

PA2023.org Network Training

Valuing contracts, aggregation, and anti-avoidance

6 October 2026

Getting you ready - Training

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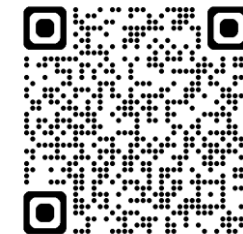
walter.akers@in2thebargain.com or
mohamed.hans@in2thebargain.com

PA2023.org Training

Training schedule to March 2027		
20 October 2026	Tender evaluation, moderation and assessment summaries	Practitioner – full day
12 November 2026	Below threshold contracts	Bitesize – 2 hours
19 November 2026	Introduction to Public Procurement	Practitioner – full day
26 November 26	Common assessment standard – how to use CAS in tenders?	Practitioner – half day
03 December 2026	How to apply social value in your tenders	Bitesize – 2 hours
10 December 2026	How to design and run a Competitive Flexible Procedure	Practitioner – full day
14 January 2027	Frameworks	Bitesize – 2 hours
26 January 2027	Introduction to JCT 2024 Contracts	Practitioner – full day
4 February 2027	Introduction to the Procurement Act 2023	Practitioner – full day
23 February 2027	Modifying contracts under the Procurement Act	Bitesize – 2 hours
16 March 2027	Direct Awards	Bitesize – 2 hours
24 March 2027	Assessing and monitoring the financial standing of suppliers	Practitioner – half day

Additional dates for recently delivered popular events are currently being scheduled

For details and bookings: [Training – In2 the bargain](https://www.in2thebargain.com)



Technical & news update 6 October 2026

1. [The Framework Practice Guide](#)
2. [Find a Tender - Find frameworks, dynamic markets and dynamic purchasing systems that public sector buyers use to buy goods, services and works.](#)
3. [Havant - Procurement of Temporary Accommodation](#)
4. [A-New-National-Procurement-Policy-Statement.pdf](#)
5. [Rigged bids, real costs: a case for urgent action on bid rigging in UK public procurement - GOV.UK](#)
6. [Public procurement in the national interest: Reflections from the CMA - GOV.UK](#)
7. [Procurement could be government's secret weapon on NEETs](#)
8. [Mayor of London's emails to be searched in Palantir legal battle - BBC News](#)

Valuing contracts, aggregation, and anti-avoidance

The Syllabus – The Legislation

Primary focus of this training	
Procurement Act	Procurement Act 2023 (legislation.gov.uk)
The Procurement Regulations	The Procurement Regulations 2024
The Procurement (Wales) Regulations	The Procurement (Wales) Regulations 2024
Procurement Policy Notes	Procurement policy notes - GOV.UK (www.gov.uk)
Welsh Procurement Policy Notes	Procurement policy notes GOV.WALES
Procurement Act Guidance Documents	Procurement Act 2023 guidance documents - GOV.UK (www.gov.uk)
Welsh Procurement Act Guidance Documents	Procurement Act 2023: guidance documents GOV.WALES

Our focus is not on the following:

- Public Contracts Regulations 2015 and related pre 24 February 2025 law
- Utility Contracts and Utility Providers, Defence & Security
- The Provider Selection Regime

Why valuation rules exist (PA2023, Section 4 and Schedule 3)?

- Different contract types have different thresholds
- Thresholds trigger different legal obligations
- Correct valuation ensures the CA applies the right regime
- Prevents avoidance of transparency and competition duties
- Requires CAs to estimate contract value using Schedule 3
- Prohibits deliberate manipulation of valuations
- Ensures compliance with domestic and international procurement obligations
- Valuation is therefore not an accounting exercise carried out after the fact.

Key provisions relevant to today's session

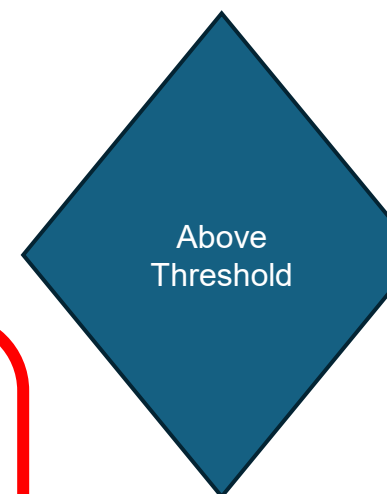
Procurement Act 2023	
Section 1	Procurement and covered procurement
Section 3	Public contracts
Section 4	Valuation of contracts
Section 5	Mixed procurement: above and below threshold
Schedule 1	Threshold amounts
Schedule 3	Estimating the value of a contract
Section 74	Modifying a public contract - Anti avoidance

