

# Procurement Procedure

<b>POLICY AND PROCEDURE</b>	<b>Procurement Procedure</b>
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## Contents

<b>Index:</b>	<b>Pages:</b>
1. Introduction	3
2. Procurement Authority	3
3. Quotations Process	4
4. Tendering Processes Below OJEU Threshold	7
5. Tendering Processes Above OJEU Threshold	10
6. Contract Register	13
7. College Procurement Documentation	14

<b>Appendices:</b>	
1. Declaration of Interest Form	
2. Procurement Flowchart	
3. Tender Initiation Document	
4. Project Strategy Form	
5. College Authorisation Limits	
6. A. Single Source Justification Form (Less than £25,000) B. Single Source Justification Form (Greater than £25,000)	
7. Tender Opening Form	
8. Contract Award Recommendation Report	
9. Internal Requisition Form (Purchase Order)	

### **Note:**

**This updated Procedure now incorporates the Procurement Reform (Scotland) Act 2014, The Public Contracts (Scotland) regulations 2015 and The Public Contracts (Scotland) Regulations 2016 which make a number of procedures a legal requirement.**

## 1. INTRODUCTION

Ayrshire College requires that where works, goods, materials and services are to be carried out, a College approved procurement process must be followed.

These Procurement procedures are intended to ensure:

- Procedures are in accordance with standards of public accountability
- the College secures best possible value for money
- Suppliers submitting quotations and tender returns are treated fairly and impartially.

## 2. PROCUREMENT AUTHORITY

Any Staff member involved in the Procurement process must declare any conflict of interest by completing the **Declaration of Interest Form (Appendix 1)**

No work shall be carried out, goods, materials or service ordered, or consultants appointed unless appropriate delegated authority approval has been given. In addition staff members must have proper authority to issue a purchase order and sufficient budget available to cover the transaction.

Official purchase orders must be raised and issued to suppliers for the purchase of all goods or services, except those made by the college credit card or petty cash. In the case of both credit card and petty cash purposes the relevant documentation requires to be completed and authorised.

All purchase orders must be completed on official Ayrshire College documentation approved by the Director of Finance and Student Funding.

### 2.1 Purchasing Thresholds and Procurement Methods

The strategic intention is that all Procurement activities should in the first instance focus on existing College suppliers including APUC or other framework agreements which have already been subject to a competitive process and which the College can access for procurement gain.

Where there is no existing framework or contract, other or new suppliers may be approached for Quotations but require to be approved by the College Procurement Manager in advance of seeking a written quotation. In relation to framework agreements the provisions of the frameworks should always be adhered to.

Ayrshire College applies the following purchasing thresholds (inclusive of VAT) and methods of procurement. A **Procurement Flowchart** is attached as **Appendix 2**:

Route	Process	Estimated Expenditure (Inclusive of VAT at prevailing Rate)	Method
1A	Quotation	Up to £5,000	1 written quote provided
1B	Quotation	£5,001 - £24,999	3 written quotes provided
2A	Tendering	£25,000 - £50,000	Tenders invited via Public Contracts Scotland
2B	Tendering	£50,000 - £164,176 /£4,104,394	Advert via Public Contracts Scotland

3	Tendering	£164,176 (ex VAT) (Suppliers & Services) £4,104,394 (ex VAT) (Works)	Open advert or if deemed appropriate a restricted procedure via the OJEU and Public Contracts Scotland
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If the requirement is viewed to be more than £25,000 which is the Tendering threshold a **Tender Initiation Document (Appendix 3)** should be completed in the first instance and approved in line with the Procurement Policy prior to commencement of a tender process.

If the requirement is viewed to be more than £50,000 a Tender Initiation Document (**Appendix 3**) and **Project Strategy Form (Appendix 4)** should be completed in the first instance and approved in line with the Procurement Policy prior to commencement of a tender process

Certain items of expenditure are excluded from the Quotation or Tendering processes:

