcomes are required from the contract (output not input specs.) and let the “experts” provide the solution. Specifications should be formed so that responses are required from the tenderer to explain how it would accomplish the specification as this can be used to evaluate the merit of the tender in due course.

Note 5 Locating potential suppliers.

(a) High value (Tender Process)

Where contracts in excess of £10,000 are considered, it will usually be necessary to advertise in order to maximise competition.

Where the estimated value exceeds the thresholds mentioned in 3.5, Note 1, then an advertisement must be placed in the O.J.E.C. The advertisement must follow a specific format and Procurement Dept. will advise on this.

The Force regularly advertises in national periodicals especially designed to maximise the awareness of a contract opportunity. Details are available from Procurement. Although advertisement is the preferred route, it can be supplemented by direct information to suppliers who become known through any other source, providing the information is the same as and follows the advertisement.

All advertisements or direct invitations must specify a date by which interested parties must respond.

This is to ensure that a degree of equality is introduced at the start of the process.

(b) Low value (RFQ Process).

There are numerous sources of information where potential suppliers can be located. Buyer's guides, catalogues, trade and professional publications and specialist publications aimed at the Police Service are all freely available. The internet is a valuable source as well as trade and professional institutions. Previous contractors may also be willing and able to give advice (although it may not be impartial). When contracts of less than £10,000 in value are being considered, competition may be found using the routes mentioned above. Where prices are taken from trade catalogues it may not be necessary to receive written quotations for the RFQ, the offer made in the catalogue is sufficient.

Note 6 Developing evaluation criteria.

(a) High value (Tender Process).

The criteria against which any tender or offer to supply is judged is probably the single most important factor in deciding which represents the greatest value for money. The establishment of the criteria especially for high value contracts (£10,000 plus) must be done with care and be related entirely to the nature of the contract to be awarded. There is no standard rule governing the weighting of the components within the criteria.

Evaluation criteria must be completed before any tenders or quotations are opened.

To ensure that "Best Value" is being sought ***the evaluation criteria must provide a balance between the charges for the product or service and the qualitative areas in terms of what benefits will be realised from the supply.***

Some of the areas which are often used to develop evaluation criteria are;

1. Pricing, which should be a statement of whole life costs, the contract duration or 4 years if this is the lesser period. Maintenance charges would be added to the charge for equipment for example. (if hourly rates are quoted, a model of usage may be needed),
2. the technical features proposed, (in reference to the specification)
3. delivery or implementation proposals
4. the organisation structure of the firm tendering,
5. the Quality policy and any accreditation gained
6. the Health and Safety policy and record,
7. the firm's published accounts,
8. Information Security,
9. Equal Opportunities policy and record,

10. presentations and references from other customers.

It is preferable that the development of criteria is undertaken jointly by at least the users of the product, the officer responsible for conducting the tender process and a technical expert if the product requires such expertise (IT contracts for example)

(b) Low value(RFQ Process)

In the case of low value purchases or where the technical features are minimal or have been fixed by market demand and the potential supplier is well known, the pricing will necessarily be the largest component of the criteria. This would apply to catalogue purchases for example.

Note 7 Invitation to tender or provide quotations and Tender opening.

Inviting tenders or quotations

(a) High value (Tender Process)

Invitations to any potential supplier to provide its tender or quotation must be made in writing.

A letter of invitation is sent which acts as a cover for the tender documents (see item 3.6 and Appendix). The letter should refer to the contract to be awarded, the return date for tenders and make reference to the need to adhere to the instructions included.

A minimum of three tenders must be sought or five if award is to be made under E.U Directives.

(b) Low value (RFQ Process)

The Request for Quotation pro-forma must be used (see Section 3.6 and Appendix). This document must contain the specification of the item or work and all salient conditions such as; delivery and shipping requirements, packing, installation, testing, sample supplies, quality standards and any other requirements specific to the purchase.

A minimum of three quotations should be sought. For the avoidance of doubt, if a quotation is to be sought under the “GCat” catalogue arrangements, two further quotations will also be required.

Opening tenders and recording quotations.

(a) High value (Tender Process)

Tenders may be received by the Chief Constable, or an officer authorised by him. The Chief Constable, or an officer authorised by him, (which will usually be the officer conducting the tender process) shall be responsible for the safe custody of the tender(s) as received and shall record the details of the tenders in a schedule at the time appointed for opening.

No tender must be opened prior to the time stated for return of tenders in the tender documents.