Threshold Amounts – Sch 1

Type of contract		Thresholds (including VAT): 1 January 2026 to 31 December 2027
1	Defence and security contract that is a works contract	£5,193,000
2	Defence and security contract that is a concession contract	£5,193,000
3	Defence and security contract not within row 1, 2 or 8	£415,440
4	Utilities contract that is a works contract	£5,193,000
5	Utilities contract that is a light touch contract	£884,720
6	Utilities contract not within row 3, 4 or 5	£415,440
7	Light touch contract that is a concession contract	£5,372,609
8	Light touch contract not within row 5 or 7	£663,540
9	Concession contract not within row 2, 6 or 7	£5,193,000
10	Works contract not within row 1, 4 or 9	£5,193,000
11	Contract for the supply of goods, services or works to a central government authority not within any other row	£135,018
12	Contract for the supply of goods, services or works to a sub-central government authority not within any other row	£207,720

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 1](#)



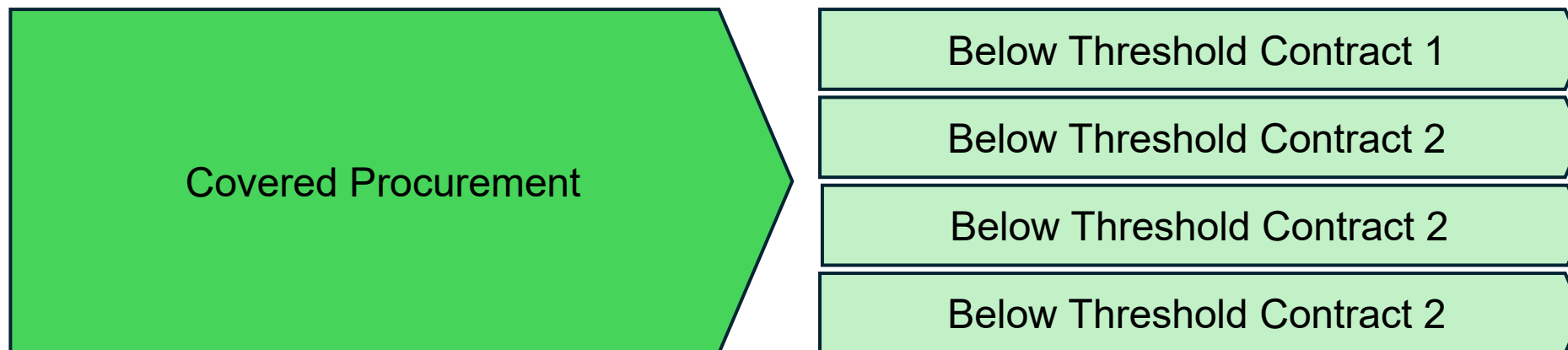
A Covered Procurement but not Public Contracts

S.1(1)(b) “covered procurement” means the award, entry into and management of a public contract.

S.3 Public contracts. Any contract for the supply, for pecuniary interest, of goods, services or works to a contracting authority which:

(a) has an estimated value of not less than the threshold amount for the type of contract,.....

A Covered Procurement but not Public Contracts



Example: A procurement has a total estimated value of £250,000 and is divided into four lots of equal value and a contract awarded for each lot. While the procurement is covered procurement (as the total value is above the relevant threshold amount), the value of each individual contract is below the applicable threshold, so from the point of award onwards these would be classed as below-threshold contracts. Each of these contracts is set out in a below threshold contract details notice.

Aggregation and Lot-Valuation Rules (Regulation 6) PCR15

Aggregated need - £475,000 (goods/services)					
Lot 1 £50,000	Lot 2 £50,000	Lot 3 £100,000	Lot 4 £100,000	Lot 5 £100,000	Lot 6 £75,000
Include in Aggregate value	Include in Aggregate value	Include in Aggregate value	Include in Aggregate value	Include in Aggregate value	Include in Aggregate value
May let without formal procurement as under the Small Lots threshold and less than 20% of the aggregate	Needs formal procurement Whilst under the Small Lots threshold added to the Lot 1 the total value would exceed 20% of the aggregate.	Needs formal procurement as above small lots threshold	Needs formal procurement as above small lots threshold	Needs formal procurement as above small lots threshold	Needs formal procurement as above small lots threshold

PA23 does not include a specific “low-value lot exemption” - there is no 20% carve-out under PA23. Instead, PA23 uses a single valuation methodology and a single threshold test

Valuation Scenario 1

A council awards a contract to YBM for a package of educational software, valued at £25,000 p/a for 4 years. This is awarded with no competition. (they do publish a below threshold Contract Details Notice).

The council then awards YBM a contract for IT consultancy to help design a new mobile phone app for residents. This piece of work costs £150,000. This is awarded via a closed three-quote process with three suppliers directly approached, and no Tender Notice. (they do publish a below threshold Contract Details Notice).

The total spend with YBM as a result of these two awards is therefore £250,000. Is the Council in breach of its obligations under PA 2023, because the value is over the services threshold of £207,720?

Valuation Scenario 2

The council awards a contract for 100 licences of a specialist finance software package, via a vendor (not direct from the software developer), at a cost of £150,000 for a 4-year term. They make a direct award with no competition.

One year later, they have realised they need 100 more licences. They buy these from a different software vendor, again without competition, at a cost of £160,000.

They believe the second award can safely be treated as a below threshold contract award because it is awarded to a different supplier. Are they right?

