

**DRAFT**  
**CITY OF LONDON**  
**PROCUREMENT REGULATIONS**

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## 1. Overview

- 1.1 Procuring goods and services in the right way is essential to ensure value for money is achieved.
- 1.2 Any future changes to these Procurement Regulations require the authorisation of the Finance Committee for minor technical revisions such as reformatting or updates to CLPS structure and the Court of Common Council for more substantive changes such as those arising from new legislation, changes to the City's policies or changes to approval thresholds.
- 1.3 The Procurement Regulations apply to all procurement undertaken by any City department.
- 1.4 The Procurement Regulations also apply to the City for externally funded projects where it is the contracting authority conducting the procurement and signing the contract e.g. the Lottery Heritage Fund. In all such cases the CLPS must be consulted even if the external funding is contingent on the City procuring in a certain way. Such contingencies may necessitate officers obtaining a waivers approval in accordance with the waivers regulations in Section 9.
- 1.5 The City of London Procurement Service (CLPS) must be consulted in all opportunities and proposals for letting or extending contracts, and will consult with the Comptroller and City Solicitor (C&CS) when advice upon the legal aspects of contracts are required.
- 1.6 The C&CS maintain standard templates of conditions of contract for certain contracts. These can be found in the Supporting Guidelines pages on the City Buyer portal. In the absence of a template, the CLPS in cases that are complex or novel will advise on appropriate terms. The C&CS must vet all terms and conditions for proposals involving non City standard templates.
- 1.7 There may be occasions when it is appropriate to collaborate with other authorities, where value can be added or costs can be reduced.
- 1.8 The City will always endeavour to procure responsibly, purchasing products and services which have a positive impact on our environment and our surrounding communities.
- 1.9 Procurement activity undertaken as part of a project will also be subject to the approval process set out in the Project Approval Procedure.
- 1.10 Where corporate contracts are in place they must be used. Off-contract spend will be monitored and reported as appropriate.
- 1.11 The Regulations constitute the rules that must be followed when procurement is undertaken in the City. The CLPS is in addition producing further detailed guidance and templates to underpin the regulations and assist officers with undertaking procurement; these can be found on the City Buyer pages of the City's intranet.**

## 2. Codes of Conduct and Conflicts of Interest

- 2.1 The City of London expects all officers and elected members involved in procurement to behave with the highest levels of probity and integrity in accordance with statute law, such as the Bribery Act 2010 and the City's Procurement Regulations, Employee Code of Conduct and Fraud Awareness Policy which are all available on the City's intranet. Failure to adhere to these conditions will result in disciplinary action and in the most serious cases criminal investigation and prosecution

2.2 Any personal conflict of interest arising out of a procurement exercise must be declared immediately to the Head of CLPS who will determine the action required to address the conflict.

### 3. External Consultants and Advisors in Procurement

3.1 It is sometimes necessary for the City to engage specialist consultants, technical experts and advisors to assist with major procurements or projects, where the City does not have the necessary capacity or specialist expertise.

3.2 Such experts cover a wide range of disciplines including planning and project management, commercial, legal and financial, technical, public and private policy, and specialist procurement advice.

3.3 Officers wishing to appoint external consultants to assist with procurement projects must consult the CLPS before all such appointments are made and in addition C&CS in the case of **ALL** external legal Counsel and services including solicitors.

3.4 Any resulting appointment must comply either with the City's Procurement Regulations in respect of appointing consultants via a procurement or via the HR Recruitment and Selection policy in respect of short term contracts of employment or the appointment of temporary staff. It should be noted that the appointment of external legal counsel including solicitors is subject to C&CS procedures.

3.5 Officers may be able to seek advice or guidance from suppliers, or external bodies on a free of charge no obligations basis. Whilst such assistance can be beneficial, officers must take care to manage these arrangements in an appropriate manner. As is the case with the appointment of commercial service providers, the CLPS **must** be consulted before any such advice is sought.

3.6 All external consultants and companies appointed by the City to assist with procurements must be advised of their obligation to declare conflicts of interest. **This is particularly important in respect of those consultants or firms who wish to subsequently tender for the procurement on which they are advising.**

3.7 The CLPS and C&CS have expertise and clear procedures for dealing with these appointments. This is to ensure that the interests of the City, the consultants, and ultimately the companies, who tender for the contract, are protected and the integrity of the procurement competition is not compromised.

3.8 The CLPS and C&CS will ensure that all appointments are covered by appropriate contract terms which clearly state the City's expectations in terms of important issues such as conflicts of interest, rules of engagement, intellectual property rights, confidentiality, Codes of Conduct and disclosure of information.

### 4. The role of the City of London Procurement Service (CLPS)

4.1 The CLPS was created and launched in 2013 to provide a fully integrated procurement service for the entire City of London Corporation. The CLPS is part of the Chamberlains department and is managed by the Head of the CLPS.

4.2 The CLPS has three distinct teams with responsibilities as outlined in sections 5, 6 and 7.

4.3 Guidance on the appropriate communication channels for officers engaging with the various CLPS teams are set out in City Buyer on the City's intranet.