- Services such as **rent, lease payments and non-domestic rates**.
- **Membership Fees, Licences and Subscriptions** etc. where direct comparisons are unable to be fully established.
- The College has an **existing approved framework /contract** which has been tendered previously and is considered to be appropriate
- The College is accessing an **existing contract** where it would not be practical or efficient to re-tender the works and where the additional costs can be agreed based on costs /rates contained within the original contract documentation
- **Repairs or the supply of parts for existing machinery** or plant.
- The work to be executed or the goods or services to be supplied constitute an **extension of an existing contract**, provided that such an extension has received the necessary budget approval.
- The work to be executed or the goods or services to be supplied is of a specialist nature and constitute a **single source supply**. Full written justification must be provided and approval provided in line with College authorisation limits.
- **Upgrades, training and maintenance agreements to existing College software** applications and systems.
- **Exceptional Events** – where a requirement is so urgent that it prevents either a Quotation or Tendering Process. E.g. **Health and Safety or emergency repairs**

The Procurement Documentation completed should clearly note the reason that this transaction is exempt from the Quotation or Tendering processes and signed in line with **College Authorisation Limits (Appendix 5)**.

Where there are reasons other than the above as to why Quotations or Tenders shall not be sought, written confirmation and approval is required through the completion of a **Single Source Justification Form – Appendix 6A/6B**. All Single Source Justification Forms accepted must be signed within College Authorisation Limits. (Appendix 5)

**Where expenditure is planned this must not be subdivided into smaller components to circumvent the procurement thresholds.**

### 3. QUOTATION PROCESS

#### 3.1 Procurement Value up to £5,000 (Route 1A Quotation Process)

One quotation shall be invited from the chosen supplier, however, they shall not know that they are the only supplier involved in the quotation process. If possible, consider if the purchasing requirement could be aggregated with other similar requirements to

achieve overall value for money, and/or reduce procurement costs. The purchaser will use their expertise in ensuring value for money is achieved.

Note: the purchasing value is the total value of the purchase, including VAT, over the entire lifetime of the requirement.

### **3.1.1 Prepare and Issue Quotation**

The quotation may be sought by e-mail or in writing. The quotation shall only be sought by telephone in exceptional circumstances and the supplier must be asked to confirm the quotation by e-mail or in writing. The time limit for responses shall reflect the complexity of the requirement, but shall be sufficient for the supplier to make a considered response.

A hard copy of the invitation to quote together with details of the company it was sent to shall be retained for audit purposes.

If quotations are received with the suppliers Terms and Conditions attached, the supplier must be informed by e-mail or in writing that Ayrshire College's Terms and Conditions will apply.

### **3.1.2 Receive and open quotation**

The quotation shall be opened on receipt. The original version of the supplier's response shall be retained for audit purposes.

### **3.1.3 Accept and Issue Contract**

If the quotation is acceptable the supplier shall be notified of their success by e-mail or in writing. A Purchase order shall be raised and issued to the supplier.

### **3.1.4 Manage the delivery of Commission**

Suppliers shall be managed to ensure that variation to the original value and scope of the contract is minimised. Should it become apparent that there is likely to be a significant increase in the cost, a view shall be taken as to whether value for money would be obtained by continuation, or whether new quotations shall be sought.

## **3.2 Purchasing Value between £5,001 and £24,999 (Route 1B quotation Process)**

A minimum of **three** competitive quotations shall be sought. Purchases of this value are normally based on lowest price however other criteria e.g. ability to meet delivery timescales may be assessed in addition to price to determine the preferred supplier.

### **3.2.1 Identify Suppliers**

Staff shall identify at least three suitable suppliers. Quotes should be sought from approved College suppliers including those approved by APUC or other framework agreements which the College can access in the first instance. Other or new suppliers need to be approved by the College Procurement Manager in advance. In relation to framework agreements the provisions of the frameworks should always be adhered to.

If the member of Staff is unable to identify three suppliers, they shall note this and approval shall be sought from the College Procurement Manager to conduct the exercise with less than three suppliers. This would only happen in exceptional and documented circumstances.

### **3.2.2 Prepare and issue quotation request**

The quotation shall be normally issued electronically and shall set out the College's minimum requirements and expected service levels in detail.

The quotation shall:

- Include the title of works, goods, materials or services for which the request has been prepared
- Specify the terms and conditions of the requirement
- Provide a brief overview of the evaluation criteria, normally price. If your quotation extends beyond price, you must stipulate the other criteria.
- Stipulate the date that quotations shall be returned electronically
- Stipulate that late quotations may not be accepted
- State that the College is not bound to accept any quotation

The time limit for responses shall reflect the complexity of the requirement, but shall be sufficient for the supplier to make a considered response.