At least two officers shall be present at the opening of tenders, one being from a nominated list of chief/senior officers, who shall initial each tender on each page of the section for Rates and Charges and the Schedule of Tenders Received, together with an officer who must be independent of the Division/Department requesting the contract.

Where other documents have been prepared in advance of the receipt of tenders, such as evaluation criteria, or models against which rates are to be assessed, they must be held in a sealed envelope until such time that the tenders are opened. These documents must be opened prior to the tenders. Each officer present at the opening shall initial these documents.

In all cases, where tender documents are opened, a Schedule of Tenders Received must be completed in duplicate by the officers present. One Schedule must be retained with the tenders received, the other is to be forwarded to the Procurement Department. (See Appendix)

(b) Low value (RFQ Process)

Where responses to RFQ's are received, following the last date for return, the Schedule of Tenders Received is to be completed (in duplicate) by the officer responsible for the contract.

The Schedule must be witnessed by an officer independent of the department requesting the contract. One Schedule must be retained with the quotations received, the other is to be forwarded to the Procurement Department.

Note 8 Evaluation of tender responses

(a) High value.

The process is to be carried out using the criteria developed under Note 6 above.

Only information contained in a tender response may be used in the evaluation and opinions other than actual references are not allowed.

Should issues, which are unclear in the tender, arise during the evaluation the tenderer(s) may be approached in order to give clarification, which must be written. Those involved in the setting of the criteria should be responsible for the evaluation in order to maintain continuity of approach. The firm which scores the highest overall at the end of the process is deemed to have offered best value for that particular contract. Details of the scoring systems which could be used can be obtained from Procurement

(b) Low value(RFQ Process).

Evaluation will be less formal than in (a) but *must include an assessment of the charge and a comparison of the relative merits of the product(s) or services offered.*

The highest overall score will again be deemed to be offering the best value.

NOTE It will be required that for both approaches that *the record of the criteria and the evaluation will be retained for possible audit together with either a signed copy of the contract (if appropriate) or the Purchase Order.*

The following Notes (9 to 18) relate only to High Value contracts

Note 9 Request advice and obtain unique CAP (Contract Award Procedure) number from Procurement.

Any department wishing to let a contract of £10,000 or more in value is obliged under GPASO to seek advice from Procurement on the tender process prior to commencement. All such contracts must be registered with Procurement.

The registration is made by the issue of a unique CAP number at the start of the process. When the contract is awarded the contract details must be passed to Procurement irrespective of which department awards the contract. (See Section 3.8 Records)

Note 10 Expressions of interest in response to advertisement or direct invitation.

All expressions received must be retained and will form the competitive basis for tendering.

It is highly unlikely that expressions of interest, which must be written, received after the date set for return, could be included in a tender process. Responses by fax or e-mail are acceptable for this part only.

Note 11 Developing specifications and other tender documents

Specifications

The procedure for developing specifications is covered in Note 4.

Other tender documents

The following is a list and a brief description of the documents generally used when inviting a firm to submit its offer by means of a tender.

- (a) **Invitation to Tender or Request for Quotation** (see Note 7)
- (b) **Instructions to Tenderer.** This is a guide to tenderers on how the tender should be completed and places certain obligations on tenderers.

The date for return of tenders must be included in the instructions.

Procurement will advise on appropriate items to be included depending on the individual contract.

- (c) **Form of Tender.** This is a statement by the supplier that he is submitting a bona fide tender and will not attempt to change the terms and conditions.
- (d) *The Form of Tender must be signed and returned by the tenderer when the tender is submitted.* Procurement will advise on the content.
- (e) **Contract.** This is the central document which sets out in general terms who the parties are, what is to be provided, the time from which the agreement is effective and for how long it will remain in force. The contract should refer to any document which is to be included within it.

The contract document must be signed by both parties to become effective (unless specifically agreed otherwise) and once fully signed becomes legally binding on the parties to it.

- (f) **Schedule of Rates and Charges.**

This schedule must be a part of any tender or request for quotations. It must be designed so as to draw out the charges for each element of the submission and be based on the specification.

The information contained will be contractually binding.

All contracts must contain the charges or the method by which the charges are ascertained.

Statements such as “prices to be advised” are not acceptable.

(g) **Terms and Conditions.**

The Authority's Standard Conditions for the Supply of Goods and Services must govern any purchase. A copy of them must be included in all contracts. (See Appendix)

(h) **Special Conditions.** In some cases special conditions are required by virtue of the nature of a particular contract and where there may be conflict, these take precedence over the Standard Terms and Conditions. Special Terms must be written, as specific as possible and expressed in clear language. Procurement will give advice.

