



# Office of the Police & Crime Commissioner

**REQUEST FOR POLICE & CRIME COMMISSIONER DECISION - (N° 011/ 2016)**

**TITLE: Governance Review 2015/16 Procurement Regulations**

**Executive Summary:** (Précis not more than 100 words)

As part of the arrangements for ensuring the governance framework remains effective an annual cyclical review is undertaken of key governance instruments within the governance framework. For 2015/16 that review has been undertaken in respect of the procurement regulations. This report sets out the changes following the review process and seeks approval of the Police and Crime Commissioner in respect of the updated and revised procurement regulations, with a delegation to the Chief Finance Officer with regard to minor amendments recommended by the Joint Audit and Standards Committee.

**Recommendation:**

The Commissioner is asked to approve the updated and revised procurement regulations with a delegation to the Chief Finance Officer with regard to minor amendments recommended by the Joint Audit and Standards Committee.

**Police & Crime Commissioner**

I confirm that I have considered whether or not I have any personal or prejudicial in this matter and take the proposed decision in compliance with the Code of Conduct for Cumbria Police & Crime Commissioner. Any such interests are recorded below.

I hereby approve/~~do not approve~~ the recommendation(s) above

**Police & Crime Commissioner / ~~Chief Executive~~ (delete as appropriate)**

**Signature:**

A handwritten signature in blue ink, appearing to read 'Pauline Jones', with a horizontal line underneath.

**Date: 24<sup>th</sup> February 2016**

## **PART 1 – NON CONFIDENTIAL FACTS AND ADVICE TO THE PCC**

### **1. Introduction & Background**

As part of the arrangements for ensuring the governance framework remains effective an annual cyclical review is undertaken of key governance instruments within the governance framework. For 2015/16 that review has been undertaken in respect of the procurement regulations. This report sets out the changes following the review process and seeks approval of the Police and Crime Commissioner in respect of the updated and revised financial regulations. The proposed changes set out within this report have been subject to pre-scrutiny by the Joint Audit and Standards Committee. As a result of the cancellation of the Committee's December meeting and reschedule to February, the comments of the Committee are still to be incorporated within the revised document. In addition the Committee will be further consulted on amended wording for the section in the regulations covering late tenders. This will take place at their meeting 9<sup>th</sup> March 2016. It is therefore further recommended that a delegation is made to the Chief Finance Officer to enact the minor recommendations of the Committee following their further meeting. Those recommendations are set out in this report.

### **2. Issues for Consideration**

The procurement regulations were last subject to review and approval in March 2014. That review resulted in a number of changes to the document and ensured that the joint arrangements for procurement were fit for purpose in the context of stage 2 transfer of staff from the Commissioner to the Chief Constable. Staff within the procurement function are employed and managed by the Constabulary and provide services to the Commissioner. Whilst the Constabulary is the primary user in respect of procured goods and services, the Commissioner's Chief Executive retains responsibility for significant contracts and all buying is undertaken in the Commissioner's name.

The revisions to the Procurement Regulations recommended for approval following the scheduled 2016 review primarily concern changes to ways of working and legislation that have resulted in the need for some amendments to the rules within the document. In summary, the review has resulted in the following changes:

The Procurement Regulations have been updated to reflect the introduction of The Public Contract Regulations 2015. The contract regulations implement the new EU public procurement directive that provides modernised procurement rules for the procurement of goods, services and works above certain thresholds by public authorities. The Public Contract Regulations 2015 apply to procurements above these

thresholds made by the Office of the Police and Crime Commissioner. The requirements of the Public Contract Regulations 2015 are complex. The Joint Procurement Regulations incorporate the main elements of the Regulations, specifically the procurement route that must be followed by any procurement above the thresholds. All procurements subject to the Contract Regulations are supported and managed by a professional procurement business partner to ensure relevant experience and expertise is brought to these higher risk procurement processes. The new thresholds are £164,176 for goods and services and £4,104,394 for works.

The regulations have been updated to include a table providing a guide the duration of each stage of the procurement process. Under regulations the process should in total be a maximum of 120 days from publication of the OJEU notice but can in total take up to 6 months allowing lead team for preparation of tender documentation. The table aims to ensure business managers understand and allow sufficient time to undertake the process allowing for when the requirement for the goods, service or works falls due.

The regulations make changes to ways of working between the business and the procurement team. Significantly all procurement processes involving more than £100k in value over the life of the contract must be supported and managed by a procurement business partner. The regulations also move to the use of electronic methods of procurement, requiring all procurements over £100k to be tendered through the e-tendering portal, this being the primary process for procurement activity. The portal provides a high level of system based controls are applied automatically in respect of publication and receipt of tenders.

The Joint Audit and Standards Committee have recommended a number of minor changes to the format of the document to improve presentation and amend typographical errors within the regulations. They have also asked that the wording with regard to late tenders be extended to provide further clarification on whether a late tender should be accepted. As a result of the cancellation of the Committee's December meeting and reschedule to February, the recommendations of the Committee are still to be incorporated within the revised document. In addition the Committee will be further consulted on amended wording for the section in the regulations covering late tenders at their meeting 9<sup>th</sup> March 2016. It is therefore further recommended that a delegation is made to the Chief Finance Officer to enact the recommendations of the Committee following their further meeting. The Committee's recommendations do not change any of the key principles, rules or controls in respect of how procurement must be undertaken.

This concludes the changes recommended to be made as part of the 2015/16 review.

**3. Implications**

**(List and include views of all those consulted, whether they agree or disagree and why)**

- 3.1. Financial: There are no direct financial implications arising from this report.
- 3.2. Legal: The recommended changes update the regulations in line with changes to legislation.
- 3.3. Risk: The procurement regulations are part of the overall framework for governance. By setting out clear responsibilities and requirements in respect of the conduct of business they are an important way in which procurement risks are managed.
- 3.4. HR / Equality: N/A
- 3.5. I.T.: N/A
- 3.6. Procurement: As set out in the report
- 3.7. Victims: N/A

**4. Backgrounds / supporting papers**

(List any relevant business case, EIA, PID, Media Strategy and append to this form; list persons consulted during the preparation of the report)

The procurement regulations recommended for approval and publication on the Commissioner’s website are appended to this report at Appendix 1.

<p><b>Public Access to Information</b></p> <p>Information in this form is subject to the Freedom of Information Act 2000 (FOIA) and other legislation. Part 1 of this form will be made available on the PCC website within 3 working days of approval. Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would not compromise the implementation of the decision being approved.</p>
<p>Is the publication of this form to be deferred? <b>NO</b></p> <p>If yes, for what reason:</p> <p>Until what date (if known):</p>
<p>Is there a <b>Part 2</b> form - <b>NO</b></p> <p>(If Yes, please ensure Part 2 form is completed prior to submission)</p>

**ORIGINATING OFFICER DECLARATION:**

I confirm that this report has been considered by the Chief Officer Group and that relevant financial, legal and equalities advice has been taken into account in the preparation of this report.

**Signed:** n/a      **Date:** n/a

**OFFICER APPROVAL**

**~~Chief Executive~~ / Deputy Chief Executive (delete as appropriate)**

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner / Chief Executive (delete as appropriate).

*R J Hunter*

**Signature:**

**Date:** 15.02.2016

**Media Strategy**

The decision taken by the Police & Crime Commissioner may require a press announcement or media strategy.