If quotations are received with the supplier's Terms and Conditions attached, the supplier must be informed in writing that Ayrshire College's Terms and Conditions will apply.

### **3.2.3 Receive and open quotations**

The quotations shall be opened on receipt.

Where the quotation is based on lowest price, the quotations shall be retained for audit purposes.

Where the quotation is based on criteria other than lowest price, a summary of all quotations received shall be prepared which identifies the preferred supplier and the rationale for this.

Any quote with an abnormally low price shall be clarified to find the reasons for this.

### **3.2.4 Evaluate responses**

Staff shall identify the quotation offering the best value for money.

If the lowest quotation is not accepted you shall state the reason for selection in line with the criteria as stipulated at the time of quotation.

### **3.2.5 Acceptance of Quotation**

Staff shall advise the successful and unsuccessful respondents accordingly. If any of the unsuccessful tenderers request further feedback on why they were not selected, you shall provide a response either by telephone or email in writing.

Staff shall ensure that all quotation documents are safely retained for future inspection and audit purposes.

### **3.2.6 Manage the delivery of Commission**

Suppliers shall be managed to ensure that variation to the original value and scope of the contract is minimised. Should it become apparent that there is likely to be a significant increase in the cost, a view shall be taken as to whether value

for money would be obtained by continuation, or whether new quotations shall be sought.

The College Procurement Manager or the Director of Finance and Student Funding should be notified promptly if costs are expected to exceed the contract value.

#### **4. TENDERING PROCESSES BELOW OJEU THRESHOLD (£25,000 TO £164,176)**

##### **4.1 Advertising of Opportunities**

All Tendering opportunities over the threshold of £25,000 will be advertised on Public Contracts Scotland. In addition, all Tendering opportunities will be advertised on the Ayrshire College website, with a link to the PCS website.

Advertisements may additionally be placed in the local or national press or relevant trade press if deemed required.

##### **4.2 Procurement Value between £25,000 and £50,000 (Route 2A Tender Process)**

Contracts of this value shall be tendered using the Public Contracts Scotland Advertising Portal [www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk).

##### **4.3 Procurement Value between £50,001 and £164,176 (Goods and Services) or £4,104,394(Works) (Route 2B Tender Process)**

Contracts of this value shall normally be tendered as an open advert using the **Website Notice (Non OJEU Notice) Facility** through the Public Contracts Scotland Advertising Portal [www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk). An open advert allows any supplier registered on the Public Contracts Scotland Advertising Portal to respond to your tender.

A restricted process may also be followed where this can be justified due to the College requirements. The new European Single Procurement Document (ESPD) (which replaces the former pre-qualification questionnaire (PQQ)) shall be issued.

The introduction of the ESPD is intended, by the European Commission, to reduce the administrative burden on bidders and remove some of the barriers to participation in public procurement, especially for small to medium-sized enterprises (SMEs).

##### **ESPD (Scotland) Questions**

The generic ESPD is used across all Member States of the EU and formed the basis from which the ESPD (Scotland) was developed. The ESPD (Scotland) contains the standard set of questions in line with the ESPD requirements and this means that the questions in the ESPD (Scotland) cannot be amended and new questions cannot be added.

It is best practice to use the ESPD (Scotland) for all tenders both open and restricted. The ESPD (Scotland) replaces the requirement for bidders to provide up-front evidence or certificates by allowing them to self-declare that they:

- do not fall within an exclusion clause (or, if they do, they can demonstrate that they have taken self-cleansing measures);
- meet the relevant selection criteria.
- (where applicable) fulfil the objective rules and criteria for reduction of candidates

When using ESPD (Scotland) bidders are **not** required to produce supporting documentary evidence or certificates until requested by the Procurement Officer prior to awarding the contract, as part of the due diligence process.



The Procurement Manager may also, where it is necessary to ensure the integrity and proper conduct of the procurement process, request at any time during the procurement process, all or part of the supporting documents from bidders.

#### **4.4 Tender Documents**

All Tenders require input and guidance from the College Procurement Manager and Director of Finance and Student Funding. All Tender documentation including the **Tender Initiation Document (Appendix 3)** and **Project Strategy Form (Appendix 4)** if relevant require to be reviewed and approved by the Vice Principal, Finance and College Systems before issue, although all Vice Principals can authorise the Tender documentation to be issued.