## **5. Sourcing and Category Management (including Category Boards)**

- 5.1 The Sourcing and Category Management team includes a team of professionally qualified Category Managers who manage the operational procurement for a range of related expenditure categories such as Works, Facilities Management, Information and Communications Technology, Human Resources and Community Care. Each Category Manager has responsibility for one or more expenditure categories and their work on sourcing projects is governed by senior officer led Category Boards.
- 5.2 The Category Boards in conjunction with the CLPS category managers are responsible for developing sourcing and savings strategies based on an annual work plan in their respective categories. These are then combined to form the CLPS Sourcing Plan.
- 5.3 Each Category Board will be led by a Chairman and Deputy Chairman who will normally be Chief Officers or second tier directors from the department (s) responsible for the largest proportion of the City's expenditure in a given category.
- 5.4 Category Board Chairman may be assigned delegated authority by the Chamberlain, to approve contract awards in accordance with the thresholds set out in section- 10 of these Regulations.
- 5.3 Each Category Manager also has responsibility for maintaining and building relationships with a discrete group of departments.
- 5.4 Officers are to consult and engage with the Category Management team directly or via Category Boards on all major procurement projects.
- 5.5 The Sourcing and Category Management team also includes a Sourcing Support team which provides operational support including data analysis, the management of the City's Contracts Register and the City's e-sourcing system.
- 5.6 Officers undertaking procurement must engage with CLPS unless they have delegated authority approved by the Chamberlain to undertake procurements outside of the CLPS.
- 5.7 Where officers are undertaking procurements governed by the Projects Regulations they must consult the CLPS regarding the envisaged procurement options during the preparation of all their Gateway reports.
- 5.8 Planning and undertaking major procurements is complex and requires the management of resources across the City. Chief Officers must therefore provide the Head of CLPS with an annual forecast by the end of February every year of all the procurements above £100,000 for supplies and Services and £400,000 for Works, they wish the CLPS to undertake or assist with in the following financial year.
- 5.9 In addition to better planning, this will also benefit the City in terms of the reduced tendering timescales arising from the timely publication of Prior Indicative Notices (PIN's) in the Official Journal of the European Union (OJEU).
- 5.10 Sourcing and Category management also includes a team of Transactional Buyers, who are generally responsible for undertaking all CLPS sourcing for procurements below the City's advertising thresholds which are currently £100,000 for supplies, services and consultancy and £400,000 for works. The Transactional Buyers work closely with the Category Managers.

## **6. Requisition to Pay (RTP)**

- 6.1 The RTP team offers the City a fully integrated service which includes Accounts Payable, invoice matching processing and payments, the management of the City's financial systems relating to procurement, supplier registration, RTP policies and procedures, performance monitoring, systems analysis and development, relationship management, expenditure coding and training.
- 6.2 The RTP team also manages the CLPS Helpdesk which deals with all of the City's internal and external enquiries and requests for assistance.
- 6.3 The RTP team work closely with the Heads of Finance for each department and as with the Category Management team, senior members of the team have each been assigned responsibility for maintaining and building relationships with assigned departments

## **7. Procurement Policy and Compliance (PP&C)**

- 7.1 The PP&C team is responsible for assisting the Head of CLPS with the development and maintenance of procurement policy, regulations and strategy. The team is also responsible for assisting with compliance and service performance monitoring and development and for reporting this internally and externally,
- 7.2 The PP&C team provide CLPS and the City with a range of procurement advisory and research services and act as a link with a range of departmental specialists in C&CS, Town Clerk's, Chamberlains, and City Surveyors who provide vital legal, HR, accounting, policy and technical support services to CLPS
- 7.3 In addition to advice on discrete procurement projects, officers may also contact the PP&C team for advice on any aspect of the City's Procurement Regulations, Procurement Guidelines, templates, wider policy and legislative matters pertaining to procurement and also regarding the regulatory and compliance aspects of procurement related committee reports.
- 7.4 When formal CLPS and C&CS comments or advice on Committee reporting is sought officers must endeavour to do so in good time and ideally two weeks before a final draft is required to be submitted.

## **8. Key Aspects of Procurement**

- 8.1 In cases where it is a legal requirement that the work has to be undertaken by a specific statutory undertaker it will only be necessary for the Chief Officer to agree terms with that statutory undertaker who will carry out the work.
- 8.2 The Officers having responsibility for the procurement of contracts shall ensure that:-
  - (a) all European Union (EU) Directives and other statutory requirements relative to the contract are complied with;
  - (b) all directives issued by the Town Clerk or Chamberlain, in order to secure the efficiency and effectiveness of the City's procurement arrangements, are complied with unless the Town Clerk or Chamberlain agrees that it is in the interests of the City not to do so in a particular case;
  - (c) the financial standing of the main contractor has been appraised by the Chamberlain for all contracts with an estimated value over £150,000 and financial security is obtained where necessary against default on the part of any nominated or named sub-contractors or suppliers employed on the contract. Officers shall liaise with the Chamberlain when arriving at the level and form of the security thought necessary, and regard shall be given to the costs and risks involved. Consideration should be given to the following:

- the sufficiency of the main contractor's obligations to the City in respect of the financial consequences of such defaults
- obtaining collateral warranties from the nominated sub-contractors or suppliers where necessary, and in the case where the main contract is being entered into with a company that is part of a larger group, a parent company guarantee from the ultimate holding company may be required. Draft forms of collateral warranties and / or parent company guarantees are available from the Comptroller & City Solicitor and, when deemed to be required, should form part of the tender documentation.
- whether it may be necessary to require a deed of vesting or bond to cover materials or goods purchased in advance of entering into the main contract. If needed C&CS can advise.
- assessment of potential risks and the views of the Insurance Officer must be sought to determine those Insurances and limits which should be maintained, and whether a limitation on liability is to apply to the contract or contracts being procured.
- agreed strategy to address and agree contract payment and price management terms, including but not limited to, pricing schedules, deposits, performance milestones, payment approvals, price adjustments and any other terms deemed necessary to safeguard the City's operational and commercial interests

**8.3** Legislation applying the EU Procurement Directive, (enshrined in the Public Contracts Regulations 2006) to the City of London Corporation only does so in its capacities as a local or police authority. The City has, however, decided to apply the Directive across all its funds except in cases where there is a satisfactory business case, inclusive of risk assessment, not to do so. Such action must be authorised by the Chamberlain who, before exercising this power, shall seek and obtain the comments of the Chairman and Deputy Chairman of the relevant committee or, failing either of them, their nominees together with any other Members he deems appropriate. If the proposal involves a recharge to the City Fund the advice of the Comptroller & City Solicitor must also be sought.

**8.4** Officers shall take such action as is reasonable to satisfy themselves that the City will receive value for money in procurement, in accordance with best value principles<sup>1</sup> and in compliance with the requirements of both English and EU law. This will normally involve the seeking of competitive tenders or quotations in accordance with EU Directives, these Procurement Regulations, and the City's advertising and other thresholds set out in this document.

**8.5** Only in a very limited number of instances is it not necessary to seek a competitive tender or quotations:-

- (a)** for certain types of procurement contracts such as single supplier framework agreements<sup>2</sup>;
- (b)** when appointing Counsel;

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<sup>1</sup> Best Value principles are set out in the Supporting Guidelines on the City's Intranet.

<sup>2</sup> It should be noted that the majority of framework agreements have more than one supplier and these require a mini-competition to be carried out

(c) where the estimated contract price for works, supplies and/or services (excluding schedule of rates contracts and professional consultants) is below £400,000 and the Chief Officer wishes to reappoint a contractor using rates previously shown to represent value for money in prior competition on earlier phases: provided always that any additional phases had been previously identified to all tenderers at the initial tender advertisement and invitation stage; and such action is in compliance with the public procurement regulations

(d) <sup>3</sup> when there is only one supplier that can be used, for example in acquiring necessarily compatible Information and Communications Technology (ICT) equipment, and/or a supplier or framework has been mandated by Act of Parliament, Statutory Instrument, a central government department or a similarly nationally recognised body for any area of expenditure: provided always that:-

- approved funding provisions have been made;
- where expenditure is on behalf of the Police Committee, the Commissioner of Police has ensured that the intended purchase is satisfactory in meeting the requirements of the Force, and that there are no practical alternatives available;
- where expenditure is not on behalf of the Police Committee, the Chamberlain's IS Director has been consulted and is satisfied that it conforms to the City's IS strategy, and that the choice of supplier is reasonable.

(e) <sup>4</sup> for offers of employment and other contracts of employment including the appointment of performers and members of their entourages by the Barbican Centre and Guildhall School of Music and Drama.

8.6 Employees are required to follow correct buying and payment processes. The City has adopted a **No PO (purchase order) No Pay** policy which requires, with some exceptions (e.g. utilities, rents and rates); departments to raise CBIS<sup>5</sup> purchase orders at the point when goods, services and works are ordered.

## 9. Waivers

9.1 In special or exceptional circumstances, the requirements of the Procurement Regulations to the seeking of tenders or quotations may be waived provided one of the following authorisations has been received:

Estimated Contract Cost	Approval Required by
Up to £50,000	Chief Officer must be in writing
Over £50,000 and up to £2,000,000	Spending Committee and Finance Committee (and Projects Sub-Committee for contracts let as part of projects) unless waiting for the next Spending Committee meeting would have a detrimental effect to the business the urgent waiver process in

<sup>3</sup> Compatible ICT equipment is only one possible example, others may include upgrades to existing plant or capital equipment

<sup>4</sup> Officers should consult the City's Corporate HR Service for guidance

<sup>5</sup> There are some exceptions where purchase orders are raised in local systems such as Orchard Housing Repairs. In these instances subsequent invoices are received electronically in CBIS already matched.



	Regulation 9.2 applies
Over £2,000,000	Spending Committee, Finance Committee (and Projects Sub-Committee for contracts let as part of projects) and Court of Common Council

9.2 If waiting for a waiver to be granted by Spending Committee in accordance with Regulation 9.1 would have a detrimental effect to the business the following thresholds will apply to urgent waivers:

Estimated Contract Cost	Approval Required by
Over £50,000 and up to £500,000	Chamberlain may authorise waivers
Over £500,000 and up to £2,000,000	Town Clerk in consultation with Finance Committee Chairman (or Deputy Chairman in Chairman's absence)

9.2.1 All waivers granted in accordance with Regulation 9.2 must be reported to the next Spending Committee.

9.2.2 Officers seeking an urgent waiver from the Chamberlain or Town Clerk in accordance with the thresholds in Regulation 9.2 must complete a formal report with a template available from City Buyer portal.