Will a press release be required following the decision being considered? NO

If yes, has a media strategy been formulated? YES / NO

Is the media strategy attached? YES / NO

What is the proposed date of the press release:



# Cumbria Office of the Police and Crime Commissioner

&

# Cumbria Constabulary

Joint Procurement Regulations

V2 – January 2016

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## Definitions

**'Authorised Officer'** – means any officer who by the nature of his or her job, or as directed by a manager, is authorised to place orders.

**'Award Criteria'** - means the criteria upon which the decision for the award of the contract is based.

**'Blue light'**-means the Constabulary e-Tendering Portal

**'CCCFO'** – means the Chief Constable's Chief Finance Officer.

**'Chief Constable'** – means the Chief Constable for Cumbria Constabulary.

**'Chief Executive'** – means the person appointed by the Commissioner to be head of the Commissioner's staff as defined within the Police Reform and Social Responsibility Act 2011.

**'Code'** – means the Business Code of Conduct.

**'Commissioner'** – means the Police and Crime Commissioner for Cumbria.

**'Commissioners Monitoring Officer'** – means the Chief Executive.

**'Constabulary'** – means Cumbria Constabulary.

**'Consultancy Services'** – means the provision of expert or professional advice by a third party.

**'Contract Change Notice'** – means formal notice agreed by all parties recording a variation to the existing contract.

**'Contracting Authority'** – means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity;

**'COPCC'** – means Cumbria Office of the Police & Crime Commissioner.

**'CSD'** – means Central Services Department.

**'Customer'** – means a person or organisation that buys goods, services, or works produced by another business.

**'DPA'** – means the Data Protection Act 1998 and 2003.

**'EU Procedure'** – means the set of established, detailed procedural rules which must be observed when awarding works, supplies, and services contracts which are intended to promote fair and open competition and a single European Market under The Public Contract Regulations 2015.

**‘Existing Contract’** – means an existing agreement to purchase, goods, services or works from a supplier.

**‘FOI’** – means The Freedom of Information Act 2000.

**‘Framework Agreement’** – means an agreement between one or more contracting authorities and one or more economic operator(supplier), the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and where appropriate, the quantity envisaged (Regulation 2 (1) The Public Contract Regulations 2015).

**‘Funding Arrangement’** – means the arrangement made between the Commissioner and the Chief Constable for the provision of funding.

**‘ITT’** – means the Invitation to Tender.

**‘ITQ’** – means Invitation to Quote.

**‘Letter of Intent’** – means a document outlining the general plans of an agreement between two or more parties before a legal agreement is finalised.

**‘MEAT’** – means most economically advantageous tender.

**‘Officer’** – means an employee of the COPCC or Constabulary.

**‘Organisation’** – means the Cumbria Office of the Police & Crime Commissioner or Cumbria Constabulary.

**‘Organisations’** – means both the Cumbria Office of the Police & Crime Commissioner and Cumbria Constabulary.

**‘PCCFO’** – means Police & Crime Commissioner’s Chief Finance Officer.

**‘Relevant Contract’** – means a contract (not being a contract of employment) made by, or on behalf of, the Police and Crime Commissioner for Cumbria for the carrying out of works or for the supply of goods, materials or services.

**‘SME’** – means Small and Medium sized Enterprises.

**‘Specialist Procurers’** – means Authorised Officers that undertake procurement exercises that require specialist market knowledge.

**‘Total Value’** – means the anticipated total spend over the lifetime of a requirement for goods, services or works. Depending on the nature of the contract, this may include implementation costs, ongoing operational costs, and end of life disposal.

**‘Value for Money’** – means the optimum combination of whole life costs and quality (or fitness for purpose) to meet the user’s requirement.

## Introduction

Welcome to the Joint Procurement Regulations for the Cumbria Office of the Police and Crime Commissioner (COPCC) and Cumbria Constabulary (Constabulary). This document sets out for our staff and suppliers the rules by which the COPCC / Constabulary spends money on the supplies, services and works needed in order to deliver our services. They apply to any contracts that result in a payment being made by the COPCC / Constabulary. These procedures ensure that those engaged in buying or providing goods and services can conduct business professionally in accordance with the procurement principles, which are:

- Equal treatment: that all processes of commissioning and procurement are fair, and non-discriminatory. A Breach of this for example would be if you discriminated against a supplier based on location, nationality or any other bias.
- Transparency: a duty to ensure all commissioning and procurement processes are transparent, so that all potential bidders can clearly see and understand the procurement process and the purpose and broad activity of the subsequent contract. As a part of this, public bodies must make available the criteria on which they will be evaluating bids/tenders in the tender documents -so that potential suppliers can respond accordingly.
- Proportionality: a duty to ensure procurement process, evaluative criteria for bids and contract terms are proportional to the size and technicality of the service and goods being purchased. For example, they cannot ask for financial standing well above the necessary level required to deliver the contract, or insist on qualifications and accreditations not necessary, or above national standards
- Free movement and non-discrimination: a duty not to discriminate between suppliers of member states. As a result of this, contracts cannot be awarded on the basis of a potential supplier being 'local'.

All contracts must be in the name of the “**The Police and Crime Commissioner for Cumbria**” (the Commissioner). Where appropriate the Commissioner may consent to the Chief Constable contracting and in those cases the contract must be in the name of “**the Chief Constable for Cumbria Constabulary**” (the Chief Constable). If there is any doubt, advice should be sought from the Procurement Department or Legal Services.

Public procurement is a complex process governed by rules and regulations. Procurement Regulations aim to ensure the freedom of opportunity to trade with the Organisations and to ensure that the Organisations are open and transparent in the way that business is undertaken. This helps to ensure that Value for Money is achieved and the right balance between quality, performance and price, when we purchase goods services and works and in doing so we ensure we make the best use of diminishing public resources.

The Procurement Regulations do not apply to the policy and procedures for issuing grants. For awards of grant agreements please refer to our Grant and Funding Agreement Regulations. The Constabulary must adopt the standards within this document for the conduct of Constabulary business as part of the terms of the Funding Arrangement that exists between the Commissioner and the Chief Constable. The Joint Procurement Regulations are a collective document comprising:

- **The business code of conduct:** This sets out the principles that we will abide by when conducting business and covers issues such as gifts and hospitality. It aims to ensure high standards of integrity in all our business relationships.
- **Procurement & contracting policy and procedures:** These set out the detail of the procurement and contracting rules and processes including the level of authorisation, delegations and responsibilities that exist. They specify the minimum standards we expect our staff to comply with when purchasing goods and services and provide a guide to the steps they must follow as part of each step in the process. They ensure we maximise the opportunities for competition and value for money whilst providing a balance between the amount of administration involved and the value of the items being procured. Procurement and contracting may only be carried out by Authorised Officers. Authorisations are set out in the COPCC [Scheme of Delegation](#).

## The Business Code of Conduct

### Purpose

This is the Business Code of Conduct for the COPCC / Constabulary. The purpose of this document is to advise the minimum standards required of staff in any commercial relationships and also to ensure fairness and consistency of approach in line with sound commercial practice.

### Application

All staff employed by the Commissioner must abide by this Code in the conduct of the business of the office. In addition, staff and police officers of Cumbria Constabulary are expected to abide by the standards within this code as part of the funding arrangement that exists between the Commissioner and the Chief Constable (CC).