Calculating the estimated value

Key points to bear in mind when calculating the estimated value of a contract for threshold purposes:

Estimated values

- It is recognised that in some cases you will know an exact value – but in most cases you will be *estimating*.
- Estimates, by their nature, are not exact. However, there should be a clear rationale underpinning the calculation (which you should put on record).
- Estimates which fall just under the threshold carry significant risk if the contract spend then goes on to exceed the threshold. If it's close, assume the threshold applies.
- For **Frameworks**, the value you declare will now function as a maximum spend limit for the framework.

What is the value of the following contracts? (All amounts are inclusive of VAT)

1. A service contract for 2 years (£100,000), with an option to extend for another year (£50,000), with a performance bonus if certain targets are achieved of £25,000.
2. An IT software development contract (£200,000) where at the end of the contract, the Contracting Authority is given a perpetual licence to use the software forever and the supplier has the right to sell the software to other customers.
3. A contract for works (cost £50 million) where during the procurement process you provided £10,000 to each of the 5 bidders to fund the preparation of their tender response.
4. A contract for software managed services which the supplier provides free of charge as they want to use you as a reference to win work with other Contracting Authorities.
5. A concession contract, where the supplier's expected revenue is £17 million and their profit is £1 million.
6. A £4.7 million works contract which includes security services which could be procured separately worth £250,000.



Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

Section 4 - Valuing contracts

- (1) For the purposes of this Act, the “estimated value” of a contract is its value for the time being estimated by a contracting authority.
- (2) A contracting authority that estimates the value of a contract must do so in accordance with Schedule 3.
- (3) A contracting authority must not exercise a discretion in connection with estimating the value of a contract with a view to securing that any requirement of this Act does not apply in relation to the contract.

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

Section 4 - Valuing contracts

- (1) For the purposes of this Act, the “estimated value” of a contract is its value for the time being estimated by a contracting authority.
- (2) A contracting authority that estimates the value of a contract must do so in accordance with Schedule 3.
- (3) A contracting authority must not exercise a discretion in connection with estimating the value of a contract with a view to securing that any requirement of this Act does not apply in relation to the contract.

No artificial
splitting of
contracts

The Act does not specify a definitive point in time at which the valuation must be made.
Which date is “the time being”?

- Important case-law concepts **not** reflected in the Act
- Creates uncertainty for complex valuation scenarios
- CJEU in Roanne established that valuation must consider the total value from the point of view of the tenderer
- PA23 does not clarify whether Roanne still applies

Definition is brief - operational interpretation is significantly more complex.

Reference

[Act 2023 Part 1](#)

[Act 2023 Sch 3](#)

Schedule 3 para 1 - General rule

- (1) A contracting authority must estimate the value of a contract as the **maximum amount** it could expect to pay under the contract including, where applicable, amounts already paid.
- (2) The amount a contracting authority could expect to pay includes the following:
 - (a) the value of any goods, services or works provided by the contracting authority under the contract other than for payment; (**equipment, vehicles, or IT assets to the supplier to use during the contract**).
 - (b) amounts that would be payable if an option in the contract to supply additional goods, services or works were exercised; (**cannot ignore optional future scope**)
 - (c) amounts that would be payable if an option in the contract to extend or renew the term of the contract were exercised; (**even if extension may not be exercised, renewal is discretionary, or CA has no current intention to use it**).
 - (d) amounts representing premiums, fees, commissions or interest that could be payable under the contract; (**even if they are contingent or depends on usage**)
 - (e) amounts representing prizes or payments that could be payable to participants in the procurement. (**prize or payment is discretionary, contingent on performance in the competition or not guaranteed to be used**).
- (3) In estimating the value of a contract, a contracting authority must take into account all of the facts which are material to the estimate and available to the authority at the time it makes the estimate.
- (4) This paragraph is subject to the rest of this Schedule.

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

Frameworks Schedule 3 para 2

- (1) A contracting authority must estimate the value of a framework as the sum of the estimated values of all the contracts that have or may be awarded in accordance with that framework.
- (2) In the case of a framework awarded under an open framework, the value of the framework is to be treated as including the value of all frameworks awarded, or to be awarded, under the open framework.
- (3) In this Schedule, “framework” has the meaning given in section 45(2).

When setting up a framework, the CA/CPB must provide, through the noticing regime, an estimated overall total value of all the potential call-offs by all the potential buyers who could use the framework over its lifetime. It is important that this limit is not exceeded.

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

In Summary - Valuation of contracts

General Rule

Maximum amount expect to pay over possible full life of the contract

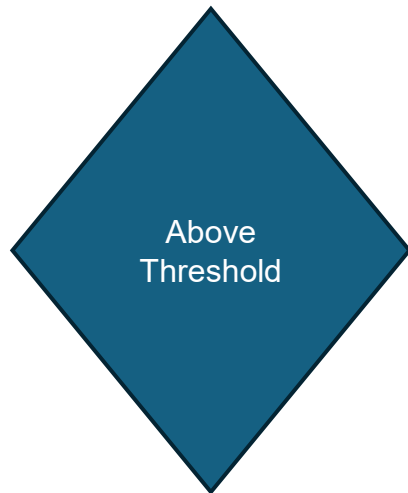
Including:

- Options to extend duration
- Options for additional products / services
- Prizes, commission, fees and interest

Framework value includes all contracts that may awarded.