9.3 Officers relying on a waiver from their Chief Officer for procurements up to £50,000 must present a signed **waiver form** available from City Buyer and the CLPS Sourcing team. Chief Officers may delegate authority for senior officers in their department to sign waivers on their behalf but any such lists of authorised officers must be provided to CLPS. Chief Officers will still be accountable for any waivers signed on their behalf.

9.4 Chief Officer Waivers for procurements up to £50,000 can either be granted on a single order or contract basis or be applied to an aggregated group of purchases for a particular period up to the approvals thresholds.

9.5 The Chamberlain shall produce a retrospective report for the Finance Committee on all the waivers they, the Town Clerk and Chief Officers have granted in the previous quarter.

9.6 **It is not lawful for officers or members to waive compliance with the EU Procurement Directives.**

9.7 In the event of an emergency, officers are authorised to depart from the requirements of these Procurement Regulations to meet the exigencies of the situation. Any such action taken is to be reported in writing at the earliest opportunity to the appropriate Committee and the Chamberlain and a formal record of the actions taken must be made.

## 10. Contract Letting

10.1 Approvals for contracts to be let as part of projects will be sought via the City's approved Project Approval Procedure.

10.2 For all contracts to be let, Officers should refer to the Procurement Thresholds section of these Regulations.

10.3 Depending on estimated values and on whether they are project related or not, Members will need to be involved at appropriate stages.

10.4 For non-project related contracts, depending on the estimated contract value and the per annum contract value, there may be 3 stages of committee involvement:-

**Stage (1)** the relevant Spending Committee(s) agrees the high level evaluation criteria to be applied in the selection process;

**Stage (2)** the relevant Spending Committee(s) receives a ‘for information’ update following supplier short-listing;

**Stage (3)** The Chamberlain, Category Board as delegated by the Chamberlain, or relevant Spending Committee(s) receives the final recommendation on contract award, and depending on the estimated per annum contract value also the Finance Committee and Court of Common Council as shown in the table below

Estimated Contract Cost	Approval Required by	Stages
<sup>6</sup> Less than EU Threshold	There is no general requirement to report to committee but rules should be followed as set out in the Procurement Thresholds Section of these Regulations	
<b>Estimated Contract Cost (per annum)</b>	<b>Stage (3) Approval Required by</b>	
Above EU Threshold in total but less than £2m pa	Chamberlain or CLPS Category Board as delegated by the Chamberlain	3
Above £2m pa to £4m pa	Spending Committee and Finance Committee	1,2 and 3
£4,000,000 and above pa	Spending Committee, Finance Committee and Court of Common Council	1,2 and 3

10.5 Corporate collaborative contracts (which would otherwise need to be reported to multiple committees and for this purpose multiple means more than two) may be reported to Finance Committee. In these instances, the appropriate CLPS Category Manager will facilitate consultation with the chairmen of the other relevant committees and a statement to that effect included in the report.

10.6 If the recommended sourcing approach is to join a framework<sup>7</sup> then in accordance with the thresholds in the above table, there may still be a need for the spending committee to agree the selection criteria weightings prior to the call for competition and for the outcome of the mini-competition to be reported. However, the stage 2 short-listing report will not be applicable. The Chamberlain and Chief Officers should satisfy themselves that any contracts to be let that would not otherwise need to be reported because they do not fall within the thresholds above for committee reporting purposes, do not have a sensitivity that would require them to be reported.

<sup>6</sup> The current EU Threshold for Supplies and Services is £173,934 (at 1 November 2013). A new EU Procurement Directive has been agreed in October 2013 and will be implemented into UK law in 2014 date of implementation to be advised. This will increase the current EU thresholds significantly and consequently the City’s own thresholds will also need to be revised when the new directive is implemented.

<sup>7</sup> Further information on the use of Framework Agreements can be found in section 12 of these Regulations and the separate Supporting Guidelines

10.7 In accordance with Regulation 10.4 above, where the Chamberlain has delegated authority to approve the lettings of non-projects related contracts above the EU thresholds but less than £2 million per annum, officers must present the Chamberlain with a formal report from the Chairman of the relevant procurement Category Board. The Chamberlain will produce a retrospective summary report of all approved contracts lettings for the Finance Committee in the previous quarter.

10.8 When exercising delegated authority in accordance with these Regulations, the Chamberlain may, in exceptional circumstances, refer decisions to the Finance or appropriate spending Committee. Exceptional circumstances may include sensitive issues such as conflicts of interest, significant alteration to front line service provision, staffing matters, changes to City policies, London Living Wage or other such matters arising from procurement strategies or contracts awards.

10.9 All contracts let for works above £400,000 and above £250,000 for Supplies and Services contracts must be sealed by the City and executed as a deed unless the C&CS advise otherwise. The effect of having a deed in place creates an extended period of limitation of 12 years during which the City can enforce its contractual rights and may be preferable in respect of other contracts, even if their value falls under the financial threshold mentioned in this paragraph e.g. where problems may not surface for some years and / or involve structural considerations. If in doubt officers must contact the Comptroller & City Solicitor for advice before seeking tenders.