Staff should regard the Code as the basis of best conduct. Staff should raise any matter of concern of an ethical nature with their line manager, the PCC Chief Finance Officer (PCCCFO) or the Chief Executive, irrespective of whether it is addressed in this Code. Constabulary Officers and Staff should raise any concerns with their Line Manager, the Chief Constable's Chief Finance Officer (CCCFO) or the Chief Constable. Staff should also ensure that they comply with the relevant Organisations [Anti-Fraud and Corruption Arrangements/Policy](#) requirements in respect of gifts, gratuities and hospitality. Any matters arising which are outside the bounds of this Code should be referred immediately to line management.

### Conduct

Staff shall always seek to uphold and enhance the reputation of the Organisation and always act professionally by:

- maintaining the highest possible standard of probity in all commercial relationships, inside and outside the Organisation;
- rejecting any business practice which might reasonably be deemed improper and never using authority for personal gain;
- enhancing the proficiency and stature of the Organisation by acquiring and maintaining current technical knowledge and the highest standards of ethical behaviour;

- ensuring the highest possible standards of professional competence, including technical and commercial knowledge
- optimising the use of appropriate resources to provide the maximum benefit to the Organisation

Complying both with the letter and the spirit of:

- all legislation governing the procurement activity and the Procurement and Financial Regulations;
- guidance and professional advice and contractual obligations

### Prevention of Fraud and Corruption

Authorised Officers must comply with the COPCC / Constabulary Business Code of Conduct and [Anti-Fraud and Corruption Arrangements/Policy](#) and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Authorised Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to disciplinary proceedings.

The following clause should wherever possible be put in every written contract:

“The Commissioner may terminate this contract, under notice, and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf commits any of the offences as stated in Regulation 57 (Mandatory Exclusion) of the public contract regulations 2015 ([click here](#))

#### [For example](#)

The offence of bribery, where the offence relates to active corruption;

The offence of cheating the Revenue

The offence of conspiracy to defraud

If in doubt please consult your procurement Business Manager

Any clause limiting the Contractor's liability shall not apply to this clause."

The Commissioner / Chief Constable could be liable where someone who performs services for example an employee or agent, accepts/pays a bribe specifically to get business, keep business, or gain a business advantage for the organisation.

Staff must never allow themselves to be deflected from this Code. Failure to do so may result in disciplinary action. In abiding by this code, the rules set out below must be followed:

### Declaration of Interest

Any personal interest which may affect or be seen by others to affect your impartiality in any matter relevant to your duties must be declared. Declarations must be made in any or all of: the register of interests, secondary employment register, and annual related party transaction employee declaration.

### Code of Conduct Declaration Form

This Form must be completed by all parties involved in a procurement exercise prior to the commencement of the procurement exercise and a completed and signed copy(s) retained with the tender documents

### Confidentiality and Accuracy of Information

The confidentiality of information received in the course of duty must be respected

and must never be used for personal gain. Information given in the course of duty should be honest and clear.

### Competition

The nature and length of contracts and business relationships with suppliers can vary according to circumstances. These should always be constructed to ensure deliverables and benefits. Arrangements which might in the long term prevent the effective operation of fair competition should be avoided.

### Business gifts

Gifts other than items of small value (not exceeding £10 for COPCC staff) should not be accepted but should be declined courteously. Where it may cause offence to decline a gift, the Chief Executive or relevant Commander / Director must be consulted who may make a decision with regard to accepting the gift on behalf of the COPCC / Constabulary. All such

acceptances must be recorded in the Gifts and Hospitality Register with a record maintained of where the gift is held.

### Hospitality

The recipient should not allow themselves to be influenced, or be perceived by others to have been influenced, in making a business decision as a consequence of hospitality. The frequency and scale of hospitality accepted should be managed openly and with care. It should not be greater than that which the Organisation would reciprocate and which would be acceptable to the public as a use of public funds (not exceeding £25 for COPCC staff). Business hospitality must be recorded in the Gifts and Hospitality Register.

### Supplier Contact Form

When purchasing from a new supplier or amending supplier details a supplier contacts form must be completed [\(Link\)](#)

## Procurement & Contracting Policy and Procedures

### Introduction

Procurement and Contracting Policy and Procedures aim to ensure that the supply of goods, services and works are procured in accordance with relevant legislation and in the most cost effective manner. They also aim to ensure that procurement activity is undertaken in a fair, transparent and consistent manner, ensuring the highest standards of probity and accountability. These procedures define the minimum processes expected of staff engaged in the procurement of goods, services or works on behalf of the COPCC. The Constabulary must adopt the standards within this document for the conduct of Constabulary business as part of the terms of the [Funding Arrangement](#) that exists between the Commissioner and the Chief Constable.

### Purpose

The regulations seek to ensure that we:

- achieve best value for money for public money spent and support the corporate aims and policies of the COPCC / Constabulary
- be consistent with the highest standards of integrity and ensure fairness in allocating public contracts
- have due regard to the EU Treaty based principles of non-discrimination, equal treatment, transparency, mutual and proportionality
- comply with all legal requirements, particularly in relation to the EU Public Procurement Rules
- secure robust and transparent governance in respect of decisions to enter into contracts

### Scope of the Regulations

All staff employed by the Commissioner must abide by the Procurement Regulations in the conduct of the business of the office. In addition, staff and police officers of Cumbria Constabulary are required to abide by the standards within the Procurement Regulations. Failure to comply may result in disciplinary action.

## Procurement Responsibilities

The PCCCFO is responsible for maintaining the Procurement Regulations. The day to day activity of procuring goods, services and works is delegated to Authorised Officers in accordance with the Commissioner's and Constabulary's Scheme of Delegation and must be conducted in accordance with the principles and rules of this document and the COPCC Financial Regulations.

The Chief Executive will be responsible for:

- Ensuring that staff of the COPCC comply with these regulations and that only Authorised Officers are engaged in procurement.
- Securing the safekeeping of registers of contracts under seal and completed by signature and that records are maintained of contract exemptions.

The Director of Legal Services will be responsible for:

- Provision of advice on contracts including provision of standard terms and conditions.

The Head of Procurement will be responsible for the following:

- Maintaining a Contracts Register.
- Securely storing all contracts (including those under seal).
- Maintaining records of all contract exemptions.
- Advising Authorised Officers with regards to all aspects of procurement.
- Producing and maintaining procurement guidance.
- Developing and implementing a procurement strategy.
- Monitoring the use of contracts.
- Producing reports on procurement activity.
- Authorising all approved lists.

All Authorised Officers engaged in procurement and contracting activity are responsible for ensuring they comply with the regulations and that any agents, consultants and contractual partners acting on their behalf also comply. Procurement activity can only be conducted by Authorised Officers.

The Procurement Team will provide advice and leadership on procurement across both Organisations, undertaking the majority of procurement activity, with catalogue and hotel/car

bookings services undertaken by the Central Services Department and the business maintaining budgetary and decision making responsibilities in relation to procurement decisions.

