

City of London Procurement Regulations

July 2012¹

Overview

1. Procuring goods and services in the right way is essential to ensure value for money is achieved
2. Any future changes to these Procurement Regulations requires the authorisation of the Finance Committee
3. These procurement regulations apply to all procurement undertaken by any City department.
4. The Strategic Procurement Unit (SPU) 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.
5. 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 SPU, or the C&CS in cases that are complex or novel, will advise on appropriate terms.
6. There may be occasions when it is appropriate to collaborate with other authorities, where value can be added or costs can be reduced.
7. The City will always endeavour to procure responsibly, purchasing products and services which have a positive impact on our environment and our surrounding communities. The Public Services (Social Value) Act 2012 also requires public bodies by law to consider how the services they commission and procure might improve the economic, social and environmental wellbeing of an area.
8. Procurement activity undertaken as part of a project will be subject to the separately published approval process set out in the Project Approval Procedure.
9. Where corporate contracts are in place they must be used. Off-contract spend will be monitored and reported as appropriate.

¹ Incorporating latest amendments approved under delegation by the Chairman and Deputy Chairman of Finance Committee 2nd August 2012

Procurement

10. 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 the statutory undertaker who will carry out the work.
11. The Officer or Consultant 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 contracts with an estimated value over £150,000, and financial security is obtained where necessary against default on the part of any 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 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
 - 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.
 - assessment of potential risks, and the views of the Insurance Officer sought when assessing risk 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.
12. Legislation applying the EU Procurement Directive 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 Town Clerk 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.

13. The Finance Committee shall be responsible for the approval of the City's approved lists of contractors and consultants².

14. 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 principles³ 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.

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 agreements⁴;

(b) when appointing Counsel;

(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;

(d) 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 the National Policing Improvement Agency (NPIA)⁵ 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;

² As PP2P Repairs & Maintenance initiatives come on stream this paragraph can be removed as these lists will be discontinued.

³ Best Value principles are set out in the Guidelines

⁴ 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

⁵ This reference pertains to Police Act 1996 (Equipment) Regulations 2011

15. 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
Over £50,000 and up to £2,000,000	Spending Committee (and Projects Sub-Committee for contracts let as part of projects)
Over £2,000,000	Spending Committee, Finance Committee (and Projects Sub-Committee for contracts let as part of projects) and Court of Common Council

16. 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 at the earliest opportunity to the appropriate Committee.

Contract Letting

17. Approvals for contracts to be let as part of projects will be sought via the City's approved Project Approval Procedure.
18. For all contracts to be let, Officers should refer to the Procurement Thresholds section of these Regulations.
19. Depending on estimated values and on whether they are project related or not, Members will need to be involved at appropriate stages.
20. 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 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
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 Regs	
Estimated Contract Cost (per annum)	Stage (3) Approval Required by	
Above EU threshold in total but less than £250,000 pa	Spending Committee	3
£250,000 to £2m pa	Spending Committee and Finance Committee	2 and 3
£2,000,000 and above pa	Spending Committee, Finance Committee and Court of Common Council	1,2 and 3

21. 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, consultation must take place with the chairmen of the other relevant committees and a statement to that effect included in the report.
22. If the recommended sourcing approach is to join a framework⁶ then in accordance with the thresholds in the above table, there may still be a need for the spending committee to agree the

⁶ Further information on the use of Framework Agreements can be found in paras 27 – 31 of these Regulations and the separate Supporting Guidelines

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.

23. 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.
24. All contracts let for works above £400,000 and above £150,000 for services and supplies must be sealed unless the C&CS advise otherwise.

Increases in Contract Value

25. For all contracts where specific provision has been previously approved and expenditure will exceed⁷ 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

26. 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.

Frameworks

Access Agreements

27. 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.
28. The ability to access the Framework is generally 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

⁷ If a contract includes flexibility for increases/decreases in revenue spend with a supplier because of the anticipation of additions/subtractions to scope, eg., 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.

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.

29. 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.
30. 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.
31. It is a requirement that the signing of any access agreement should subsequently be reported to the relevant Spending Committee for information.

Use of Frameworks

32. 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 a Committee has approved for use, such as the iESE Contractors framework for project works over £1m. The number of frameworks in use is likely to increase. A due diligence procedure has been developed to assist officers who wish to consider accessing a new Framework.
33. 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. 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.
34. Once a framework has been approved for use officers have authority to undertake procurements via the framework, subject to Clause 22 of these Procurement Regulations. Each framework must be used in accordance with the underlying rules established by the individual framework, such as any requirement to run mini competitions. If a framework is used there is no need to conduct a separate tender exercise as would normally be required pursuant to these Procurement Regulations.