Once approved an Invitation to Tender (ITT) document shall be prepared and issued for all tendering activities. The ITT document shall set out the College's minimum requirements and expected service levels in detail.

The ITT shall:

- Include the title of works, goods, materials and services for which the tender has been prepared
- Specify the terms and conditions of the contract
- Provide details of the evaluation criteria, which must extend beyond just the price
- Stipulate that a tender is submitted at the bidders expense
- Stipulate the date and time for submission of the tender
- Stipulate that tenders should be returned electronically
- Stipulate that late tenders may not be accepted
- State that the College is not bound to accept any tender

The ITT shall be issued with a return date that allows suppliers enough time to complete the tender (3-4 weeks is normally recommended but can be varied depending on circumstances including complexity of requirements).

Specific questions from suppliers that require additional information to be provided that was not in the original issued ITT shall be answered in writing and all suppliers shall be advised of the questions and responses via the PCS question and answer portal.

##### **4.4.1 Tender Receipt**

All Tenders shall be submitted electronically by the Tenderers to the Public Contracts Scotland tender post-box.

##### **4.4.2 Opening of Tenders**

Tenders shall be opened by an authorised member of personnel through the Public Contracts Scotland Advertising Portal. In most cases this will be the College Procurement Manager, Director of Finance and Student Funding or in their absence a Vice Principal. The **College Tender Opening Form** also requires to be completed (**Appendix 7**).

##### **4.4.3 Evaluation of Tender**

Tenders shall be evaluated by a Tender Evaluation Panel using a scoring process against the evaluation criteria and weightings as detailed in the ITT. Published criteria and weightings cannot be changed at this stage. The evaluation summary shall be retained with the tender documentation and be available for audit and inspection.



If interview/presentation or site visits are required as part of the tender evaluation process, these shall be fully documented. All suppliers shall be provided with an equal opportunity for interview/presentations or site visits unless the evaluation to date shows that they could not meet the requirements to be successful and this approach is specified in the ITT.

The Tender Evaluation Panel shall make the decision on which tender to accept. A **Contract Awards Recommendation Report (Appendix 8)** shall be prepared outlining the tender process and outcome. This shall be submitted in line with the provisions applicable to each of the Tendering Routes (Route 2A/2B) as described in the Procurement Policy and Procedures and summarised in the **Procurement Flowchart (Appendix 2)**.

#### **4.4.4 Acceptance of Tender**

The member of staff responsible for the tender exercise shall advise the successful and unsuccessful respondents accordingly. If any of the unsuccessful tenderers request further feedback on why they were not selected, a meeting, discussion or written response shall be provided based on the scoring process against the evaluation criteria.

The tender responses are retained on the Public Contracts Scotland Advertising Portal.

#### **4.4.5 Contracts Award and Register**

The Scottish Government's Procurement Reform (Scotland) Act 2014 effective from 18 April 2016 means that for all contracts over £50,000 (goods & services) and £2m (works), a contract award notice must be published. This applies to all contract awards both via a tender or a call-off from an existing framework. The award notice must be published on Public Contracts Scotland advertising portal within 30 days of award.

All regulated contracts, i.e. those over £50,000, must appear on the College's contract register which can be viewed publicly.

**In the case of goods or services the threshold covers a 4 year period, therefore a recurring procurement of £12.5k pa will now be subject to a regulated procurement exercise.**

#### **4.4.6 Manage the delivery of the commission**

Suppliers shall be managed to ensure that variation to the original value and scope of the contract is minimised. Should it become apparent that there is likely to be a significant increase in the cost, a view shall be taken as to whether value for money would be obtained by continuation, or whether new quotations shall be sought.

Where contracts provide for payments to be made by instalments, such payments shall be made only on a certificate which shall show the total amount of the contract, the value of work executed to date, retention money, the amount previously paid, and the amount now certified.

The cost of completing the contract should not exceed the amount outstanding on the contract.

The College Procurement Manager or the Director of Finance and Student Funding should be notified promptly if costs are expected to exceed the contract value.

## 5 TENDERING PROCESSES ABOVE OJEU THRESHOLD

### 5.1 EU Thresholds

According to EU regulations all contracts from the public sector which are above certain level thresholds must be advertised in the Official Journal of the European Union (OJEU), the publication in which contract notices will appear and to which interested parties will respond. Contracts shall be advertised via Public Contracts Scotland Advertising Portal which is linked to the OJEU.