**11. Increases in Contract Value**

11.1 For all contracts where specific provision has been previously approved and expenditure will exceed<sup>8</sup> the approved provision (after allowing for inflation) by more than 20% or £400,000, whichever is the lowest, expenditure shall only be incurred when the following authorisations have been obtained:-

Expenditure	Approval by
Less than £500,000	Spending Committee and the Committee(s) which considered the Detailed Options Appraisal or Tender Evaluation Report
£500,000 and above	Spending Committee, the Committee(s) which considered the Detailed Options Appraisal or Tender Evaluation Report and the Court of Common Council

11.2 The alteration of the terms and conditions or the suspension or abrogation of the proper performance of any contract, or part or parts thereof, to which the City of London Corporation is a party, shall be subject to the approval of the relevant Spending Committee.

**12. Framework Agreements**

12.1 The City Corporation is increasingly making use of Frameworks. This includes frameworks established directly by and for the City, such as the framework for Minor Works and Refurbishment, including Mechanical and Electrical Services for works valued between £3,000 and £150,000. It also includes frameworks established by other public bodies and which are available to the City Corporation and which are approved by the Chamberlain or Committee in accordance with the Contracts Lettings thresholds in

<sup>8</sup> If a contract includes flexibility for increases/decreases in revenue spend with a supplier because of the anticipation of additions/subtractions to scope, e.g., new properties coming in to scope for a corporate cleaning services contract, and the increase/decrease in budgetary provision essentially forms part of a separate report (such as for a building acquisition) this regulation would NOT apply.

Regulation 10.4 a use, such as the iESE Contractors framework for project works over £1m. The number of frameworks in use is likely to increase.

- 12.2 Frameworks provide the City Corporation with options and alternatives. They provide a pre-competed route to market and hence reduce the administrative burden of running a full procurement procedure each time so it is envisaged that where a framework is available it will be used. Framework agreements can be held with a single supplier or they may include several suppliers. However, they do not give contractors any exclusive rights to undertake work or supply goods and services to the City, and the City is not obliged to procure through the frameworks.
- 12.3 If officers decide to create a City framework a formal procurement process must be undertaken in accordance with the City' tendering thresholds.
- 12.4 Approval for the award of a framework agreement will be subject to the City's contracts letting thresholds in Regulation 10.4. Officers must calculate the threshold based on the estimated value of the City's potential expenditure via the framework over the period that usage is required.
- 12.5 The City may also decide to access and utilise frameworks awarded by other public bodies as an alternative to open tendering.
- 12.6 The use of call offs from approved external frameworks is also subject to the contract lettings approval thresholds in Regulations 10.4.

### **13. Access Agreements**

- 13.1 In the search for Best Value and more collaborative methods of procurement many Local Authorities, and other public bodies which are Contracting Authorities for the purposes of the Public Contracts Regulations 2006, are establishing Framework Contracts. Such contracts create a pool of contractors, consultants or suppliers procured by competitive and EU compliant tender procedures which are available for engagement by other Local Authorities without the need for an extended tender period.
- 13.2 The ability to access externally procured Frameworks is sometimes governed by a formal Access agreement. The Lead Authority for the Framework will often, for reasons of confidentiality, require that any other parties wishing to access the Framework sign an Access Agreement before releasing full details of the terms of the Framework. Without the full details officers are not in a position to report to Members about the potential benefits of accessing any such Framework.
- 13.3 Aside from confidentiality obligations such agreements often contain a requirement for the party wishing to access the Framework to give indemnities to the Lead Authority to protect the Lead Authority from claims. The form of such indemnities vary so it is not possible to be specific as to what types of indemnity may be required, although breaches of confidentiality and Data Protection breaches would not be uncommon subjects.
- 13.4 To avoid the need for separate reports to be considered each time the existence of a potential Framework contract becomes known to officers a resolution has been passed by Finance Committee authorising the Comptroller & City Solicitor to sign such agreements on the City's behalf following approval of the terms by the Chamberlain, including any indemnity.
- 13.5 It is a requirement that the signing of any access agreement should subsequently be reported to the relevant Spending Committee for information.

## 14. Due diligence

- 14.1 Officers wishing to utilise external frameworks for procurements in excess of the EU tender thresholds must also undertake a formal due diligence process. A due diligence checklist has been prepared for this purpose in conjunction with C&CS and is published on the City Buyer section of COLNET.
- 14.2 The use of frameworks must be based on best value principles; they must not be used automatically without officers first having a sound business case demonstrating why the use of a framework would deliver better value than a request for quotation or an open tender.
- 14.3 Because of the legal and commercial complexities inherent in the creation and utilisation of framework agreements, the CLPS, must manage both the procurement of the City's own framework agreements and access to external frameworks.
- 14.4 The CLPS must consult with C&CS at appropriate stages of the due diligence process and in relation to the signing of access agreements in accordance with Regulation 13.1 – 13.5.
- 14.5 After a framework agreement has been approved for use by the Chamberlain or Committee in accordance with the Contracts Lettings thresholds in Regulation 10.4 and the call off thresholds in Regulation 12.4, officers can make subsequent procurements via the framework in accordance with its scope and estimated value thresholds. Each framework must be used in accordance with its underlying rules, such as any requirement to run mini competitions.
- 14.6 The due diligence process may be waived in writing by the Head of CLPS on a case by case basis, when an external framework agreement is to be used for low risk low value purchases of supplies below the EU tendering thresholds.

