



## Report - Finance Committee

# Revisions to the City of London's Procurement Regulations January 2014

*To be presented on Thursday 16th January 2014*

*To the Right Honourable The Lord Mayor, Aldermen and Commons of the City of London in Common Council assembled.*

### **Summary**

Since the latest edition of the City's Procurement Regulations were approved by members in July 2012, there have been significant changes in the way in which the City organises its procurement, most notably the launch of the new City of London Procurement Service (CLPS) on 2<sup>nd</sup> April 2013.

The City's policies on London Living Wage (LLW), Fraud Awareness and the Employee Code of Conduct, as well the implementation of the Public Services (Social Value) Act 2012 also give rise to the need to amend the regulations. The most significant changes are adjustments to the following approvals.

#### **Regulation 15 – Waivers Approvals**

The thresholds for authorising waivers of the Procurement Regulations (section 9) remain the same as those in the current Regulations.

However, we have agreed that where waiting to seek Spending Committee approval would prove detrimental to the business delegated authority will apply: Over £50,000 and up to £500,000 the Chamberlain may authorise a waiver, over £500,000 and up to £2,000,000 the Town Clerk in consultation with the Finance Committee Chairman, (or Deputy Chairman in the Chairman's absence) may authorise a waiver. All delegated authority waivers of this nature must be reported at the next Spending committee for review.

## **Regulation 20 – Contracts Letting Approvals**

We have agreed some revisions to the contracts lettings thresholds (section 10) to delegate authority for the Chamberlain to approve the award of non-project related contracts above the EU thresholds and up to £2m per. Annum. Contracts valued between £2m to and £4m per annum must continue to be reported to Spending and Finance Committees. Very high value contracts above £4m must continue to be reported to the relevant Spending Committee, the Finance Committee and the Court of Common Council. The section acknowledges that there are going to be major changes arising from a new EU Procurement Directive which will necessitate major revisions to the City's own thresholds and a further report in 2014.

## **Regulations 42 and 43 – Public Advertising Thresholds for Supplies, Services and Consultancy Contracts**

The new Regulations (sections 16, 17 and 18) include several revisions to the thresholds for seeking quotations and advertising tenders. The most significant is that the advertising thresholds for Supplies and Services and Professional Consultancy contracts are increased from £50,000 to £100,000.

In addition to the three key changes to the existing Regulations there are also several new Regulations designed to address several key organisational, policy and legislative changes since July 2012.

The new regulations include:

- Procurement Codes of Conduct and Conflicts of Interest;
- Use of external consultants and advisors for procurement;
- Roles and responsibilities of officers in the CLPS;
- Improved clarity and terms of reference for the use of framework agreements;
- Governance and the use E-Sourcing and tender management;
- Terms of engagement for the new CLPS Contracts Register;
- London Living Wage; and
- Public Services (Social Value Act) 2012.

A report recommending the new Revisions and Regulations was approved by the Finance Committee on 10<sup>th</sup> December 2013. As the revisions and new recommendations are significant and go beyond minor technical updates they also need to be presented for the judgement of this Honourable Court.

## **Recommendation**

We recommend that the revised Procurement Regulations be approved.

## **MAIN REPORT**

### **Background**

1. The City of London's Procurement Regulations in their current format were first introduced alongside revisions to Standing Orders and approved by the Court of Common Council on 6 October 2011 with "any minor technical adjustments in future being subject to the approval of the Finance Committee". Since then there have been several technical adjustments approved by the Finance Committee with the most recent in July 2012.

### **Current Position**

2. Since the latest edition of the City's Procurement Regulations were approved in July 2012, there have been significant changes to the way in which the City organises its procurement, most notably the creation and launch of the new City of London Procurement Service (CLPS) on 2<sup>nd</sup> April 2013.
3. There have also been several important legislative and policy developments which directly impact on the City's procurement including the implementation of the Public Services (Social Value) Act 2012 in March 2013 and the introduction by the City of its policy relating to the London Living Wage in March 2012.
4. The current Regulations need to be updated to take account of the changes and make them relevant for the way we work with a centralised procurement service. As the revisions and new recommendations are significant and go beyond minor technical updates so they need to be submitted for the judgement of this Honourable Court.

### **Revisions to the Regulations**

#### **Section 1 Overview**

5. The Overview section is largely the same as the current Regulations.

#### **Section 2 Codes of Conduct and Conflicts of Interest**

6. We have agreed new Regulations stating that the City expects all officers and elected members involved in procurement to behave with the highest levels of probity and integrity. They refer to the appropriate sections of the City's Employee Code of Conduct and Fraud Awareness policy and there is also a new Regulation on the declaration of conflicts of interest in procurement.

#### **Section 3 Use of external consultants and advisors in procurement**

7. We have agreed some new Regulations which set out clear and consistent ground rules regarding the use of external consultants and advisors in procurement projects.

#### **Sections 4 to 7 Role of the CLPS and its key teams**

8. These new Regulations provide a brief overview and explanation of the key roles and responsibilities of the CLPS and the various teams within it.

## **Section 8 – Key Aspects of Procurement**

9. Apart from a small number of minor revisions and one new Regulation this section remains substantially the same as the current Regulations.
10. Regulation 8.7 is a new and important addition and confirms the requirement for officers to follow the City's **No PO (Purchase Order) No Pay policy** which requires with some exceptions e.g. utilities, rents and rates that purchase orders must be raised at the point when goods, services and works are ordered.