Concession contract value is all amounts the supplier will receive.

If cannot estimate, then must be treated as over the threshold



Do you always need to aggregate supplier spend?

Common Misconception

- Authorities often assume all spend with a supplier must be aggregated
- This is incorrect under Schedule 3 PA23
- Aggregation applies to requirements, not suppliers

Correct Principle

- Authorities may legitimately have multiple contracts with the same supplier
- Provided each contract relates to a different requirement
- What matters is the aggregate value of each requirement, not total supplier spend

When Aggregation Is Required

- Multiple awards relate to the same underlying requirement
- Similar scope, timing, deliverables, or market conditions
- Pattern of below-threshold awards suggests avoidance
- Combined value must be used for threshold purposes

Why Aggregation Matters

Regulatory importance

- Aggregation rules ensure CAs comply with PA23
- Prevent artificial subdivision and threshold avoidance
- Support transparent, proportionate procurement design
- Reinforce consistent valuation and threshold classification

Operational benefits

- Combining regular and similar spend into a single requirement maximises value
- Larger aggregated procurements can deliver economies of scale
- Reduces duplication of effort — avoids procuring the same item multiple times
- Drives internal efficiency through fewer, better-managed contracts
- Enables strategic supplier management and improved commercial leverage

Below Threshold Contracts – Aggregation & Anti-avoidance

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

Cannot exercise discretion about contract value to disapply any requirement of the Act

Schedule 3 para 4 Anti-avoidance:

Where — a contracting authority estimates the value of two or more contracts, and the goods, services or works to be supplied under the contracts could reasonably be supplied under a single contract. The contracting authority must estimate the value of each of the contracts as including the value of all of the contracts, unless the authority has good reasons not to do so.

- Aggregation rules prevent artificial splitting of contracts for the purposes of evading the requirements of the Act
- Authorities must consider the total estimated value of multiple similar below-threshold contracts over time
- Example: For five separate contracts of £50,000 each for IT consultancy, if combined value exceeds the threshold (£135,018 / £207,720), a covered procurement process is required, for a combined contract or each (£50,000) contract.

Valuation of contracts – Sec 4

- **If cannot estimate**, then must be treated as over the threshold

Removal of “Discrete Operational Units” in PA23

PCR 2015 Position

- PCR 2015 permitted separate valuation where distinct parts of an organisation operated as “discrete operational units”
- Units needed delegated procurement authority and independent budgets
- Allowed multiple below-threshold procurements without aggregation
- Recognised organisational complexity in large authorities

PA 2023 Change

- PA23 removes the explicit “discrete operational units” exemption
- Schedule 3 focuses solely on anti-avoidance and artificial subdivision
- Separation is only permitted where requirements are **genuinely** distinct
- Organisational structure alone is not a justification unless units have separate legal identity

“Authorities may choose not to aggregate where the requirements are genuinely distinct, where operational autonomy is necessary, or where aggregation would not support value-for-money outcomes” – Guidance

- A large Council operates three highly delegated business units:
 - **Adult Social Care**
 - **Highways & Transport**
 - **Public Health**
- Each unit commissions **different service requirements** with distinct outcomes
- Budgets, commissioning strategies, and supplier markets are independent
- Requirements cannot “reasonably be aggregated” because they are operationally and commercially distinct
- No evidence of threshold avoidance
- Contemporaneous records show clear justification for treating requirements separately
- Non-aggregation is lawful.

- Authority splits the requirement into four “contracts”:
 1. HR Training
 2. Finance Training
 3. IT – Training
 4. Operations Training
- Identical specification, same supplier market, same delivery period
- Each contract valued at £7,500 — conveniently below the £30,000 threshold
- Awards made to the same supplier
- No contemporaneous record explaining separation
- Requirements could reasonably be aggregated into one corporate training contract
- Disaggregation is unlawful. Schedule 3(4) requires aggregation because separation lacks good reasons and appears threshold-motivated.

Example scenarios:

A University has the following requirements:

- Printers which they normally buy from Printerland - £15,000 per annum spend
- Toner which they normally buy from TonersRus - £13,000 per annum spend
- Paper which they normally buy from VikingPaper - £25,000 per annum spend
- Servicing from MH Computers - £22,000

University Procurement Policy requires an open tender at £75,000

Should the University aggregate the above spend?

A university has dozens of academic departments

Each purchases niche laboratory consumables specific to its research

Departments cannot feasibly know or coordinate every procurement need across the institution

Requirements are not commercially or operationally coherent

Should the University aggregate the above spend?

Authority splits into four “contracts”:

- Printers for HR
- Printers for Finance
- Printers for IT
- Printers for Operations

Identical specification, same supplier market, same delivery period

Each contract valued at £7,500

Should the University aggregate the above spend?