## 15. Procurement Thresholds

- 15.1 The following section outlines the City Corporation's procurement thresholds for **requesting quotations and inviting tenders**.
- 15.2 Thresholds should be calculated on the basis of the whole estimated contract value over the life of a contract and not the annual value.
- 15.3 When calculating thresholds for procurements or contracts lettings approvals, officers must also factor into the estimated contract value, provision for subsequent phases of a project and appropriate contract extension clauses, if they wish to retain the possibility of continuing the next phase of the project or contract with the original contractor. Failure to do this may result in officers having to conduct a fresh tender or seek a formal waiver of these regulations.
- 15.4 All contracts over £100k for Supplies & Services and Professional Consultancy, and above £400,000 for Works, must be advertised.
- 15.5 The thresholds cover three main service areas: (1) Supplies and Services (2) Professional Consultancy, and (3) Works. These thresholds are intended to provide comprehensive guidance to officers and departments undertaking procurements, but all procurements are unique and in any cases of doubt, officers should contact the CLPS in the first instance to clarify their requirements.

## 16. Supplies and Services (excluding Professional Consultancy)

**16.1** Supplies (or goods), are defined as physical, tangible products, capable of being delivered to a purchaser and involves the transfer of ownership from seller to buyer (e.g. a computer, vehicle). Services are the action of helping or doing work for somebody rather than simply supplying goods e.g. accountancy, transportation, research, cleaning and security services etc. COL defines consultancy as a special kind of service for which separate procurement rules apply.

Type of Procurement	Threshold	Basis and Guidance
Purchases	£0 – £2,000	Low value purchases can be undertaken at officers' discretion <sup>9</sup> , providing Best Value Principles are observed.
Minor Procurement	£2,001 – £20,000	A minimum of three firms to be asked to quote one of which should be: local, a small or medium sized enterprise (SME) or a Social Enterprise.
RFQ	£20,001 – £100,000	Request for Quote (RFQ) – a minimum of three firms to be invited to submit written quotations including: one local firm, a small or medium sized enterprise (SME) or a Social Enterprise.
Advertise	£100,001 – <sup>10</sup> EU threshold	Written RFQ or Tender – a minimum of three firms to be invited to submit written quotations or tenders, which must be advertised via Pro Contract ( <a href="http://www.londontenders.org">www.londontenders.org</a> )
OJEU	Above EU threshold	<b>Part A</b> services must be advertised in the Official Journal of the European Union ( <a href="http://ted.europa.eu">http://ted.europa.eu</a> ) via ProContract (contact CLPS Sourcing Support Team). <b>Part B</b> services should be advertised on Pro Contract / London Tenders Portal and tendered accordingly. A minimum of <b>five</b> tenders should be sought.

## 17. Professional Consultancy

**17.1** The City of London Corporation uses consultants to provide specialist advice which is not available within COL or which officers cannot undertake due to other commitments.

Type of Procurement	Threshold	Basis and Guidance
Minor Consultancy	£0 – £50,000	Officers' discretion, providing Best Value and Local Procurement principles are observed.
RFQ	£50,001 – £100,000	Written Request for Quote (RFQ) or tender a minimum of three firms to be invited to submit written quotations or tenders one of which should be local, a small or medium sized enterprise (SME) or Social Enterprise
Advertise	£100,001 – EU threshold	Written RFQ or Tender – a minimum of three consultants to be invited to submit written quotations or tenders, which must be advertised

<sup>9</sup> Officer's discretion means that officers have the choice of either obtaining more than one quotation, or obtaining a quotation from a single supplier. Officers' discretion does not apply if a corporate contract is available, when it should normally be used.

<sup>10</sup> The current EU Threshold for Supplies and Services is £173,934 (at 1 November 2013). A new EU Procurement Directive has been agreed in October 2013 and will be implemented into UK law in 2014 date of implementation to be advised. This will increase the current EU thresholds significantly and consequently the City's own procurement thresholds will also need to be revised when the new directive is implemented.

		using Pro Contract ( <a href="http://www.londontenders.org">www.londontenders.org</a> )
<b>OJEU</b>	<b>Above EU threshold</b>	Tenders must be advertised in the Official Journal of the European Union ( <a href="http://ted.europa.eu">http://ted.europa.eu</a> ) via ProContract (contact CLPS Sourcing Support Team). A minimum of <b>five</b> tenders should be sought.

## 18. Works

**18.1** “Construction Work” means the carrying out of any building, civil engineering or engineering construction work. The City’s procurement thresholds below should be used in conjunction with the Standing Orders.

Type of Procurement	Threshold	Basis and Guidance
<b>Purchases</b>	<b>£0 – £2,000</b>	Low value purchases can be undertaken at officers’ discretion, providing Best Value Principles are observed
<b>Minor Procurement</b>	<b>£2,001 – £50,000</b>	A minimum of three firms to be asked to quote one of which should be local, a small or medium sized enterprise (SME) or a Social Enterprise.
<b>Works RFQ or ITT</b>	<b>£50,001 – £400,000</b>	Request for Quote (RFQ) or Invitation to Tender (ITT) – a minimum of three firms to be invited to submit written quotations or formal tenders including one: local firm, SME or Social Enterprise. ProContract must be used.
<b>Works Advertise</b>	<b>£401,000 – EU threshold</b>	A minimum of three firms Invited to Tender, and the opportunity must be advertised via Pro Contract ( <a href="http://www.londontenders.org">www.londontenders.org</a> ).
<b>Works OJEU</b>	<b>above EU threshold</b>	Tenders must be advertised in the Official Journal of the European Union ( <a href="http://ted.europa.eu">http://ted.europa.eu</a> ) via ProContract (contact CLPS Sourcing Support Team). A minimum of <b>five</b> tenders should be sought.