A centralised 'category management' model has successfully been introduced along with the roles of Business Partner and Procurement Officer with clearly defined areas of responsibility aligning specific procurement expertise with different areas of the business. The Procurement Business Partner would normally be expected to undertake all technical processes and commercial aspects of the procurement cycle

#### Business Partner Categories

- ICT
- Operational
- Corporate

## Procurement Policy

The procurement policy of the COPCC is that:

- Procurement activity is undertaken with the primary objective of supporting the COPCC / Constabulary to achieve its priorities and objectives and operate efficiently and effectively.
- All procurement should achieve best Value for Money both for outcomes and the efficiency and effectiveness of the procurement process.
- Procurement activity will achieve an appropriate balance between procurement risk, competition and the risks and requirements of the business. Where there are conflicts between procurement risk and business risk, decision making will be taken at an appropriate level of seniority within the Organisation.
- All procurement activity will be undertaken in a transparent, fair and consistent manner, ensuring the highest standards of probity and accountability.
- All procurement will operate under robust principles and procedures to ensure best value.
- Procurement activity will only be undertaken by staff authorised to do so within the Commissioner's [Scheme of Delegation](#).
- All staff involved in procurement activities will familiarise themselves with the Business Code of Conduct and consideration will be given to circumstances where members of staff would need to be excluded where their position may be compromised. Consideration will be given to the register of supplier contact.
- All staff will adhere to the policy and procurement procedure information and seek to achieve acceptance and operation of it among colleagues and stakeholders.
- All procurement activity shall comply with statutory requirements including, but not limited to, UK legislation, Directives of the European Community and relevant Government guidance.

- All procurement activity will comply with the Procurement Regulations and Financial Regulations and Financial Rules.

# Procurement and Contracting Procedures

## PROCUREMENT AND CONTRACTING PROCEDURES

### Introduction

Procurement and contracting procedures provide information on how to procure goods, services and works on behalf of the COPCC. They also define the minimum processes expected of staff engaged in a procurement process. Before undertaking any procurement, staff are required to read through the Procurement Regulations and ensure they have appropriate professional, procurement, legal and financial advice. Further advice on procurement procedures and contracts is available from the Constabulary Procurement Team as part of the shared services arrangements between the Constabulary and Commissioner.

The Procurement Team contacts are available on the internet and intranet.

All Relevant Contracts must comply with these procurement and contracting procedures. A Relevant Contract includes arrangements for:

- the supply or disposal of goods
- the hire, rental or lease of goods or equipment
- the execution of works
- the delivery of services, including (but not limited to) those related to the recruitment of specialist staff, land and property transactions and/or financial and Consultancy Services

Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the Commissioner;
- Instruction of counsel and external legal advisors; or
- Grants and funding agreements

## PROCUREMENT AND CONTRACTING PROCEDURES

### Procedures

These procedures provide a roadmap of procurement routes and set out the rules that apply and the staff that have to be involved in the procurement process. They also cover how to deal with exemptions. This is when the rules may not apply. Exemptions are available for some categories of expenditure and for a number of other specific reasons.

Once procurement has begun, these procedures will also set out rules on how to manage the process including developing specifications, how to evaluate tenders, variations to contracts and the documents and records that need to be maintained.

Should these procedures not appear to provide the appropriate mechanisms at any stage of the procurement process, advice must be sought from line management or the Procurement Team before proceeding further. Information contained within the procedures refers to both procurement activity involving a tender process and to COPCC contracts regardless of how they were entered into.

Please note that these procedures do not apply to the issuing of grants. For information on policy and procedures for awarding of grant agreements please see our [Grant and Funding Agreement Regulations](#).

## PROCUREMENT AND CONTRACTING PROCEDURES

### Steps Prior to Purchase

Before undertaking any purchase it is important to ensure that appropriate due diligence is carried out to assess the need for the goods or services and understand any other factors that might be relevant to a purchasing decision. The amount of work undertaken should be proportionate to the complexity and value of the planned purchase.

Some factors that might be considered to help make the right purchasing decision are:

- Whether there is business need for the expenditure and prioritised
- Estimated Total value of the procurement
- What are the outcomes to be achieved from undertaking the purchase
- Assessing the risks associated with the purchase and how to manage them

- Considering what procurement method is most appropriate to achieve the purchasing objectives; having a clear understanding of these procedures will help to inform the method / procurement route
- Consulting stakeholders/commissioners of the supply or services about the proposed procurement method, and the standards, performance criteria and user satisfaction monitoring proposed for the contract
- Determining appropriate terms and conditions; these would usually be the Commissioner's standard terms and conditions but for complex procurements, bespoke terms and conditions may be required. Legal and procurement advice should be taken to ensure appropriate terms and conditions are applied to the proposed contract.
- Where a Framework Agreement is utilised the standard terms and conditions applicable to that framework will be followed.
- Considering how these matters can all be set out in writing to invite quotations or tenders. Further guidance on what information should be provided is set out later in these procedures.
- Ensuring that there is sufficient and authorised funding for the expenditure and that the proposed purchase complies with Procurement Regulations and Financial Regulations.
- Ensuring that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal advice before proceeding with inviting tenders when an employee of the Commissioner, the Chief Constable or of a service provider may be affected by any transfer arrangement .

## PROCUREMENT AND CONTRACTING PROCEDURES

### Competition Requirements

There are a number of routes through which goods, services and works can be procured. These include using existing contracts that have already been negotiated and running a new competitive procurement, for which the process is dependent on the total value of spend. Procurement can also be carried out through Approved Lists and Framework Agreements. Whilst a range of considerations will influence the decision with regard to the procurement route, minimum requirements for competition are based on the Total Value of the proposed procurement.

Calculation of the estimated value of a procurement shall be based on the total contract value over the life of the contract, net of VAT, for example if the contract is for a period of 4 years and the annual cost is £50,000 then the total contract value would be £200,000 You must not enter into separate contracts nor select a method of calculating the total contract value in order to circumvent the application of these contract procedure rules.

