

Report – Finance Committee

Revisions to the Procurement Code

To be presented on Thursday, 8th December 2022

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

SUMMARY

The Procurement Code is the policy which underpins all procurement and purchasing activity across the City Corporation including our institutional departments. Procurement policies are reviewed annually to ensure they are up to date and still operationally viable. The revisions support the efficiency principles under the Target Operating Model (TOM) specifically to align activity and resources to our corporate outcomes; increase the pace of decision making; and achieve cost savings to resolve budget deficits.

Following a consultation process, the proposed revisions, outlined below, support the efficiency principles under the TOM specifically to align activity and resources to our corporate outcomes; increase the pace of decision making; achieve cost savings to resolve budget deficit. Your Operational Property and Projects Sub-Committee and Finance Committee approved the most recent set of revisions in September and November 2022 respectively and now recommend these changes to the Court.

RECOMMENDATION

The Court of Common Council is asked to approve the revisions to the City Corporation's Procurement Code effective from 3rd January 2023 as set out in appendix 1

MAIN REPORT

Background

1. The Procurement Code is the policy which underpins all procurement and purchasing activity across the City Corporation and the institutional departments.
2. Part 1 of the Procurement Code is the framework of overarching rules to be followed by any officer when purchasing goods, services or works and has been developed in line with UK Public Contracts Regulations 2015. Part 2 of the Procurement Code is the guidance document which provides context, processes, and or further information relevant to compliance with the rules outlined in Part 1.
3. Procurement policies are reviewed regularly to ensure they are up-to-date and are still operationally viable. A review has recently been undertaken, and proposed amendments as recommended by your Finance Committee are hereby proposed

for adoption. These amendments support the efficiency principles under the TOM specifically to align activity and resources to our corporate outcomes; increase the pace of decision making; and achieve cost savings to resolve budget deficit.

Current Position (Revisions to the Procurement Code)

4. The majority of the rules contained in the Code have not changed. Generally, some of the terminology has been updated because of changes to City Corporation governance arrangements as a result of the TOM and the UK's exit from the European Union and resulting changes to UK Procurement practices.
5. A comprehensive list of the proposed changes can be found in Appendix 1.
6. Highlighted in this section of the paper are rules with the major revisions impacting governance or change of process:

Rule	Changes
Procurement Thresholds and Procedures – Rule 15	<ul style="list-style-type: none"> Operational purchasing threshold raised from up to £50,000 to up to £100,000 which will devolve responsibility for purchases under £100,000 to departmental officers.
Contracts Letting Thresholds – Rule 16	<ul style="list-style-type: none"> The contracts lettings table has been amended to align to the Procurement Thresholds in rule 15. The first row has been amended from £50,000 and below to £100,000 and below. Second row (£50k to £100k threshold) has been removed as it's no longer required.
Appointment of External Procurement, Property and Legal Consultants – Rule 23.3	<ul style="list-style-type: none"> Officers planning to appoint external property and construction advisors must consult with the City Surveyor before all such appointments can be made.
Waivers – Rule 25	<ul style="list-style-type: none"> Due to the increase in the Procurement Threshold, the waiver process under £50,000 has been removed with the exception of an “Order outside of a Corporate Contract”. A new rule added that, where applicable, relevant Responsible Procurement commitments should be considered and included in contracts awarded as part of the waiver process.
Contract Extensions - Rule 30	<ul style="list-style-type: none"> The total contract value threshold has been raised from £50,000 or more to £100,000 or more for officers to undertake a formal review for all contracts extensions where terms allow in conjunction with the Commercial Service. This is in

	<p>alignment with the changes to the Procurement Thresholds in rule 15.</p> <ul style="list-style-type: none"> • A rule has been added to evaluate Responsible Procurement commitments as part of the contract review. • For total contract values at £4m or above, the approval process for using contract extension provisions has been updated so that approval is required from the relevant Category Board and Sub-Committee. However, approval from Finance Committee and Court of Common Council will no longer be required where Court of Common Council has approved the contract extension option as part of the original contract award with a recommendation to authorise the Operational Property and Projects Sub Committee to approve the use of contract extension provisions. This will allow for more efficient decision making whilst still ensuring appropriate Member scrutiny by the Operational Property & Projects Sub Committee.
Contract Termination – Rule 31	<ul style="list-style-type: none"> • The threshold for consulting the Commercial Service and C&CS increased from over £50,000 to over £100,000 to align with the changes to the Procurement Thresholds in rule 15.
E-invoicing Policy – Rule 45	<ul style="list-style-type: none"> • A new rule confirming that the Corporation's E-invoicing policy is the preferred method of receiving invoices.
Responsible Procurement updates – Rules 46-55	<ul style="list-style-type: none"> • Rules amended to ensure departments consider the commitments of the Responsible Procurement Policy when awarding contracts from external frameworks, waivers, extensions, novations and exemptions. • For contracts above £100,000, the minimum weighting for Responsible Procurement has been raised from 10% of the technical envelope to 15% of the overall score including call off contracts from framework agreements. This will apply from 1 September 2022. • Sectors deemed high risk for equalities issues as outlined in the Responsible Procurement Toolkit must include standard specification wording and should consider evaluating suppliers on active steps taken to embed equity, diversity and inclusion within their business and industry. • Removed requirement to consult with the Social Value Panel which is no longer in operation and the learning from the Panel has been incorporated into the Responsible Procurement bank of questions.

	<ul style="list-style-type: none"> • Living Wage rules updated to require officers to ensure relevant suppliers comply with the Living Wage policy and annual uplifts in living wage rates in accordance with the City Corporation Living Wage Policy. • Modern Slavery and Human Rights rules updated to ensure that relevant suppliers abide by not only the Modern Slavery Act but also updates to modern slavery legislation.
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7. The new Procurement Bill is due to be enacted into UK law in 2023 and will replace the current Public Contracts Regulations 2015. As a result, it is anticipated that further changes may be required and will be considered as part of the next annual review of the Procurement Code.
8. In terms of raising the Operational Purchasing threshold from up to £50,000 to up to £100,000 at which departments can undertake their own quotation process, a review has been undertaken of eight other London Boroughs using a comparison produced by the London Procurement Network. Out of the eight London Boroughs, four London Boroughs use department led procurement for contracts under £100,000; one borough undertakes departmental led procurements below £160,000 and three Boroughs were department led below £50,000.
9. The increase in the operational purchasing threshold from up to £50,000 to up to £100,000 will devolve responsibility for purchases under £100,000 to departmental officers. However enhanced mandatory training on the use of the Procurement Authorisation Report for contracts up to £100,000 is being developed to enhance officer efficiency and compliance with the Procurement Code. In addition, a quote process checklist will be available for officers for operational purchasing below £100,000 to guide them in completing a competition in line with our procurement requirements.

Conclusion

10. Your Finance Committee recommend the approval of the changes to the Procurement Code outlined in this report and in Appendix 1 effective from 3 January 2023 to ensure that the Code stays relevant and in alignment with the principles of the TOM.

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

DATED this 15th day of November 2022.

SIGNED on behalf of the Finance Committee.

Deputy Henry Colthurst
Chairman, Finance Committee