## **Section 9 – Waivers**

11. The thresholds for authorising waivers of the Procurement Regulations (section 9) remain the same as those in the current Regulations namely; up to £50,000 Chief Officers, £50,000 to £2 million Spending Committee or Projects Sub Committee (for Projects) and over £2 million Court of Common Council,
12. In addition we have agreed that where waiting to seek Spending Committee approval would prove detrimental to the business, delegated authority will apply: Over £50,000 and up to £500,000 the Chamberlain may authorise a waiver, over £500,000 and up to £2,000,000 the Town Clerk in consultation with the Finance Committee Chairman (or Deputy Chairman in the Chairman's absence) may authorise a waiver. All delegated authority waivers of this nature must be reported at the next Spending committee for review.

## **Section 10 - Contracts Letting**

13. We have agreed some adjustments to the thresholds intended to provide a greater level of delegated authority to the Chamberlain for the award of relatively low value low risk contracts procured in accordance with the City's and EU Procurement Regulations.
14. We agreed that revisions are made to the contracts lettings thresholds to delegate authority for the Chamberlain to approve the award of non-project related contracts above the EU thresholds in total i.e. the aggregated value of the contract over its duration but up to £2m p.a.
15. Some of the approval thresholds in the Regulations are tied to the prevailing EU thresholds; the current EU threshold for Supplies and Services contracts is £173,934 (at 1 November 2013) however a new EU Procurement Directive has been agreed in October 2013 and will be implemented into UK law in 2014 (date to be advised). These revisions will require us to seek approval for further revisions during 2014.
16. Contracts valued between £2m and £4m per annum will continue to be reported to Spending and Finance Committees.
17. Very high value contracts above £4m will continue to be reported to the relevant Spending Committee, Finance Committee and the Court of Common Council.

## **Section 11 – Increases in Contract Value**

18. There are no revisions to this section which remains the same as the current Regulations

## **Sections 12 to 14 – Framework Agreements, Access Agreements and Due Diligence**

19. These sections are designed to explain the importance and benefits of framework agreements to the City's procurement strategy and the processes to be followed when they are implemented.

## **Sections 15 to 18 Procurement Thresholds for Supplies and Services, Professional Consultancy and Works contracts**

20. The current thresholds have been in place since 2009 and need to be refreshed.
21. We agreed that the advertising thresholds for Supplies and Services and Professional Consultancy contracts are increased from the current £50,000 to £100,000.
22. The other significant revision is the inclusion at all below advertising thresholds of the obligation for officers to invite at least one of either a local supplier, SME or Social Enterprise to quote. Thus bringing the Regulations into line with the City's Responsible Procurement Strategy.

## **Section 19 – E-sourcing**

23. This new section of the Regulations explains and clarifies the ground rules to be followed by officers for the operation of the City's e-tendering application.

## **Section 20 – Contracts Register**

24. We agreed new Regulations confirming that the CLPS now maintains a Contracts Register on behalf of the City to include details of all contracts awarded by the City.

## **Sections 21 to 25 – Responsible Procurement, Local Procurement Directive, Community Benefits, Public Services (Social Value) Act 2012 and London Living Wage**

25. These sections are designed to ensure that officers comply with the City's various responsible procurement policies as well as the statutory obligation to comply with the provisions of the Public Services (Social Value) Act 2012 and the City's own London Living Wage Policy.

## **Section 26 – Contracts procured by third parties**

26. This section makes clear that the Procurement Regulations shall not apply to those contracts procured by a third party and then assigned to the City following the acquisition by the City of long leasehold interests.

## **Corporate and Strategic Implications**

27. It is envisaged that there will be no additional costs to the City in implementing the new Regulations which can be accommodated within the existing resources of the Chamberlain's department.
28. The new Regulations will have a positive impact on the delivery of key strategic objectives and themes in both the City's Corporate Plan 2013-17 and The City Together Strategy 2008 - 2014.

29. In terms of the Corporate Plan the new Regulations will support key policy priorities KPP2 *“Maintaining the quality of our public services whilst reducing our expenditure and improving our efficiency a key part of which is the establishment of the CLPS.”*
30. The new Regulations in emphasising the importance of Responsible Procurement and in particular the City’s support for the London Living Wage and Public Services (Social Value) Act 2012 will support KPP4 *“Maximising opportunities and benefits afforded by our role in supporting London’s communities.”*
31. The policy priorities in KPP4 are key themes in the City Together Strategy 2008 – 2014. The new Regulations are designed to improve the performance of the City’s procurement in that regard.

### **Conclusions**

32. The creation of the CLPS and the implementation of a new approach to procurement is one of the most significant organisational transformation projects undertaken by the City in recent years.
33. All of these themes are reflected in the new Procurement Regulations. There has been extensive consultation on the proposed changes, including a Chief and Senior Officers Masterclass on 11 November 2013, which are designed to facilitate improved and efficient services, as well as greater collaboration both within the City and with our suppliers and neighbouring communities

*(Appendix A – Draft City of London Procurement Regulations January 2014)*

All of which we submit to the judgement of this Honourable Court.

DATED this 13<sup>th</sup> day of December 2013

SIGNED on behalf of the Committee.

Roger A H Chadwick  
Chairman, Finance Committee