Further Assessment

- A District Council has a devolved approach to procurement. The Leisure, Waste, Planning and Highways Departments each have a small "buying team" of 2 - 4 officers.
- The Planning Department and the Highways Department each have a requirement for Interactive Mapping software. They each run their own quotation process, within a few weeks of the other. Planning selects DynaMap at a four-year cost of £110,000. Highways selects MapCore at a four-year cost of £85,000.



Which of the following is true:

- 1: The Council should have considered aggregating these into a single procurement.
- 2: There was no need to aggregate these contracts because the end users are different.
- 3: There was no need to aggregate these contracts because the spend with each supplier is below the Procurement threshold.

Further Assessment

- At the same District Council, the Waste department runs a tender for a waste management system which tracks refuse vehicles, collates hazardous waste reports, tracks fly tipping reports, and a range of other services. Meanwhile the Leisure department runs a Request For Quotation to procure an online booking system for its leisure centres.
- Both procurement processes are won by CAPTIA, one valued at £200,000, the other at £40,000.

Which of the following is true?

- 1: The Council should have considered aggregating these into a single procurement.
- 2: There was no need to aggregate these contracts because the end users are different.
- 3: There was no need to aggregate these contracts because there are genuinely two separate requirements.



Estimating the value of a concession

- There is only one **FTS threshold** for **concessions** – whether the contract is for **works or services** (in practice, many are a mixture).
- Currently this is **£5,193,000** (*including VAT*).
- This is the same as the **works** threshold.
- There is a special approach to **estimating the value** of a concession for threshold purposes.
- This has been stated in more detail in Schedule 3 of the ***Procurement Act 2023*** and we should note this definition...

SCHEDULE 3

Concession contracts

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

- (2) A contracting authority must estimate the value of a concession contract as the **maximum amount the supplier could expect to receive** under or in connection with the contract including, where applicable, amounts already received.
- (3) The **amount a supplier could expect to receive** includes the following:
- (a) amounts representing **revenue** (whether monetary or non-monetary) receivable pursuant to the exploitation of the works or services to which the contract relates (whether from the contracting authority or otherwise);
 - (b) the value of any **goods, services or works provided by the contracting authority** under the contract other than for payment;
 - (c) amounts that would be receivable if an option in the contract to supply **additional services or works** were exercised;
 - (d) amounts that would be receivable if an option in the contract to **extend or renew** the term of the contract were exercised;
 - (e) amounts representing **premiums, fees, commissions or interest** that could be receivable under the contract;
 - (f) amounts received on the **sale of assets** held by the supplier under the contract.

Concession Contracts

Valuing a Concession Contract – Schedule 3 Para 3

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)



Has the following concession contract been valued correctly?

[Supply, Installation and Maintenance of Electric Vehicle Charging Points \(EVCP\) in Torridge, North Devon - Find a Tender](#)

Contract value

- £0 excluding VAT
- £0 including VAT

Procedure type

Below threshold - unknown

Concession Contracts

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

Valuing a Concession Contract – Schedule 3 Para 3



Has the following concession contract been valued correctly?

[Supply, Installation and Maintenance of Electric Vehicle Charging Points \(EVCP\) in Torridge, North Devon - Find a Tender](#)

Contract value

- £0 excluding VAT
- £0 including VAT

Procedure type

Below threshold - unknown

Must look to para 5 of Schedule 3: If a contracting authority is unable to estimate the value of a contract in accordance with this Schedule (for example because the duration of the contract is unknown), the authority is to be treated as having estimated the value of the contract as an amount of more than the threshold amount for the type of contract.

Estimating the value of a concession

Let's think about this:

- Anytown Council issues a procurement for a concession contract to operate catering facilities.
- This will be a five-year contract. The premises are already fully built and furnished, but the supplier will be responsible for maintaining the café and bar premises, staffing, supplies, and all other costs apart from electricity and heating.
- The pricing element of the tender, weighted at 30%, is based on the supplier's proposed profit share with the Council – providing for the Council to receive an income from this operation, if things go well.
- What factors or items should be taken into account when calculating the value of the concession?

Estimating the value of a concession

- The PA 2023 guidance on concessions expands on this approach with some advice:
- The key clarification is that the estimated value should include the **full potential income** which the concession contractor may obtain, including for any extension periods, and including VAT.
- This is not just potential profit, but **any income**, and therefore should not be reduced to take into account any costs incurred by the supplier.
- This valuation includes pass through costs which the concession supplier has no control over.
- If the value of the concession is estimated within a range (as would be usual), then the maximum end of the range should be quoted as the value for threshold and advertising purposes.

Mixed Contracts

In such cases there are two tests to apply:

TEST 1: The Separability Test:

- Could the mixed elements of the contract reasonably have been **separated** and procured as two or more individual contracts?
- If the answer is **Yes**, then you must apply the **lowest threshold** that could have applied to any part of the requirement.
- For example, a **£1,000,000** contract which is a mix of Works and Services, but where the Services could have been put out to tender separately, must be treated as an above-threshold contract.