(i) **Other Schedules.** These can be added where appropriate depending on the actual contract to be let. Some of the more commonly used Schedules are;

Software Licences. Will be required where any software product is to be acquired, as in general software does not become the property of the Force but the Force is granted a licence to use it. Procurement will advise on the provisions to be used.

Control of Contractors Policy and Procedures. Will be *essential where Contractors personnel need to attend Force sites* in order to carry out the contract.

Health and Safety Policy. *Must be a Schedule to all contracts where Contractors personnel need to attend Force sites* in order to carry out the contract..

Information Security Questionnaire. Will be *essential where Contractors are likely to hold or obtain access to information belonging to the Force.* In this case the guide entitled Handling of Protectively Marked Material should be added as an Appendix.

(j) **Appendices.** These are often used to add information about the environment in which the contract will operate. Appendices could contain such data as; numbers of personnel, locations of premises, quantities of items consumed, description of present systems in use and force policies and procedures where these are relevant.

Note 12 **Prepare and distribute the Pre-tender Questionnaire (PTQ).**

The purpose of a Pre-tender Questionnaire is to enable information concerning a prospective tenderer to be made known before invitations to tender are issued. The information is used in cases where the number of expressions received would make it excessively burdensome to invite each firm expressing an interest to be invited to tender. The responses to the

pre-tender questionnaire are evaluated and those with the higher scores are invited and so a shortlist is obtained.

In cases where the number of expressions received means that a pre-tender stage is not necessary (all will be invited to tender) the questionnaire should still be sent to each tenderer so that (a) the information is gained and (b) it can be used to select the eventual winning bid along with rest of the tender submission itself.

Questionnaires may be “tailored” to suit individual contracts, Procurement will advise if necessary. An example is shown in the Appendix.

Pre-tender questionnaires need not be used for “low value” contracts.

Note 13 Develop evaluation criteria for Pre-tender Questionnaire.

The same principles for the evaluation of a tender (Note 6) apply to a PTQ. PTQ’s usually incorporate some or all of the following items from Note 6, namely 4 (the organisation structure of the firm tendering), 5 (the Health and Safety policy and record), 6 (the firm’s published accounts), 7 information security (information security) and 8 (Equal Opportunities policy and record). Procurement will offer guidance.

Notes 14 and 15 Negotiate with Tenderer(s)

Timing of negotiations

Negotiation of tender submissions or quotations received *should be generally undertaken only in the following circumstances;*

- (a) where the information or offer provided by the tenderer is unclear, or
- (b) where a tender or quotation does not comply with the terms of the Authority but may be capable of acceptance following negotiation, or
- (c) where it would be unlikely that a satisfactory contract could otherwise be let due to lack of competition, or
- (d) where, under E.U. Directives, the “negotiated” procedure has been selected at the start of the process.

Procurement must be consulted prior to the “negotiated” procedure being used.

Conduct of negotiations

Where negotiations are to be conducted with any tenderer the following points must be observed;

- (a) All negotiations are to be considered as “Restricted” and are commercially privileged between the Authority and the tenderer. Other tenderers must not under any circumstances be advised of details of any negotiation.

- (b) There should always be more than one representative of the Authority present during the negotiation.
 - (c) The outcome of the negotiation and the agreements reached must be recorded in writing and a copy forwarded to the tenderer.
- Note The agreements reached resulting from negotiation have a legal consequence if the tender is subsequently accepted.

The contract documents must be amended to show that the conditions of the tender have been varied and the letter or document must be appended to the original tender documents.

Procurement will offer guidance or participation in negotiations.

Note 16 Chief Constable or his representative to award contract.

For contracts whose value is less than £80,000 (valued as per Note 1) the Chief Constable or his representative may award a contract. He may also require that the contract be reviewed and if necessary re-tendered if, in his opinion, best value would not be achieved.

Where the contract award constitutes a product within a project, the Project Board acts as the Chief Constable's representative and may make the award, irrespective of where the budget is held.

Where there is no Project Board, a Chief Officer may make the award.

In all cases, an award may only be made following acceptance of a written report submitted by those concerned with carrying out the particular tender process.