## Procurement Routes

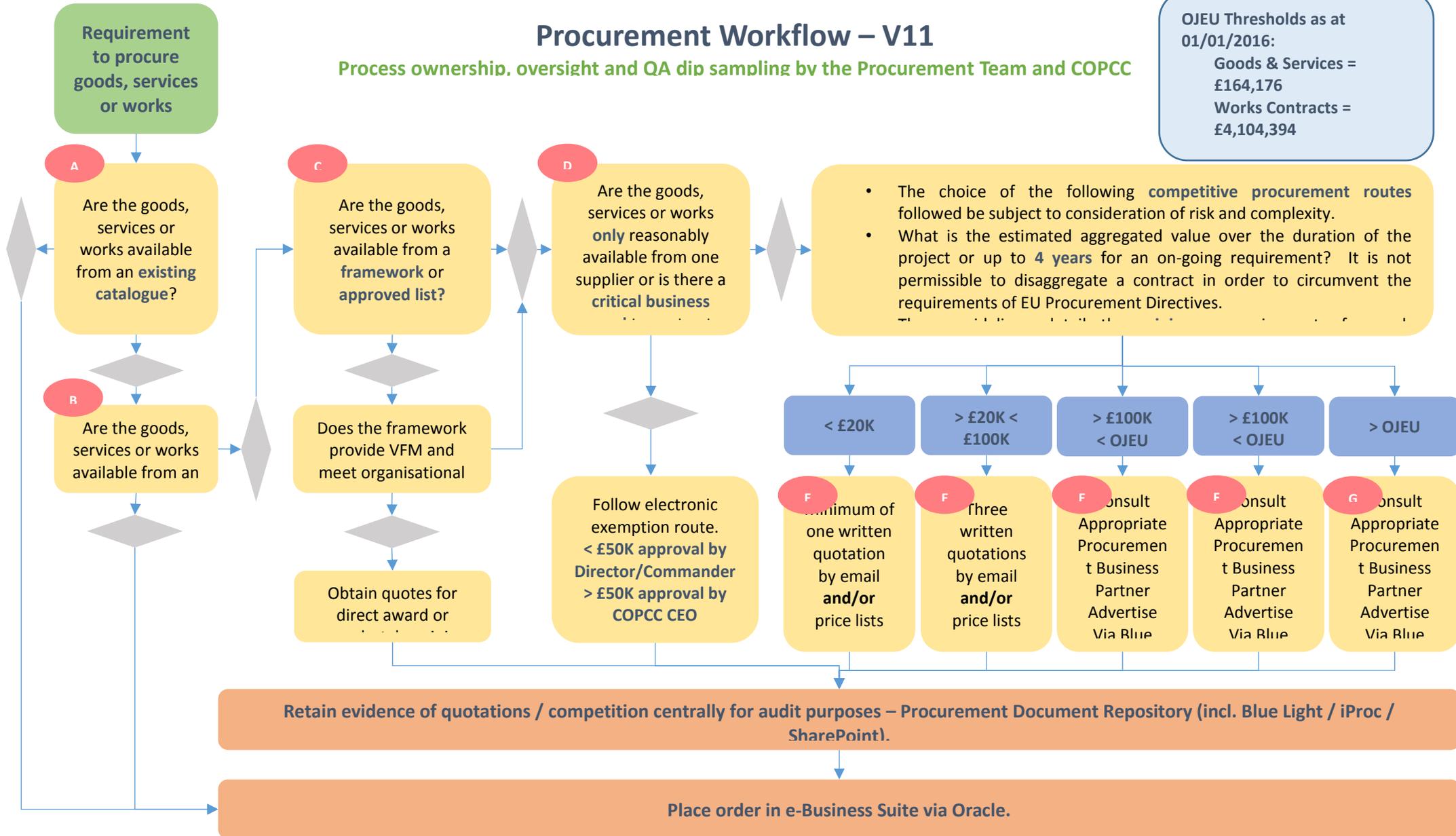
Early engagement with your Procurement Business Partner is recommended to quickly establish the most appropriate procurement route.

This section of the procedures will help to determine how you procure. There are a number of different routes through which procurement may take place. This section of the procedures provides instruction on which route you should take and what to do within each procurement route. A procurement procedure workflow chart is set out below. This has been developed to easily identify which procurement route should be followed. Once the procurement route has been identified, the relevant section of this document will explain the detailed procurement procedure.

# Procurement Workflow – V11

Process ownership, oversight and QA dip sampling by the Procurement Team and COPCC

OJEU Thresholds as at 01/01/2016:  
 Goods & Services = £164,176  
 Works Contracts = £4,104,394



## PROCUREMENT ROUTES

Under normal circumstances all procurement activity should be managed through the Procurement Team. Procurement requests for catalogue items will be processed through CSD.

All contracts with an estimated value of more than £100,000 should be advertised via the Constabularies E-Tendering portal (Bluelight) this will provide consistency of approach, transparency and full auditability. This will also serve to advertise the opportunity with the UK Government's tendering portal "Contracts Finder" in accordance with the Public Procurement Regulation 2015 ([click here](#)).

**All procurements with an estimated value in excess of £100,000 will be supported and managed by the Procurement Team.**

### Utilising Existing Arrangements

#### A – Procuring from an Existing Catalogue

For goods which are required on a regular basis, a catalogue may be in place based on an existing contract. In these circumstances it may be appropriate to procure the goods by placing a requisition through CSD. The appropriate forms are available electronically on the CSD intranet site.

#### B – Procuring Goods through an Existing Contract

If an existing contract is in place then it may be possible to utilise the contract to meet the procurement requirement within the terms and conditions of that contract. A purchase order may be raised, however if the requirement falls outside the terms of the current contract then consideration should be given to the need for a Contract Change Notice. In order to identify the best route advice must be sought from Procurement and Legal Services.

A list of existing contracts is maintained by the Procurement Department and is available on the Procurement Intranet site ([click here](#))

## C - Procuring Goods through Existing Framework Agreements or Approved Lists

### Framework Arrangements

If a public sector organisation knows they are likely to require particular goods or services, but are unsure about exactly what they will need or when, they may decide to award a Framework Agreement that they can use when necessary on agreed terms relating to price, quality and quantity for a fixed period of time.

Framework Agreements can offer many benefits. The Framework Agreement will already be fully compliant with EU legislation and Procurement Regulations and there may be no requirement to run a further procurement process. Through the whole Organisation using the same contract we minimise the administrative costs associated with the use of multiple suppliers and achieve better value for money by being able to offer suppliers more business. In using Framework Agreements, we will usually also have assurance that the supplier has met expected standards including financial stability, health & safety, insurance, ethical and environmental standards etc. and that robust contract terms will be in place. Usually this assurance will be greater on higher value contracts. There are also some potential drawbacks to the use of Framework Agreements, in that they are relatively unresponsive to change and may not incorporate new developments or suppliers, that they tend to adopt a “one size fits all” approach which may make it difficult to meet specific requirements, and that because of the costs of getting included in the agreement they may exclude SME’s.

As noted in the section of this document relating to procurement routes A & B, many of our existing contracts are based on Framework Agreements. However in the circumstance that a required good or service is not available on an existing contract it may still be possible to participate in a Framework Agreement negotiated by another body, as such agreements can be open to multiple users. For this to be the case the Commissioner needs to be identified in the relevant OJEU notice and accordingly you must seek advice from your Procurement Business Partner to check whether we can participate. An example of Frameworks available to a wide variety of users are those procured by the Crown Commercial Service (formerly the Government Procurement Service). In addition there are collaborative purchasing groups in Local Authorities and other police forces which have established Framework Agreements, which could potentially be accessed.

- 1) If participation in a Framework Agreement which the COPCC / Constabulary have not previously used is proposed, the terms and conditions of the specific agreement need to be considered. If the Framework is awarded to one provider, then the COPCC/ Constabulary can simply call-off the requirement from the successful supplier as and when it is needed. Where the Framework is awarded to several suppliers, there are two ways in which call offs might be made:
  - a. Where the terms laid out in the framework are sufficiently detailed for the COPCC / Constabulary to be able to identify the best supplier for that particular requirement then the COPCC can award the contract without re-opening the competition (a “direct award”)
  - b. If the terms laid out in the Framework Agreement are not specific enough for the COPCC / Constabulary to be able to identify which supplier could offer them the best value for money for that particular requirement, a further mini competition (a “mini-tender” exercise) would be held between all the suppliers on the Framework Agreement who are capable of meeting the need.

### Mini Competition Procedures

The use of **mini competition tenders** may be adopted, where pre-tendered arrangements exist, such as National or Regional Frameworks, Crown Commercial Services (CCS)) or other consortia frameworks e.g. Yorkshire Purchasing Consortium (YPO). This involves identifying companies that are able to meet the requirement from those who have been pre-tendered and pre-qualified. These companies will usually be invited to express an interest in our requirement prior to issuing tenders. The tender documents and the time allowed can, due to the pre-qualification and pre-tendering aspects generally, be respectively less detailed and shorter than would be usual. Sometimes prices will be predetermined. A mini competition should operate in accordance with the following procedure:

- The Authorised Officer and the procurement business partner must review the framework PQQ to ensure that the financial standing and technical capabilities of the suppliers meet the requirements for the procurement. Where the PQQ response is dated more than 2 years prior to the procurement, advice must be taken from the CCCFO/PCCCFO in respect of conducting a current assessment for financial standing where the procurement is for services or works.