Mixed Contracts

In such cases there are two tests to apply:

TEST 2: The Main Purpose Test:

- If the mixed elements of the contract cannot reasonably be **separated** and procured as two or more individual contracts, then this second test applies.
- The authority must determine what is the **main purpose** of the contract.
- If the **main purpose** of the contract is the carrying out of works, then the whole contract is a Works contract. If the main purpose of the contract is the provision of services, and the works are clearly supplemental, then the contract is a Services contract.

Mixed procurement: above and below threshold – Sec 5

S.5 ...if on award of a below-threshold contract other than a framework, a contracting authority considers that—

(a) certain of the goods, services or works to be supplied under the contract could reasonably be supplied under a separate contract, and

(b) that contract would have an estimated value of not less than the threshold amount for a contract of its type.

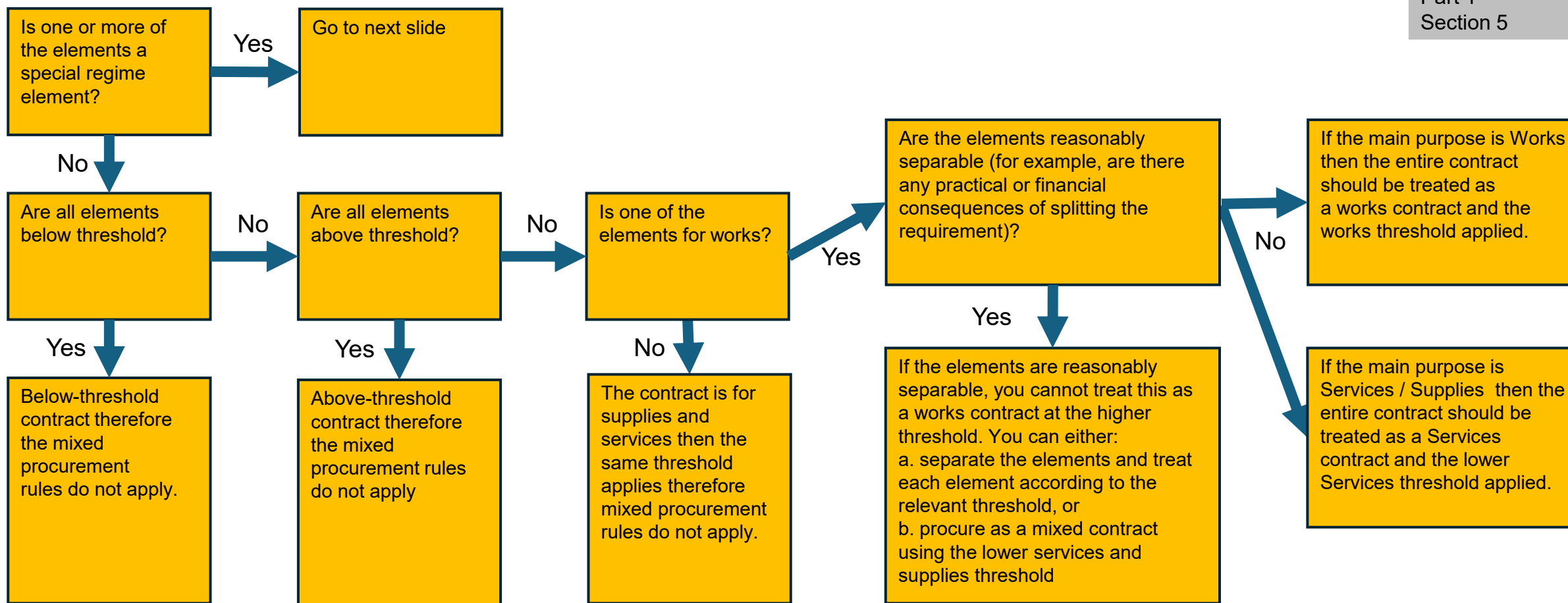
(3) The contract is to be treated as having an estimated value of not less than the threshold amount for the type of contract.

(4) In considering whether goods, services or works could reasonably be supplied under a separate contract, a contracting authority may, for example, have regard to the practical and financial consequences of awarding more than one contract.