Procurement Thresholds

35. The following section outlines the City Corporation's procurement thresholds **which apply unless an approved framework is used.**
- 36.
37. The thresholds should be used in conjunction with the City's Standing Orders and Procurement Regulations.
38. Thresholds should be calculated on the basis of the whole estimated contract value over the life of a contract , and not the annual value.
39. The City has implemented an eSourcing system (ProContract) which automates much of the procurement processes (e.g. to invite tenders and quotations, as well as to source goods and services), which uses templates based on the thresholds below. The system automates correspondence, timescales and tender submission, and maintains a robust audit trail of all procurements undertaken on the system. As shown in the tables which follow, where the type of procurement is described as 'Advertise' and for the OJEU thresholds⁸ above those levels, ProContract should be used.
40. All contracts over £50k for Supplies & Services and Professional Consultancy, and above £400,000 for Works, must be advertised.
41. 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 SPU in the first instance to clarify their requirements.

⁸ EU Procurement Thresholds are revised every two years. The up to date values can be found in the supporting guidelines on the City Buyer portal.

Supplies and Services (excluding Professional Consultancy)

42. 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 generally physically intangible, the non-ownership equivalent of supplies / goods (e.g. accountancy, transportation, research). COL defines consultancy as a special kind of service for which separate procurement rules apply.

Type of Procurement	Threshold	Basis and Guidance
Purchases	£0 – £500	Low value purchases can be undertaken at officers' discretion ⁹ , providing Best Value Principles are observed.
Minor Procurement	£501 – £20,000	Procurements can be undertaken at officers' discretion ⁶ providing Local and SME Procurement Policy and Best Value principles are observed. A minimum of two firms should be asked to quote one of which should either be local ¹⁰ or classified as a Small or Medium-Sized Enterprise (SME).
RFQ	£20,001 – £50,000	Request for Quote (RFQ) – a minimum of three firms to be invited to submit written quotations, including either one local firm or a Small or Medium-Sized Enterprise (SME).
Advertise	£50,001 – 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 (www.londontenders.org)
OJEU	Above EU threshold	Part A services must be advertised in the Official Journal of the European Union (http://ted.europa.eu) via ProContract (contact SPU). Part B services must be advertised on Pro Contract / London Tenders Portal and tendered accordingly. A minimum of five tenders should be sought.

Professional Consultancy

43. 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.
Advertise	£50,001 – EU threshold	Written RFQ or Tender – a minimum of three consultants to be invited to submit written quotations or tenders, which must be advertised using Pro Contract (www.londontenders.org)
OJEU	Above EU threshold	Tenders must be advertised in the Official Journal of the European Union (http://ted.europa.eu) via ProContract (contact SPU). A minimum of five tenders should be sought.

⁹ Officer's discretion does not apply if a corporate contract is available

¹⁰ Refer to Clause 47 to see what is considered local

Works

44. "Construction Work" means the carrying out of any building, civil engineering or engineering construction work.

Type of Procurement	Threshold	Basis and Guidance
Purchases	£0 – £500	Low value purchases can be undertaken at officers' discretion, providing Best Value Principles are observed
Minor Procurement	£501 – £20,000	Procurements can be undertaken at officers' discretion, providing Local and SME Procurement Policy and Best Value principles are observed. A minimum of two firms should be asked to quote one of which should be local or a Small or Medium-Sized Enterprise (SME).
Works RFQ or ITT	£20,001 – £400,000	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 or a Small or Medium-Sized Enterprise (SME) ProContract may be used.
Works Advertise	£401,000 – EU threshold	A minimum of three firms Invited to Tender, and the opportunity must be advertised via Pro Contract (www.londontenders.org).
Works OJEU	above EU threshold	Tenders must either be advertised in the Official Journal of the European Union (http://ted.europa.eu) via ProContract (contact SPU). A minimum of five tenders should be sought.,

Responsible Procurement

45. 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

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. Further information, and a matrix to assist with the assessment of material issues can be found in the Responsible Procurement¹¹ pages on the City Buyer portal.

Local and SME Procurement Policy

46. The Local Procurement Policy focuses on competitive procurement from businesses of any size within the target areas. There is now additionally a focus on competitive procurement from Small and Medium-Sized Enterprises generally and not just in our local boroughs.

47. Except where there is a contract already in place, officers should either invite a local supplier from one of the Local Procurement target boroughs to quote for all supplies, service and consultancy contracts valued between £500 and £50,000 and for works contracts valued between £500 and £400,000, or from a Small or Medium-Sized Enterprise where possible.

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.**

48. In order to be awarded a contract, the local business, 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.

Community Benefits Scheme

49. For contracts above EU threshold the potential of community benefits should be assessed in co-operation with the Strategic Procurement Unit¹². 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.

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

¹² CLPS in future