- Procurement and legal advice should be sought on the terms and conditions of the contract under the framework
- All organisations within the Framework Agreement that are capable of executing the subject of the contract must be invited to submit written Tenders
- A time limit must be fixed which is sufficiently long to allow Tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
- The contract must be awarded to the tenderer who has submitted the most economically advantageous offer (M.E.A.T) on the basis of the Award Criteria set out in the specifications of the Framework Agreement.

Under the Police Act 1996 (Equipment) Regulations 2010, the use of specific framework agreements is mandated. These are set out on the Procurement Intranet pages.

### Approved Lists

For certain types of expenditure the COPCC / Constabulary maintains approved lists. If the goods and services required are available under approved lists, usually the list should be used to undertake the procurement. Lists are used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise, for example trades services where each job needs to be priced up separately but it would be impractical to conduct a procurement process each time a requirement for service arose. Approved lists can only be used where the Total Value falls below the EU threshold. In these cases, the Procurement Team, in consultation with the relevant Authorised Officer, may draw up:

- Approved lists of persons ready to perform contracts to supply goods or services on the basis of agreed contract terms on which legal advice has been taken
- Criteria for shortlisting from the lists where appropriate

The development of approved lists must be undertaken with support from the relevant procurement business partner. The process to develop an approved list must ensure there is an evaluation of the financial standing, performance and technical ability of candidates to deliver the contract. The rules and further guidance within these regulations applicable to conducting a procurement process therefore apply to the development of approved lists.

Approved lists and any criteria for shortlisting must be reviewed at least annually, jointly by an Authorised Officer and Procurement Business Partner. The review process should involve:

- The reassessment of the financial and technical ability and performance of those persons on the list, unless this is part of the criteria for shortlisting
- The deletion of those persons no longer qualified, with a written record kept justifying the deletion.

Approved lists must be re-advertised at least every three years openly to provide new suppliers with the opportunity to be listed. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply.

There are approved lists that are maintained on behalf of central government which include registers of pre-qualified contractors and consultants (e.g. Construction line, Exor Management Services). These lists can be used as approved lists by Authorised Officers without the requirement to carry out any further procedures. The relevant procurement business partner can provide more advice with regard to central government approved lists. Any approved lists must be held by the Procurement Team and published in accordance with the requirements of the Information Commissioner's publication scheme for policing bodies. Available approved lists are detailed on the Procurement Intranet site.

## D - Procurement Exemptions

In certain limited cases it may be appropriate to apply for an exemption from the normal procurement procedures. All exemptions must be granted prior to the order being placed for the procurement of goods, services or works. Purchases made for reasons outlined below, but without prior approval of the Chief Executive (or Director/Commander subject to agreed thresholds) may be treated as breaches of Procurement Regulations, and subject to disciplinary action. Requests for exemptions to normal procedures will be considered under the following circumstances:

Single Tender exemption request

- where it can be evidenced that only one supplier is able to carry out the work or service or supply goods for technical reasons or because of exclusive rights or if it is demonstrated there is no real competition

- extensions to existing contracts where there is a genuinely justifiable case to use an existing contractor/supplier to maintain continuity of supply or site experience. Extensions will not be considered where to do so would breach EU Procurement legislation
- the contract has been classified as secret by the Chief Executive making the use of a particular contractor essential or a limited competition to a select list of contractors and the avoidance of advertising requirements in the public domain
- the contract is required so urgently that competition is impractical, for example a genuine unforeseeable operational need arises. NB. Failure to take action within appropriate timescales does not constitute grounds for an urgency exemption
- Professional Consultancy Services where continuity and quality of personnel/knowledge of the organisation is the most important consideration. This exemption will not be considered where to do so would breach EU Procurement legislation
- there are other circumstances which are genuinely exceptional and it is within the best interests of the organisation

The Single Tender Exemption Form ([click here](#)) must be completed by the Authorised Officer and submitted to the relevant procurement business partner for comments. The procurement business partner will provide advice to the Chief Executive (or Director/Commander subject to agreed thresholds) on the risks associated with the exemption application. A record of approval must be recorded on the Exemption Form and retained in the Procurement Document Repository. The Exemption Form is available from the Procurement Intranet site.

Supporting evidence is required to ensure the following:

- That best value is obtained at all times – cheapest is not always “best value”, it is a balance between cost and quality which needs to be affordable.
- That COPCC / Constabulary has been open and transparent and is not challenged because of unjustified supplier preference or avoidance of competition.
- That the terms and conditions of doing business with a supplier have been considered and are acceptable to the COPCC / Constabulary.

## PROCUREMENT ROUTES

### New Procurements

Where there is no existing contract, approved list or Framework Agreement available and procurement exemptions do not apply, it will be necessary to go through a new procurement process.

For a new procurement process there are two main choices and much will depend on the value of estimated expenditure.

#### Quotation (Procurement Route E)

This involves asking at least the minimum number of suppliers to provide a quotation. This route is usually most appropriate for lower value goods and services where a Framework is not already in existence and where it is possible to provide a very clear specification and make the purchase decision based on price. This quotation is available for purchasing services and works up to the value of £100,000 and for goods up to the value of the OJEU Threshold. This must be based on the estimated Total Value over the anticipated term of the contract. If you are procuring Good/Services and the total Contract value exceeds £164,176 for goods/services and £4,104,394 for works, you will need to apply the EU procurement directives.

If in doubt please contact your Category business manager for advice

It is still important that consideration is given to whether it may be more appropriate to undertake a procurement tender. This may be the case for goods, and particularly services, below the tender route value but where it may be possible for suppliers to respond with very different levels of quality and specification and this is important. If you are unsure which route would be most appropriate, you should seek further advice from the relevant Procurement Business Partner.

#### Tender (Procurement Route F and G)

This route is required for services and works above £100,000 and all contracts over the OJEU Threshold. Again, the rules to follow depend on the total contract value and take into consideration, where applicable, requirements of the EU procurement directive. You may also choose to conduct a tender process, including a mini tender, for lower value goods and services where this process is likely to deliver better outcomes. Tenders may also be used as part of Framework Arrangements where there is more than one supplier on the Framework who can provide the goods or services you need.

The following section sets out the different procurement routes and processes to be followed based on the value of estimated expenditure. For each level of expenditure, this section sets out the minimum requirement. You can choose to undertake a more robust process and may wish to seek advice from your Procurement Business Partner.

In all cases there will be a need to maintain records as there is a requirement to publish contract information as part of the Government's transparency agenda. For contracts over £10,000 the invitation to tender and contract must be published on the Commissioner's website.

### PROCUREMENT ROUTES

#### E1 – Amounts under £20,000

If no suitable existing Framework exists, a minimum of one written quotation must be obtained either by e-mail or from a price list. A quotation may be initially requested by telephone but the supplier must then be asked to follow this up in writing by either of the above methods. Two Officers (normally this would be the Authorised Officer and a senior Manager) must undertake a procurement using this procedure. Should the minimum of one quotation be used particular care should be given to ensure Value for Money. The procurement must be recorded in accordance with the regulations for record keeping on the central register maintained by the Head of Procurement.