The thresholds requiring advertising are dependant on whether you are looking for supplies, services or works and are subject to review every two years. These thresholds are not inclusive of VAT.

The current EU thresholds are:

Supplies and Services	£164,176 (ex VAT)
Works	£4,104,394 (ex VAT)

EU directives also prohibit the total requirements being split into several orders so as to avoid publishing in the OJEU. Where the aggregated spend is above the threshold this must be advertised in OJEU.

Under the new legislation, organisations must consider dividing into smaller lots all contracts over £62,842 goods & services or £785,530 for works to allow access by smaller businesses. In the tender notice reasons will need to be stated for not dividing into lots.

Any public body failing to advertise, when applicable, in OJEU face several consequences including:

- Interim suspension of the award process
- The setting aside of the contract
- The potential award of damages
- Withdrawal of funding

### 5.2 Procurement Value greater than £ £164,176 (Goods and Services) and £4,104,394 (Works) (Route 3)

Tender exercises over the EU threshold will normally take a minimum of three months (and in some cases considerably longer) and this should be taken into consideration when planning the project timescales. Decide which procurement procedure is best suited to your commission. This may be Open, Restricted, Negotiated, innovation partnership or Competitive Dialogue. Specialist Legal advice should be taken if required to ensure the College has all the information to determine the most appropriate and compliant route based on its requirements.

#### Open:

All potential suppliers who express an interest in tendering shall be invited to tender. No negotiation on price is permitted.

#### Restricted:

Selection criteria shall be used to shortlist suppliers for selection to Invitation to Tender. No negotiation on price is permitted.

Note- under the new regulations, both the ESPD (Scotland) and the ITT documents must be issued at the time of the Tender notice being posted

#### Negotiated & Competitive Dialogue:

These shall only be used in limited circumstances. Please contact the College Procurement Manager for further information in the first instance. The College Procurement Manager must ensure that all potential EU procurement is formally notified to the Director of Finance and Student Funding and Vice Principal, Finance and College Systems prior to any actions being taken.

### **5.2.1 Prepare and submit Contract Notice / Advertising of Opportunities**

Contracts of this value shall be tendered as an open advert using the **Official Journal (OJEU Notice) Facility** through the Public Contracts Scotland Advertising Portal [www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk).

This advert allows any supplier registered on the Public Contracts Scotland Advertising Portal and other Portals linked to the OJEU site to respond to your tender.

In addition, all Tendering opportunities will be advertised on the Ayrshire College website with a link to the PCS website. Advertisements may additionally be placed in the local or national press or relevant trade press if deemed required. Any information provided must correlate with the information published through the OJEU Notice.

### **5.2.2 Supplier Selection – Restricted Procedure**

If the Restricted procedure is used, all suppliers expressing an interest shall have access to the ESPD (Scotland) and the ITT documents. This shall be included electronically to be downloaded by the supplier and completed by them.

Open, confirm receipt and score ESPDs received using the pre-determined scoring and weighting system as detailed within the tender notice. All relevant details should be included with the notice and ESPD including for example the number of potential suppliers who will be taken forward to the next stage e.g. ITT

A financial viability check must be completed on all commissions based on the financial information provided by the supplier within their pre-qualification submission and document outcome. Specialist financial advice should be sought if required to establish financial viability of the supplier.

### **5.2.3 Prepare & Issue Invitation to Tender (ITT)**

If the open procedure is used, the ITT must be accessible to all suppliers who expressed an interest. If the Restricted or Negotiated procedure is used, the ITT submission shall be accepted from all suppliers who have been selected.

The ITT shall be attached electronically beside the advert. The document shall set out the College's minimum requirements and expected service levels in detail.

The ITT shall:

- Include the title of works, goods, materials and services for which the tender has been prepared
- Specify the terms and conditions of the contract

- Provide details of the evaluation criteria, which must extend beyond just the price. From 18 April 2016 no contract can be awarded solely on price
- Include a copy of all relevant College Policies/ Terms and Conditions
- Stipulate that a tender is submitted at the bidders expense
- Stipulate the date and time for submission of the tender
- Stipulate that tenders shall be returned electronically
- Stipulate that tenders received after the tender submission may not be accepted
- State that the College is not bound to accept any tender

Specific questions from suppliers that require additional information to be provided that was not in the original ITT shall be answered in writing and all suppliers shall be advised of the questions and responses.