Form of Report

Reports must contain enough information to enable a critical examination of the recommendation to be made. The following headings should be considered as a minimum;

- (a) A title, describing the nature of the contract.
- (b) The background to the reasons for requiring a contract to be placed,
- (c) The summary of the contract award process, which should include the number and names of firms or persons who were invited to tender.
- (d) A summary of the prices tendered for each tenderer and a statement of the approved funding.
- (e) A summary of the scores obtained in the tender evaluation.
- (f) Any other information which may be pertinent to a particular contract, including any negotiations which may have taken place.
- (g) The names and roles of the officers involved in the evaluation.
- (h) The recommendation.

Note 17 Gwent Police Authority to award contract

For contracts whose value is more than £80,000 (valued as per Note 1) Gwent Police Authority may award a contract. The Authority may also require that the contract be reviewed and if necessary re-tendered if, in its opinion, best value would not be achieved.

The provisions of Note 16 for the form of the report apply entirely to this section.

Note should be made of the programme of meetings set for the Authority as this may affect the timing of any contract award.

Note 18 Sign Contract and raise Purchase Order

Where the award of contract has been approved (in writing) by any of the above means the contract may be signed.

Contracts awarded by Gwent Police Authority must be signed by the Clerk or his representative.

Contracts awarded by a Project Board must be signed by the Chairman or his representative.

Where a Chief Officer has approved the award, he or his representative must sign.

A tenderer, whose tender has been accepted (and who now becomes the Contractor) must be sent his copy of the signed contract.

A Purchase Order must be raised following the award and sent to the Contractor following the process described in Financial Procedure B3.

The Purchase Order must make reference to the contract so that the terms and conditions may not be varied by default or otherwise.

Note 19 (not on flowchart) Advise unsuccessful tenderers.

Tenderers who were unsuccessful in any tender process for high value contracts should be advised of this together with a general statement as to where their submission failed to provide best value. Under no circumstances should the actual details of any other bid be divulged. *The advice must be given in writing.*

Note 20 (not on flowchart) Publish award details (E.U.Directives only)

The award details must be forwarded in a particular format for publication by O.J.E.C. The Procurement Department will advise on the details.

3.6 Essential Contract Documents

In order to safeguard the position of the Authority in its commercial dealings and to ensure propriety in the conduct of the contracting procedure, *the documents below should be utilised in all cases.*

High Value contracts

- (a) **Letter of Invitation** A letter written on Force headed notepaper making a formal invitation to submit a tender. *The letter is used as a cover for the tender documents which must be supplied at the same time.*
- (b) **Instructions to persons tendering** A set of instructions to those invited to tender designed to ensure that tenders are submitted on the same footing. See Note 11 above. A typical set of instructions is shown in the Appendix.
- (c) **Form of Tender** See Note 11 above. A typical Form is shown in the Appendix.
- (d) **Contract** See Note 11 above. A typical Contract is shown in the Appendix.
- (e) **Terms and Conditions** As described in Note 11.
- (f) **Special Terms and Conditions** As described in Note 11.
- (g) **Specification** As described in Note 11.
- (h) **Schedule of Rates and Charges** As described in Note 11.
- (i) **Other Schedules** As described in Note 11.
- (j) **Appendices** As described in Note 11.
- (k) **Evaluation Criteria** As described in Note 8
- (l) **Schedule of Tenders Received** As shown in the Appendix.
- (m) **Purchase Order**

Low value contracts

- (a) **Request for Quotations (RFQ)** This is a pro-forma document which can be used for any type of contract. The reverse of the form is printed with the Standard Conditions of Purchase of the Authority

If the specification or any additional document is to be supplied separately, the RFQ must make reference to this. The original document must be sent to each firm to be invited to provide a quotation (which must include the charges) and a copy retained in the file.

Supplies are available from Reprographics Department at H.Q.

- (b) **Specification** *This must be developed by the user of the goods, service or works.* See 3.1.7 and Note 4 above.

- (c) **Schedule of Tenders Received.** This constitutes the record of the opening of tenders or receiving of quotations against the RFQ's issued and when completed, *must be retained in the contract file*. The form is self-explanatory and shown in the Appendix.
- (d) **Purchase Order**

Applicable to both Low and High value contracts

- (a) **Request for new supplier (Vendor) application form.**

This must be completed and forwarded to Procurement Dept. for approval if the supplier is not already included in the supplier database.

A sample form is shown in the Appendix and replaces the form shown in Section B3 of Financial Procedures.

Legal significance of documents above.

The documents, **Evaluation Criteria, Schedule of Tenders Received and Request for new supplier (Vendor) application** are for Force use in the contracting procedure only and have no contractual significance but *must be retained for audit purposes*. All the other documents referred to above are significant and are intended to be considered as an integral part of the contract.