### PROCUREMENT ROUTES

#### E2 – Purchasing procedure: amounts over £20,000 and under £100,000

If no suitable Framework exists, a minimum of three written quotations must be obtained either by e-mail or from a price list. A quotation may be initially requested by telephone but the supplier must then be asked to follow this up in writing by either of the above methods. The numbers of companies invited to submit quotes or otherwise offer to supply must be sufficient to ensure genuine competition to achieve Best Value for Money. A minimum of two Officers (normally this would be the Authorised Officer and a senior) must undertake a procurement using this procedure. The procurement must be recorded in accordance with the regulations for record keeping on the central register maintained by the Head of Procurement.

### PROCUREMENT ROUTES-For Open Discussion

**Contracts with a value in excess of £100,000 will require Category Business Manager Involvement who will manage and advise on the procurement**

### E3 – Procurement of Goods over £100,000 and under OJEU Threshold

If no suitable Framework exists, a minimum of three written quotations must be obtained either by e-mail or from a price list. The numbers of companies invited to submit quotes or otherwise offer to supply must be sufficient to demonstrate that there is genuine competition to achieve Best Value for Money. Should the minimum of three quotations be used particular care should be given to ensure Value for Money. A minimum of three Officers (one of which must be the Procurement Business Partner) must undertake a procurement using this procedure. The procurement must be recorded in accordance with the regulations for record keeping on the central register maintained by the Head of Procurement. The tender opportunity should be advertised via the Blue light portal.

In some instance it may be more appropriate to undertake a tender process for goods over £100,000 but below the OJEU Threshold in which case procurement route F should be followed below.

#### PROCUREMENT ROUTES

### F – Tender Procedures: over £100,000 and under EU Threshold (Services & Works)

Contracts with a value in excess of £100,000 will require Category Business Manager Involvement who will manage and advise on the procurement

For services and works with an estimated value over £100,000 the procurement route must involve undertaking a tender process. A minimum of three Authorised Officers must be involved of which one must be the relevant Procurement Business Partner. There are different types of tender process that may be appropriate depending on the services and works you wish to procure. Tendering for services and works can be complex and there may be risk of legal challenge if the process is not conducted in accordance with our procedures and the requirements of the EU procurement directive. For this reason, where the value of the procurement is likely to exceed £100,000, the process must be overseen by the relevant Procurement Business Partner. This will ensure appropriate professional advice is provided and will help you to get the best outcomes. A tender process will involve developing a specification for your services and works, deciding how you are going to evaluate suppliers' bids in terms of cost and quality and the terms and conditions that will apply to your contract.

As detailed earlier, it may also be deemed most appropriate to follow a tender process for the procurement of goods over £100,000 and under the EU Threshold depending upon the complexity and risk of the requirement. The tender opportunity should be advertised via the Blue light portal.

A tender process can be undertaken in a number of ways including open, restricted, select and mini competition. Whichever process is used, the evaluation models, matrices and other tools used to assess and compare the tenders must be determined and provided to suppliers prior to receipt of bids.

An **open invitation to tender** places no limits on the number of suppliers who might respond. This route is therefore best used in situations where the supply market is limited and there is a lower risk of receiving more responses than are practically capable of being assessed. Where this process is being used an appropriate advertisement will be placed as agreed between the Procurement Business Partner and Authorised Officer. Expressions of interest are invited from companies who wish to receive tender documents. All companies expressing an interest are sent tender documents within the timescales set out. Such tenders shall include elements to assess the potential supplier's financial standing in addition to specific areas of technical ability which provide assurance as to the supplier's ability to fulfil the contract.

**Restricted tenders** require that **expressions of interest** are invited from the market through advertisement, jointly agreed between the Procurement Business Partner and Authorised Officer. On receipt of expressions of interest, a **pre-qualification questionnaire** ([click here](#)) will be forwarded to the interested companies and these, when completed, shall be assessed to determine which companies will be selected to be invited to tender. Tenders will be invited from those companies who match, or best match, the profile of a company suited to meet requirements. Selected companies will then be sent invitations to tender including instructions of how to participate in the tender exercise. Tender bids will be assessed against pre-determined award criteria.

**Select tender lists** may sometimes be drawn up where it can be satisfactorily demonstrated that the pool from which realistic or competitive bids could be received is limited. Such lists will be agreed between the Authorised Officer and the Procurement Business Partner. Having identified the companies from whom tenders would be considered, the companies shall be invited to express their desire to receive a tender by requiring them to respond to an appropriate brief. Companies invited

to respond should be rotated whenever possible. On receipt of a satisfactory number of expressions, tenders may be invited. Limited numbers or repeated use of favoured companies must be avoided wherever possible. However, the need to comply with EU legislation regarding open competition must be followed.

#### PROCUREMENT ROUTES

### G – Procurement above EU Threshold

For procurement above EU thresholds, the EU Procurement Directive 2015 (The Regulations) should be followed. The Regulations provides for 5 award procedures. All EU procurement will be led by the relevant procurement business partner and will be undertaken based on either an open (Preferred Route) or restricted procedure. In addition it is open to undertake a **competitive negotiated procedure with negotiation or competitive dialogue**. This route may be used and is permitted under EU Legislation within strict guidelines. The competitive dialogue is suitable in exceptionally complex procurements, e.g. Private Finance Initiative (PFI).

#### Procurement Regulation 2015 procedures

- Open procedure
- Restricted procedure,
- Competitive dialogue procedure,
- Competitive procedure with negotiation
  - Innovation partnership procedure,

In all EU procurement the EU Directives require that consideration is given to “aggregation of demand” and that this is calculated as either the total annual expenditure multiplied by four or by the estimated value multiplied by the total number of years a contract would be in place for. If the value derived is over the EU threshold for the goods, service or works, then an EU Tender must be conducted. The Directives are clear that deliberate attempts to negate or circumvent the aggregation values are a breach of the E.U Directives.

The timescales for tendering under the EU Directives are prescriptive and may generally be longer than a non EU Tender. Failure to leave sufficient time to complete the tendering process is legislatively not an acceptable reason for avoidance of the regulations. All evaluation criteria must be agreed and signed off by both the Procurement Business Partner and the Authorised Officer and included in the ITT document.

A minimum of three Officers will be involved in the procurement process of which one must be the relevant Procurement Business Partner. Other professions, for example finance and legal staff will also be involved.

## Public Procurement Regulation 2015 Timescales

The procurement should take no longer than **120 working days**. Measured from the publication of the OJEU notice to award of contract, except in the **case** of complex procurement typically a OJEU procurement process from start to finish can take up to **6 months** taking into account document preparation and contract terms its imperative that you contact your Procurement Business manager at the earliest opportunity

Time Scales (Calendar days)	Selection Stage	Tender Stage	If Electronic ITT accepted	Tender following publication of a Prior Invitation Notice (PIN)	Tender By agreement	If urgent Criteria Must comply with Comply with the Procurement regulation 2015	Standstill Period
Open Procedure	N/A	35	30	15	N/A	15	10
Restricted Procedure	30	30	25	10	Min 10	15/10	10
Competitive Procedure with negotiation	30	30	25	10	Min 10	Min 10	10
Competitive Dialogue	30	N/A	N/A	N/A	N/A	N/A	10
Innovation Partnership	30	N/A	N/A	N/A	N/A	N/A	10

## PROCUREMENT ROUTES

### Procurement of Professional Consultancy Services

The procurement of professional Consultancy Services should usually be undertaken in accordance with procurement procedures in the same way that all other services are procured. There are however existing exemptions for some categories of professional services. These are for instructions to counsel and legal advisors and for banking services. For other professional services a procurement exemption can be applied for in circumstances where continuity and quality of personnel and/or knowledge of the organisation is the most important consideration. This is providing the values are below the EU Procurement Directives threshold.

