

Appendix 2

Draft Procurement Regulations January 2014 - Provisional New Regulations

Procurement Regulations

Sections

1. Overview

Update Description

The overview has been revised to replace reference to the old SPU with the new CLPS

Rationale

The new Regulations now reflect the creation of CLPS launched on 2 April 13

2. Codes of Conduct and Conflicts of Interest

A new Regulation setting out a code of conduct for the City's staff in procurement and the consequences for non compliance with the Regulations. The new regulation references the City's New Employee Code of Conduct and Fraud Awareness Policy.

Addresses a weakness in the current Regulations and links directly to the new City Policies

3. External Procurement Consultants and Advisors

New Regulations setting out rules of engagement for the appointment of external consultants to advise on procurement projects. The regulations set out the need for officers to establish a clear business case and consult the CLPS and Comptroller and City Solicitor's before any such appointments are made

The new Regulations will provide greater transparency and ensure that such appointments are in accordance with appropriate contract terms to safeguard the City's interests

4. The Role of the CLPS

A set of new Regulations in sections 4 to 7 setting out the structure of the CLPS and the roles and responsibilities of its main teams and the Category Boards

Provides clarity on the roles and responsibilities of the various CLPS teams and the Category Boards

5. Sourcing and Category Management

See explanation and rationale in 4 above

See explanation in 4 above

6. Requisition to Pay

See explanation and rationale in 4 above

See explanation in 4 above

7. Procurement Policy & Compliance

See explanation and rationale in 4 above

See explanation in 4 above

8. Key Aspects of Procurement

This section sets out the main regulatory conditions applying to procurement and the assessment of financial risk. The section also includes an important new Regulation namely 8.7 which requires officers to follow correct buying and payment processes and reminds them of the City's No Purchase Order (PO) No Pay policy.

The new No PO No Pay policy will improve procurement compliance financial discipline within the City, as well as reducing the potential for procurement fraud. It also delivers potential to improve the efficiency and effectiveness of the City's invoice matching and payments processes, speed up payments to suppliers and reduce the resources currently deployed in raising retrospective orders.

9. Waivers	The new section retains the existing waivers thresholds but proposes that the Chamberlain be granted delegated authority to waive the provisions of the Procurement Regulations for non-project related procurements from £50,000 to £2m. The existing authority for Chief Officers to waive the provisions of the Regulations for procurements below £50,000 will remain in place. Waivers for high value contracts above £2m will still need to be obtained from Spending Committee, (Projects Sub where appropriate), Finance Committee and Court of Common Council.	These adjustments will reduce the number of committee reports being presented to members for waivers for relatively low risk low value procurements which constitute the greater number of such reports. It is recognised that waivers must only be sought and authorised in exceptional circumstances, where sound operational and commercial reasons exist. For that reason the new Regulations oblige the Chamberlain to provide a retrospective report for the Finance Committee summarising all waivers sought and granted in the previous quarter.
10. Contracts Letting	As with the waivers thresholds, it is proposed 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 but up to £2m p.a. Contracts valued above between £2m to and £4m per annum must continue to be reported to Spending and Finance Committees. Very high value contracts above £4m and above must continue to be reported to the relevant Spending Committee, and Finance Committee and the Court of Common Council. The section also makes the point 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 to Committee in 2014	In addition to reducing the number of committee reports, the new thresholds will reduce the time taken by CLPS officers to award lower value contracts and increase the capacity of senior officers and members to concentrate on more complex procurements. When exercising delegated authority, the Chamberlain may, in exceptional circumstances, refer decisions to the Finance Committee. This may include but not be limited to issues such as conflicts of interest, significant alternation to front line service provision, staffing matters, London Living Wage or any other such matters arising from procurement strategies or contracts awards.
11. Increases in contract value	There are no revisions to this section which remains the same as the current Regulations	N/A
12. Framework Agreements	A revised set of Regulations 12 to 14 setting out the City's procedures for accessing, awarding and utilising framework agreements. The creation and usage of legally compliant frameworks, is complex and requires high levels of technical expertise to mitigate risk and ensure best value. The proposed revisions now place a mandatory obligation on officers to consult with both the CLPS and Comptroller and City Solicitor's (C&CS) at appropriate stages before frameworks can be used.	These sections provide a framework for the City to access the benefits and opportunities of frameworks at the same time as mitigating the associated legal risks.
13. Access Agreements	See explanation and rationale in 12 above	N/A