3.7 Contract management, variations and termination.

3.7.1 Contract management

Contract management is a collection of processes which are required in all but the most simple of agreements. The aim is to ensure that the intentions of the parties are carried out during the whole term of the contract. The risk in neglecting adequate contract management is that a beneficial arrangement may eventually deteriorate into a situation where value is lost, additional expense incurred and in the worst cases, legal action may be taken. The keys to contract management are invariably to be found in the contract documentation and in particular the Specification and the Terms and Conditions. The intentions and obligations of both parties are generally contained in these documents, hence their importance.

It is the duty of each party to a contract to make such arrangements as would enable it to discharge its obligations.

These arrangements are the essence of contract management and any contracting party would be unwise to enter into an agreement where it may not (except under certain circumstances) have the capability to meet those obligations.

It is difficult to specify an exact set of procedures that will ensure excellent contract management, or apportion responsibility for carrying out the function, as many may be involved in the performance of a contract. Other factors to be considered would be those relating to the financial, technical and operational consequences involved.

The obligations in a contract are usually greater for the supplier than for the buyer whose duty is generally that of paying for what is supplied and in using it properly. If, however, a contract is such where supply extends over a period of time or where requirements may vary, the buyer's duty to manage the contract, at least from his side, assumes greater importance.

The following are areas, typical in contracts, where thought must be given to adequate management during the construction of the contract;

(a) Pricing and Charges.

Where pricing has been agreed for items of goods these prices may hold good for a specific time period.

A review process must be part of the contract.

Where prices are set out as rates to be charged, say per hour or day, then ***arrangements must be made to assess the times taken.***

Where payment(s) may be made following the achievement of agreed "milestones", as may be the case in a project or a building contract, ***the milestone must be specified and resources made available to assess the achievement.***

Where periodical payments are required the appropriate diary arrangements must be made.

NOTE. Failure to make payments properly due under any contract is usually considered as a material breach of contract.

(b) Specification Changes

Specifications in contracts can be changed during the term of the contract provided that both parties agree.

The user of the contract provisions must own the specification and therefore must be an integral part of any variations which may be necessary. Changes invariably bring with them commercial consequences which will also be the “property” of the specification owner.

Procurement should be involved where any changes other than minor adjustments are being considered.

(c) Performance Monitoring

Performance monitoring is usually concerned with contracts where a service is provided or where equipment has to perform at a given level over time. The responsibility for contract management here is best taken by the user. Contract provisions should be made at the outset to make clear the management system to be employed and this creates the obligation to provide the resources.

(d) Management Information

This is not in itself a process of contract management but where service provision continues, the receipt of information both from a contractor and from internal sources is essential in informing performance management. Arrangements must be made at the contract development stage to provide for the provision of information from (and possibly to) the contractor. The information required depends on the specific nature of the contract.

(e) Communication

Most failures in contract management stem ultimately from inadequate communication by either or both parties. If communication is restricted to the notification of failures or complaints a major opportunity to strengthen the supplier relationship and potentially to add value may be lost. The provisions made in the foregoing paragraphs will act as a prompt for good communication. Where contracts are made which provide for supply over long periods of time (in excess of one year) the user of the service, or equipment should arrange to review the contract performance with the contractor at regular intervals, against a published agenda.

3.7.2 Variations

There are many ways in which contracts may be varied and invariably require the consent of each contracting party.

Contract variation does not involve breach of contract and in some cases a timely variation may prevent a breach.

Contract variations of certain sorts can be foreseen and provided for when the contract is being developed. In other cases variations are needed to allow for changes in specifications, charges or terms brought about by external or internal influences. Below is a (non-exhaustive) list of variations often encountered.

(a) Prices

Provision can often be made during contract development to manage changes in prices where they occur over time. Typically contracts should seek to fix charges at least for an initial period (say a year) and to limit reviews thereafter to a known index such as the Retail Price Index or one more pertinent to the commodity being bought. In some cases price reviews cannot be governed in this way and a review programme should be set into the contract. The review programme method places a duty on the user or negotiator to inform him/herself of the salient factors prior to the negotiation.

In no case should a proposal to adopt the suppliers “current rates” be accepted without knowledge of the starting position and the method of review.

(b) Specifications

The creation and ownership of specifications has been dealt with in Note 4. There may be good reason to change specification but this must not take place until the consequences are known and understood. Often suppliers wish to vary specifications and there may be an opportunity to increase value during negotiation.