Valuation of contracts - Mixed procurement: above and below threshold – Sec 5

Reference

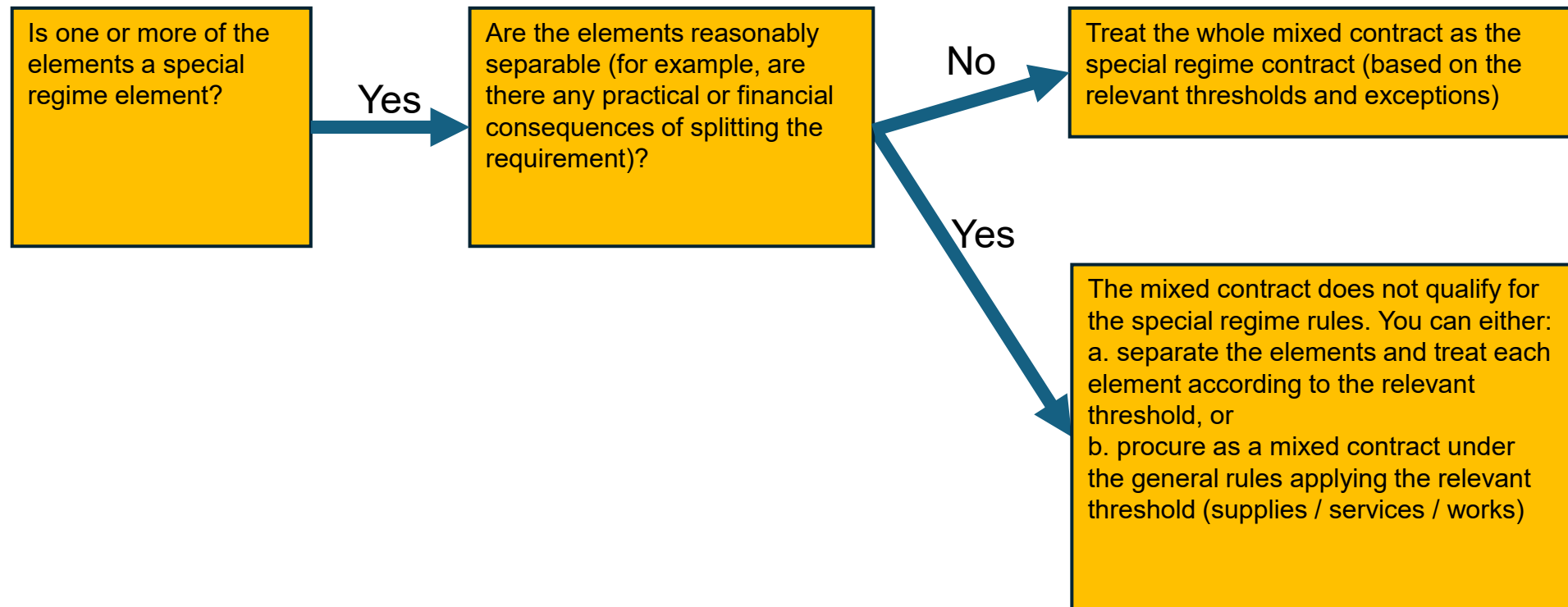
Part 1
Section 5



Reference

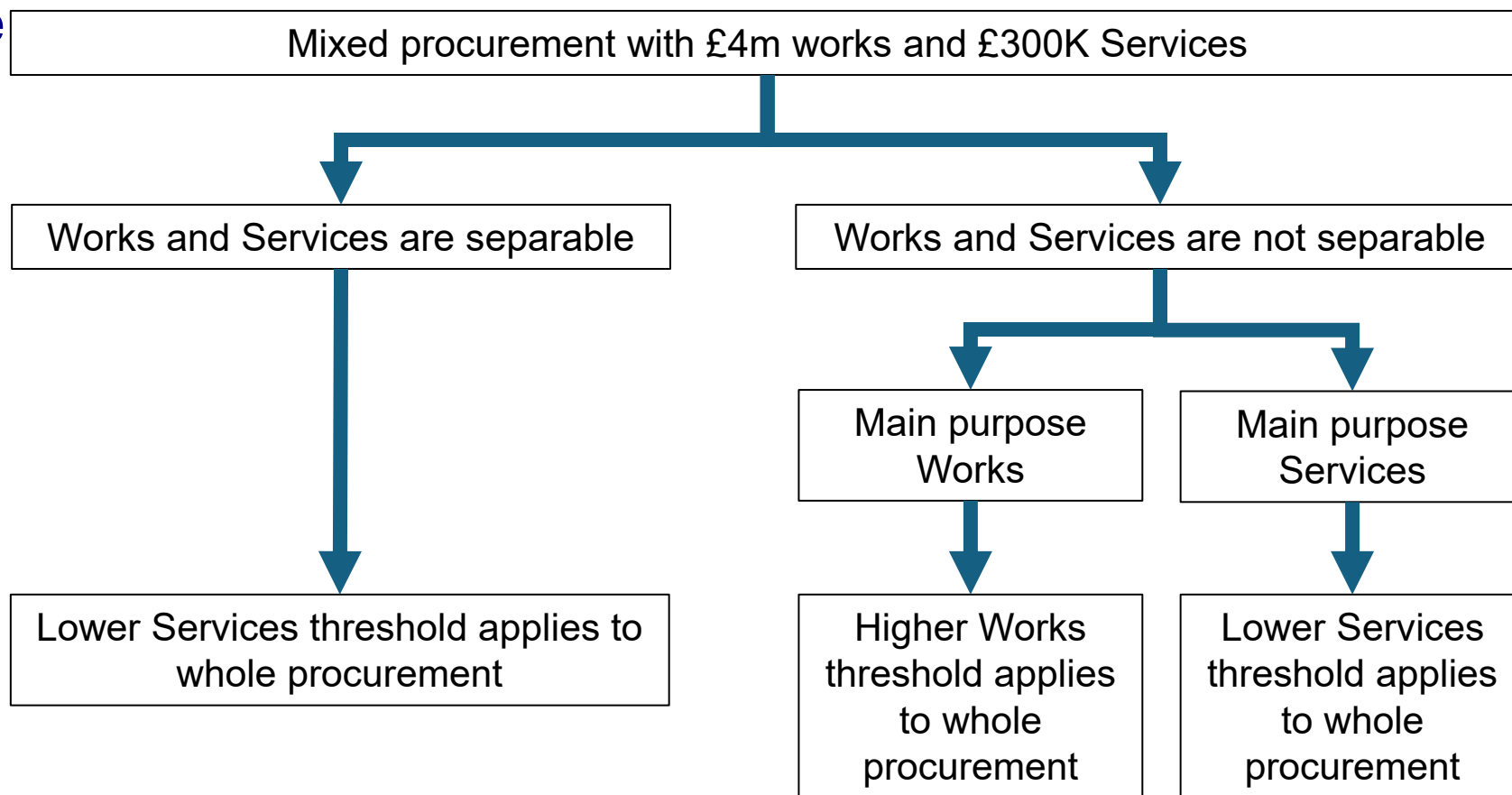
Part 1
Section 5

Valuation of contracts - Mixed procurement: above and below threshold – Sec 5



Valuation of contracts - Mixed procurement: above and below threshold – Sec 5

Example



Reference

Part 1
Section 5

Special Regime Mixed Contract

Example: A Fire Authority requires a training provider for a corporate refresh of all mandatory training (i.e. Health and Safety, Data Protection etc), this training can be delivered both face to face, virtually or through e-learning. They expect the solution to have an associated system to host any relevant e-learning and to track progress of individuals as they complete the corporate training programme. The estimated contract value of £800,000 excluding VAT, being £550,000 for the supply of training and £250,000 for the supply of the system.

The contract is mainly for the supply of training services and is therefore a light touch contract. The supply to host e-learning etc is not within the specified light touch services and therefore if procured separately would not be considered a light touch contract but an above threshold services/ goods contract, procured under the general rule instead.

However, as the system is an integral part of the requirement and cannot be reasonably be procured separately without practical and financial consequences to the fire authority, this contract would be treated as a light touch contract and subject to light touch contract threshold exemptions

Reference

[Act 2023 Part 1](#)
[Act 2023 Sch 3](#)

SCHEDULE 3

Cases where estimate not possible

5. If a contracting authority is unable to estimate the value of a contract in accordance with this Schedule (for example because the duration of the contract is unknown), the authority is to be treated as having estimated the value of the contract as an amount of more than the threshold amount for the type of contract.

When contract value cannot be estimated — Automatic above-threshold rule

- The contract must be treated as above threshold
- Applies regardless of expected spend or historic patterns
- Designed as a simple anti-avoidance safeguard
- **Typical Scenarios**
 - Contracts with unknown duration
 - e.g. annual rolling contracts for repetitive services
 - Contracts where scope or usage cannot be reasonably forecast
 - e.g. variable-demand professional services
 - Situations where pricing depends on future, uncertain events
- Removes the need for complex valuation rules under the old regime (4year/ 48 months)