14. Due Diligence	See explanation and rationale in 12 above	N/A
15. Procurement Thresholds	The procurement thresholds sections 15 to 18 contains several revisions to the procurement thresholds. The most significant is the proposal that the advertising thresholds for Supplies and Services and Professional Consultancy contracts are increased from the current £50,000 to £100,000. There are several reasons, the first and most obvious is that the current threshold was first introduced in 2009 and is due to be refreshed. A benchmark review of the Procurement Regulations of 10 neighbouring London boroughs the information from which was utilised to inform this report indicates that the majority had an advertising threshold at or in excess of £100,000 It is felt that the City's advertising threshold for Works contracts should remain unchanged at £400,000. This is still higher than the London borough average but strikes the right balance for the City in terms of transparency and its unique requirement	There are significant benefits to increasing the thresholds, the main one being that it provides officers with greater flexibility in the creation of tender and quotations lists particularly with regard to meeting the City's policy of inviting local suppliers, SME's and social enterprises, or new and innovative entrants to the marketplace.
16. Supplies and Services	See explanation and rationale in 15 above	N/A
17. Professional Consultancy	See explanation and rationale in 15 above	N/A
18. Works	See explanation and rationale in 15 above	N/A
19. E-Sourcing	This is a new section of the Regulations proposed to explain and clarify the key regulatory ground rules to be followed by officers for the operation of Pro Contract the City's e-sourcing application. It is used to conduct the City's Invitations to Tender (ITT's) and Requests for Quotations (RFQ's) especially those above City's and EU advertising thresholds.	The new Regulations set out the essential rules for the City in advertising and managing tenders and clarify the CLPS's responsibility in this area.
20. Contracts Register	These are proposed new Regulations confirming that the CLPS now maintains a Contracts Register on behalf of the City. The Contracts Register includes key details of all contracts awarded by the City including award and expiry dates, contract title, values, renewal dates and responsible officers.	The Contracts Register will become an increasingly important tool in improving the City's procurement and contracts management, facilitating improved planning, arrangements for contracts renewals, internal and external collaboration, auditing and in meeting the City's transparency obligations.

21. Responsible Procurement	Regulations 21 to 25 are a mixture of existing and new Regulations designed to oblige ensure that officers to comply with and implement the City's various policies with regard to responsible procurement as well as the statutory obligation to comply with the provisions of the Public Services (Social Value) Act 2012 and the City's policy on London Living Wage (LLW).	The new Regulations acknowledge, the importance of procurement in enabling the City to meet its wider strategic objectives and that CLPS must work in close partnership with key teams in the Economic Development Unit and Town Clerks Policy Unit and ensure that the delivery of responsible procurement outcomes and targets is formally monitored and reported. The new Regulations also acknowledge the complexities of delivering these objectives in compliance with the wider legislative framework.
22. Local Procurement Directive	See explanation and rationale in 21 above	N/A
23. Community Benefits Scheme	See explanation and rationale in 21 above	N/A
24. Public Services (Social Value) Act 2012	See explanation and rationale in 21 above	N/A
25. London Living Wage 26. Contracts Procured by third parties	See explanation and rationale in 21 above A new section clarifying that contracts procured by third parties and assigned to the City following property acquisitions are exempt from the Procurement Regulations such contracts will be dealt with by the City Surveyor in conjunction with the Comptroller	N/A Clarifies a long standing issue and confirms that the assignment of third party contracts to the City sit outside the Procurement Regulations and are dealt with by the City Surveyor and Comptroller