Changes to specification must be incorporated into the original contract in writing and this can be done by making reference to the contract in the variation agreement.

If necessary a new Purchase Order should be issued.

(c) Duration

The variation here is usually one of extension and to allow this, a provision for extension must have been incorporated in the contract development.

Agreements to extensions on contracts must be approved by the same authority as was used to award the contract.

Agreements to extend must be made in writing.

(d) Performance

Invariably tied to the specification and as likely to have cost consequences. The procedure is similar to that for specifications.

(e) Locations

It is not safe to assume that delivery locations for goods, services and certainly works can be varied without affecting the performance of the contract and hence the charges.

In common with the areas above, the agreement of both parties is required and following negotiations must be set out in writing however simple the form.

Material or major variations to contracts must be sanctioned by the authority used to award the contract. "Day to day" variations may be agreed by the budget holding department.

3.7.3

Termination

There are several main ways in which contracts are terminated;

- (a) Satisfactory discharge of obligations (in accordance with the provisions).
- (b) Natural effluxion of time (in accordance with the provisions).
- (c) Giving of notice (in accordance with the provisions).
- (d) Other provisions which under the terms of the contract would give rise to termination, for example the liquidation of either party, (in accordance with the provisions).
- (e) Breach of contract condition(s).

Of these above, only (e) breach of contract condition(s), is usually associated with default by one party or the other.

The default usually has to be “material” to the purpose of the contract so as to render the performance of the contract impossible and be such that a remedy may not reasonably be found. It is far more productive to use provisions designed to provide indemnity against certain occurrences taking place than to rely on claims for breach of contract.

The remainder except for (d) can be inserted into a contract at the development stage to provide an agreeable end to the contract so as to protect the interests of both parties. In practical terms this may mean that, for example, a three months notice clause (for use by either party) may be inappropriate when it may take longer to provide a replacement agreement with another supplier.

The termination of a contract for the convenience of either party is to be discouraged as this can give rise to claims if obligations under the contract remain unfulfilled.

3.8 Records

It is essential that adequate records are kept where any commitment is made on behalf of the Authority to a third party by means of a legal agreement.

The department which enters into an agreement, either by means of a Purchase Order raised following an RFQ Process or as a result of a Tender Process, has the responsibility to maintain the contract records.

In practical terms also, this has to be the case in order to allow effective contract management to take place.

The Contracts and Procurement Department has the responsibility for keeping and maintaining the Contracts Register for the Force and retains the original contract documents for all contracts awarded via the department. In addition, original contract documents may be forwarded to Procurement for safekeeping.

In order to support the maintenance of the Contract Register it is necessary for all contracting departments to provide certain copy documents to Procurement at the point of Purchase Order placement.

The documents required are;

- (a) **High value (Tender process)**
- An original of the completed Schedule of Tenders Received.
 - A copy of the Purchase Order or the initial Purchase Order if there are to be more than one.
 - A copy of the Contract portion of the contract documents.

- A copy of the Schedule of Rates and Charges submitted by the winning tenderer.
 - A completed copy of the form Request for new Supplier (Vendor) application. (If applicable)
- (b) **Low value (RFQ process)**
- An original of the completed Schedule of Tenders Received.
 - A copy of the Purchase Order or the initial Purchase Order if there are to be more than one.
 - A completed copy of the form Request for new Supplier (Vendor) application. (If applicable)

4.0 APPENDICES

The following documents are referred to in the procedure and have been included, where necessary in a “sanitised” form;

- (a) **High Value (Tender process)**
- Instructions to Persons Tendering
 - Form of Tender
 - Contract
 - Schedule of Tenders
 - Gwent Police Authority Standard Conditions of Contract for the Supply of Goods or Services
 - Pre-tender Questionnaire
 - Request for new Supplier (Vendor) application (if necessary)
NOTE; this form replaces that issued in Financial Procedure B3
- (b) **Low value (RFQ process)**
- Request for Quotations
 - Schedule of Tenders (the same document as for Tenders below)
 - Request for new Supplier (Vendor) application (if necessary).
NOTE; this form replaces that issued in Financial Procedure B3

THE CONTRACTS AND PROCUREMENT DEPARTMENT WILL PROVIDE HELP AND GUIDANCE ON ANY ISSUE COVERED IN THIS PROCEDURE OR ENCOUNTERED DURING A CONTRACT AWARD.