- Ensures transparency where uncertainty could otherwise mask threshold status
- Prevents authorities from relying on “indeterminate value” to avoid obligations

Proportionate approach possibly required! (term of contract and value, although no official guidance on this point)

Deemed above-threshold?

1. A contracting authority commissions **emergency call-out engineering services**

- Contract is **open-ended**: no fixed duration, no cap on call-outs, usage depends on unpredictable failures
- Historic spend fluctuates dramatically year-to-year
- No reasonable method to forecast future usage

Authority cannot estimate total contract value using Schedule 3 rules.

2. A council renews its annual rolling audit services

- Duration is technically open-ended
- Historic spend is stable
- Scope is consistent
- Market rates are predictable
- Authority can estimate value using the preceding 12 months or next 12 months expected spend

Valuation is possible using Schedule 3 rules

Reference

[Act 2023 Part 4](#)

Modifying public contracts – No salami-slicing

Anti avoidance - Sec 74(7)

The Act prohibits contracting authorities from combining a modification that is not permitted by the Act with one that is permitted in order to make the non-permitted modification. For example, a contracting authority should not make repeated small below threshold modifications to a contract in order to purchase additional goods, services or works when those modifications could reasonably have been made as a single (larger) modification but that single modification would have been over the threshold set out in section 74(4)(a).



Modifying public contracts

Reference

[Act 2023 Part 4](#)

Contract value when modifying a public contract



Example: A Council has recently procured a car parking enforcement contract with Timesup Ltd. One part of a new car park has finally opened in the borough, and the Council would like Timesup Ltd to cover this (this opening has been delayed by nearly 6 months). The Council have no specific grounds available under Schedule 8, but can make use of the general below threshold 10% modification under Section 74(4) PA23.

The Council Parking Team have emailed and informed you that once the full car park is opened, it will increase the contract price by 15%. They are querying how the modification can be put into effect?

Please comment whether this is possible, and if so under what basis?

Final thoughts & close



Walter Akers



Mohamed Hans

Thank you for
attending

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11.	Standard Contract Goods & Services (Long version)
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