Other considerations for inclusion in the ITT

- For works contracts over £4m community benefit clauses must be included.

#### **5.2.4 Tender Receipt**

All tenders shall be submitted electronically by the Tenderers to the Public Contracts Scotland Advertising Portal.

#### **5.2.5 Opening of Tenders**

Tenders shall be opened by an authorised member of personnel through the Public Contracts Scotland Advertising Portal. In most cases this will be the College Procurement Manager, Director of Finance and Student Funding or in their absence a Vice Principal. The College **Tender Opening Form** also requires to be completed (**Appendix 6**).

#### **5.2.6 Evaluation of Tender**

Tenders shall be evaluated by a Tender Evaluation Panel using the scoring process against the evaluation criteria and weightings as detailed in the ITT. Criteria and weightings cannot be changed at this stage. The evaluation summary shall be retained with the tender documentation and be available for audit and inspection.

If interview/presentation or site visits are required as part of the tender evaluation process, these shall be fully documented. All suppliers shall be provided with an equal opportunity for interview/presentations or site visits unless the evaluation to date shows that they could not meet the requirements to be successful if this approach is specified in the ITT.

The Tender Evaluation Panel shall make the decision on which tender to accept.

A **Contract Award Recommendation Report (Appendix 7)** shall be prepared outlining the tender process and outcome. This shall be approved by an authorised member of staff.

The provisions of the Financial Regulations shall apply in relation to the authorisation of this category of expenditure.

#### **5.2.7 The 'Alcatel' standstill period**

The College must notify all candidates who participated in the tender process including those who responded to the Pre-Qualification Questionnaire (PQQ), of

its decision on contract award in writing, allowing a standstill period of at least 10 calendar days between the date the notification is sent to the tenderers and the date it is proposed to enter into the contract.

All tenderers shall be issued with letters informing them of the outcome of the tender process.

Unsuccessful tenderers must be provided with a full debrief, providing the relative merits of the winning tenderers bid against theirs. A comparison on scores with the winning bidder must also be provided.

#### **5.2.8 Acceptance of Tender**

The Procurement Manager shall advise the successful and unsuccessful respondents accordingly.

A full debrief and a breakdown of unsuccessful tenderers scores must be provided in the letter.

The tender responses are retained on the Public Contracts Scotland Advertising Portal.

#### **5.2.9 Publish Award Notice**

Once it has been decided who the contract is to be awarded to, a contract award notice is required to be published in OJEU no later than 30 days after the award. A Contract Award Notice shall be completed and submitted in electronic format via the Public Contracts Scotland Advertising Portal <http://www.publiccontractsscotland.gov.uk>.

#### **5.2.10 Manage the delivery of the commission**

Suppliers shall be managed to ensure that variation to the original value and scope of the contract is minimised. Should it become apparent that there is likely to be a significant increase in the cost, a view shall be taken as to whether value for money would be obtained by continuation, or whether new quotations shall be sought.

Where contracts provide for payments to be made by instalments, such payments shall be made only on a certificate which shall show the total amount of the contract, the value of work executed to date, retention money, the amount previously paid, and the amount now certified. Managers must ensure that the cost of completing the contract does not exceed the amount outstanding on the contract.

The College Procurement Manager or the Director of Finance and Student Funding should be notified promptly if costs are expected to exceed the contract value.

### **6. CONTRACT REGISTER**

Once a contract is in place, a new record shall be created by the College Procurement Manager on the Contracts Database. The Contracts Database now includes all contracts and call-offs over £50,000.

## 7. COLLEGE PROCUREMENT DOCUMENTATION

All purchase orders must be completed on official Ayrshire College documentation approved by the Director of Finance and Student Funding. All College documentation requires to be fully completed and all information passed to the Financial Services Team in line with the requirements of the Procurement Policy and these Procurement Procedures.

All documentation in respect of Tendering requires to be lodged with the College Procurement Manager for safe keeping, custody and future audit requirements.

**Appendix 9** is an example of the **Internal Requisition Form (Purchase Order)** which requires to be completed for all quotation and tendering activities within the College.