**18.2** For procurements below the City’s advertising thresholds, officers are expected to make every effort to comply with the requirement to invite at least one local, SME or Social Enterprise supplier. Although it is not possible to maintain a comprehensive list of all local, SME or Social Enterprise suppliers for everything the City may purchase, CLPS can assist with the identification of suitable local, SME and Social Enterprise suppliers utilising close links with various business development agencies such as Supply Cross River and other agencies accredited by the City’s Economic Development Office.

## 19. E-sourcing

**19.1** The City has implemented an eSourcing system (ProContract) managed by the Sourcing Support team in CLPS.

**19.2** Pro Contract automates much of the procurement processes required to invite tenders and quotations. The system automates correspondence, timescales and tender submissions, and maintains a robust audit trail. As shown in the tables above, where the type of procurement is described as ‘Advertise’ and for the OJEU thresholds above those levels, ProContract should be used.

**19.3** The Sourcing Support team manage officer registrations, role allocations, systems updates, training and tender administration.



- 19.4 Departments must notify the Sourcing Support team when officers with procurement duties requiring access to Pro Contract join the City, transfer to another department, change jobs or leave the City so that the system can be updated accordingly.
- 19.5 Officers may not conduct RFQ's or tenders without authorisation and guidance from the Sourcing Support team.
- 19.6 Tenders may only be opened on Pro Contract by authorised verifiers either in the Sourcing Support team or by officers authorised to act as verifiers by that team.
- 19.7 Verifiers are responsible for opening the electronic tender seal after the tender return date has expired, checking the tender documents for compliance and releasing compliant tenders to members of the procurement project team to undertake the tender evaluation process.
- 19.8 Verifiers must not be part of the procurement team and a member of a procurement team must not open the tenders for the project to which they have been assigned.
- 19.9 Late tenders must not be accepted. If a bidder subsequently appeals against the City's decision to reject their tender, the Sourcing Support team will conduct an immediate investigation.
- 19.10 Unless it can be proven by the bidder, that a Pro Contract failure or some other exceptional circumstance wholly outside of the bidders control, capable of independent verification, prevented submission of the tender, and that such failure occurred before the designated tender submission deadline, the City's decision will be upheld. Issues within the bidders' control such as the failure of their IT system would not normally be acceptable.
- 19.11 In very exceptional circumstances the Head of CLPS may delegate authority for Chief Officers to conduct specialist tenders on Pro Contract independently of CLPS. The only such exception currently is City Surveyors Department (CSD) which has a trained contracts unit which is authorised to conduct tenders for selected works contracts. Such arrangements will be regularly reviewed by the Head of CLPS and may be amended in light of organisational changes.
- 19.12 Officers may not use any alternative means of inviting or receiving tenders other than Pro Contract unless authorised in writing to do so by the Head of CLPS.

## **20. Contracts Register**

- 20.1 The CLPS is responsible for maintaining and updating a Contracts Register for the City.
- 20.2 Operational responsibility for maintaining and updating the system resides with the Sourcing Support team.
- 20.3 Officers who award contracts for the City must notify the Sourcing Support team as soon as a new contract is awarded or provide the information to the team when requested.
- 20.4 Officers who manage contracts must notify the Sourcing Support team when the status of existing contracts change e.g. when they are extended, completed, terminated or extended or provide the information to the team when requested.



## 21. Responsible Procurement

21.1 The City of London recognises that, as an organisation spending money on goods and services, we have a duty to investigate environmentally and socially acceptable alternatives and whenever practicable, purchase products and services which have a positive impact on our environment and surrounding communities. As a result, the City of London encourages its employees involved in procurement to consider three key areas:

- Equalities
- Economic Regeneration
- Environmental Sustainability

21.2 For contracts at or above £250k, officers are required to embed responsible procurement into the core of the contract (where relevant to the contract or contained in existing policy) and weighted at least 10% of the technical contract evaluation criteria. A matrix is provided to assist with the assessment of material issues. Further information to assist with the assessment of material issues can be found in the Responsible Procurement<sup>11</sup> pages on the City Buyer portal.

21.3 All contracts lettings reports must include a section on the responsible procurement outcomes and benefits of the recommended contract award and how those benefits are to be monitored and reported for the duration of the contract.

21.4 The CLPS collaborate closely with technical experts in Responsible Procurement from the Economic Development Office (EDO) and the Town Clerks Policy Division. Senior representatives from these units are members of the various CLPS Category Boards and assist with developing and implementing sourcing strategies for the City's major procurement projects to ensure that the City's responsible procurement policy is delivered and monitored appropriately.

## 22. Local, SME and Social Enterprise Procurement Directive

22.1 Except where there is a contract already in place, the Local, SME and Social Enterprise Procurement Directive requires officers to invite either a UK based SME or Social Enterprise, or a local supplier from one of the Local Procurement target boroughs to quote for all supplies and services contracts valued between £2,000 and £100,000, works contracts valued between £2,000 and £400,000, and consultancy contracts between £50,000 and £100,000 where possible. This is an auditable requirement.

22.2 In addition to the **City of London**, the Local Procurement target boroughs selected due to the high levels of deprivation are: **Tower Hamlets, Hackney; Islington; Camden; Lambeth; Southwark; Newham; Greenwich; Haringey; Lewisham; Barking and Dagenham; Waltham Forest.**

22.3 In order to be awarded the contract, the local business, Social Enterprise, or Small and Medium Sized supplier will have to provide a competitive quote or tender, which offers the best value for money to the City. Officers should continue to procure items/services through contracts set up centrally. Details of corporate contracts are on the City Buyer portal.

22.4 The CLPS Sourcing team will work in partnership with officers and appropriate external organisations such as Supply Cross River and Social Enterprise UK to source suitable SME, Social Enterprise or local suppliers.

## 23. Community Benefits Schedule

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<sup>11</sup> <http://colnet/Departments/Chamberlains/City%20Buyer/Pages/Policy/Responsible-Procurement.aspx>

23.1 For contracts above EU threshold the potential of community benefits should be assessed in co-operation with the CLPS<sup>12</sup>. This scheme encourages suppliers to enter into voluntary agreements to employ, sub-contract and procure in areas defined as ‘most deprived’ in the English Index of Deprivation, to the value of 10% to 20% of the contract value.

## 24. Public Services (Social Value) Act 2012

24.1 The Public Services (Social Value) Act 2012 requires the City to consider how a procurement project might improve the economic, social and environmental well-being of the relevant area when procuring **Public Services Contracts** above the EU threshold. . The Act does not apply to Supplies or Works contracts.

24.2 Undertaking legally compliant procurement projects which meet the City’s obligations under the Act requires expert knowledge and clear procedures. For that reason the CLPS must be consulted or manage all procurements with Social Value Act considerations.

24.3 When planning procurement for a contract that is subject to the Act, the City must determine what internal or external consultation should be undertaken regarding matters that need to be considered under the Act.

24.4 Those matters to be considered must be relevant to the service that is to be procured and what is proportionate in all circumstances to take those matters into account.

24.5 The CLPS will ensure that formal records are made of all Social Value Act and other Responsible Procurement considerations as the City will be expected to demonstrate compliance with the statute.

24.6 Once the planning phase has been completed the procurement must be conducted in accordance with the EU regulations.

24.7 The Best Value duty still applies and must be considered throughout the procurement process and the Public Services (Social Value) Act 2012 does not remove this duty

## 25. London Living Wage

25.1 The London Living Wage (LLW) Campaign was launched in 2001 by London Citizens, a broadly-based organisation including faith groups, trade union branches, schools and community organisations. The LLW is an annual hourly wage level calculation characterised as a wage rate that if earned would place working households in London above “the threshold of poverty, even after benefits and tax credits are taken into account” The LLW is adjusted every year in October and implemented between then and the following April and is currently <sup>13</sup>£8.80 per hour.

25.1 Unlike the national Minimum Wage (<sup>14</sup>currently £6.31 for workers over 21) which is a statutory obligation, the LLW has no standing in law and its implementation by employers is entirely voluntary.

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<sup>13</sup> At 1 November 2013

<sup>14</sup> At 1 October 2013

- 25.2 The Court of Common Council resolved on 8<sup>th</sup> March 2012, “to support the principle of LLW, commit to continuing to pay City Corporation directly-employed staff at or above the LLW; and promote the LLW for the City Corporation’s contractors, taking account, like other organisations adopting the LLW, of the legal, financial and operational circumstances that apply when considering contracts on a case-by case basis”
- 25.3 The City has embraced the LLW in the interests of wellbeing because there is an inherent benefit to service delivery where better pay will attract and retain a higher calibre of staff. The City also recognises the LLW as a positive policy initiative that aims to lift people out of poverty, and it is particularly relevant to London given large income inequalities and high living costs.
- 25.4 The LLW only applies to contracts where contractors involved in service delivery are situated in the Greater London Area as defined by the Greater London Authority (GLA). The LLW does not usually apply to supplies contracts.
- 25.5 Procedures to apply the City’s LLW policy for the City’s staff, contracts and procurement were approved by Policy and Resources, Establishment and Finance Committees in July 2012.
- 25.6 The City’s policy recognises that consideration of LLW in contracts must be undertaken on a case by case basis and that it is not lawful to adopt a blanket policy to compel employers to adopt a voluntary wage rate.
- 25.7 This means that LLW considerations are best addressed during the procurement process every time new contracts are created.
- 25.8 Undertaking legally compliant procurement projects at the same time as successfully delivering the City’s LLW policy, from initial planning to contract award, requires expert knowledge and clear procedures. For that reason the CLPS must manage all procurements which have LLW considerations.**26. Contracts procured by third parties, subsequently assigned to the City**
- 26.1 For the avoidance of doubt, the consultation with CLPS as required by Regulation 1.4 on all opportunities and proposals for letting of contracts, and the provisions of Regulation 1.3 providing that the Procurement Regulations apply to all procurements undertaken by any City department, shall not apply to those contracts which have been procured by a third party and then assigned to the City following the acquisition by, or reversion to, the City of long leasehold interests or the acquisition of freehold interests.
- 26.2 These contracts will be handled directly by the City Surveyor who shall ensure in consultation with the Comptroller and City Solicitor that the required due diligence on the contracts is undertaken on any contracts which are to be assigned or novated to the City following the completion of the commercial transaction.