The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment. A record of the process and documentation used for appointment must be held by the Procurement Team.

Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the Chief Executive for the periods specified in the respective agreement. Copies of insurance are provided and evaluated as part of the tender evaluation criteria

## PROCUREMENT ROUTES

### Collaborative Procurement

In order to secure Best Value for Money or fulfil recently enhanced collaboration duties, the COPCC / Constabulary may enter into collaborative procurement arrangements. Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and case law. Collaborative procurement is a process whereby a number of partners determine to undertake a procurement process collectively. In these cases procurement regulations must still be applied but the process will typically operate with one of the partners leading the procurement and an agreement will usually be made to adopt the procurement regulations of the lead partner. A collective procurement process could operate using any of the procurement routes explained in these procedures. It may be a simple purchasing arrangement for equipment within an existing Framework or a substantial new EU procurement process for shared services. Generally, the purpose of collaboration will be to achieve economies of scale to reduce prices and to achieve administrative efficiencies compared to all partners undertaking the procurement separately. This can be particularly beneficial for large service contracts where significant staffing resources are

needed not only to undertake the procurement process but also to manage the contract once it has been awarded.

Procurement through a collaborative route may involve entering into a collaboration agreement and consideration may need to be given to the quality of the procurement regulations and proposed terms and conditions of the contract. For this reason, advice from the relevant Procurement Business Partner must be taken, and where necessary from the Legal Department, before agreeing any collaborative procurement process and the Chief Executive and PCCCFO must be consulted.

Any contracts entered into through collaboration with other policing bodies or other public bodies, where a competitive process has been followed that complies with the Procurement Regulations of the leading organisation, will be deemed to comply with these procurement regulations and no exemption is required. However, advice must be sought from the relevant Procurement Business Partner who will provide assurance with regard to the procurement regulations being used. Purchases above the EU Threshold must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of other consortium members.

In the case of private finance initiatives (PFI) and other public/private sector partnerships, such contracts must be approved and authorised in accordance with the Scheme of Delegation. If in doubt, Authorised Officers must first seek the advice of the Chief Executive.

## PROCUREMENT AND CONTRACTING PROCEDURES: PROCUREMENT PROCESS

### Procurement Process

This section of the procedures provides guidance on the different processes involved in operating procurement once the procurement route has been determined. It also sets out how to manage the process when procedures have not been followed, for example late tenders, seeking clarifications and the requirements for maintaining records. Authorised Officers should ensure they have read and understand all the requirements within this section of the procedures before commencing any procurement process.

#### PROCUREMENT PROCESS

##### Pre-Tender Market Research and Consultation

Depending on the complexity of the procurement exercise, the procurement process may benefit from consultation and market research with potential suppliers prior to the start of procurement. Research can help to facilitate the specification and gain a better understanding of the market and achieve better outcomes. Any consultation must be only in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, and should ensure that it does not provide any advantage to individual suppliers. Specifically, research and consultation must not seek or accept technical advice on the preparation of an Invitation to tender or quotation from anyone who may have a commercial interest in the procurement exercise. Care must be taken to ensure that any discussions do not disadvantage other potential suppliers or distort competition. Authorised Officers must seek advice from the relevant procurement business partner prior to commencing market research and consultation.

#### PROCUREMENT PROCESS

##### Specifications and standards

Specifications and standards are used to describe the requirements – goods, services and/or works – for which the procurement process is being conducted. They are included within the documents inviting suppliers to tender. Developing a specification for large value supplies and the provision of services can be difficult. In some cases relevant British, European or international standards will apply to the subject matter of the contract. The specification will need to include these standards where they apply and any other standards necessary properly to describe the required quality. In addition, the Chief Executive must be consulted if it is proposed to use standards other than

European standards. If the specification does not fully itemise all the requirements, including standards of service and quality expectations, the procurement process may be unsuccessful. There is also a risk of entering into a contract that performs poorly against your expectations. Specifications are therefore usually best developed by those with experience in this area. It is also helpful to try to research specifications for the same or similar goods and services that have been used previously or within other organisations. In writing specifications the standards adopted to identify minimum, maximum or other requirements must be in accordance with all current legislation and ensure prospective suppliers are treated equally and fairly. The Procurement Business Partner will provide as much assistance as possible to Authorised Officers to enable them to identify and express their requirements so that the market can respond appropriately.

## PROCUREMENT PROCESS

### Award Criteria

In addition to developing the specification, consideration must be given to how competing suppliers are going to be assessed as having met the requirements. This is usually based on a matrix where a proportion of a total score will be awarded on cost and a proportion on quality. The quality element means that the contract award is being based on the MEAT. This simply means that all factors will be considered in deciding the right supplier, not just price. Evaluation just on price will usually only be used where the goods or service can be identified in a highly prescriptive form and the only deciding factor is price. Where MEAT is used a decision will need to be made about the balance of the score between price and quality. The Evaluation Criteria should reflect the requirement and must be proportional and the rationale for the decision recorded. Price should usually be at least 40-60% of the total available score. Where it is considered that price should be less than 40%, approval must be sought from PCCCFO in writing. This can be by e-mail and a record must be retained by the Head of Procurement.

The Authorised Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the COPCC / Constabulary. A number of factors will be taken into account in determining the evaluation criteria for each procurement. For complex services, the quality and price evaluation criteria will need to be quite sophisticated and may comprise a number of elements and sub-categories with weighted scores. The criteria used may only refer to relevant considerations. These may include price, service, and quality of goods, running costs, technical merit, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features),

safety, after-sales services, technical assistance and any other relevant matters. Any criteria that is planned to be used to evaluate suppliers and the weightings of the criteria must be published with the ITT.

Award Criteria must not include:

- Non-commercial considerations
- Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

Your Procurement Business Partner will have significant experience in evaluation criteria and should be asked for advice. They will also ensure other relevant professions are engaged where appropriate. This may include a team of officers including those with technical and specialist skills including finance, technical ICT, health and safety and equality. Where professional support staff are involved with developing the evaluation criteria they will also usually support the process for evaluating the bids. Those Officers authorised to undertake the procurement will be responsible for approving the evaluation criteria and weighting and this should be agreed between the Procurement Business Partner and the Authorised Officer.

For supplies and works contracts over £100,000, the information requested from potential candidates must be sufficient to establish that the economic and financial standing is sound and that there is technical ability and capacity to fulfil the requirements of the tender.

Legal Services should be consulted, prior to publishing the ITT, to ensure the most appropriate terms and conditions are used.

## PROCUREMENT PROCESS

### Issuing an invitation to quote or tender

Prior to issuing an ITQ or ITT the Authorised Officer and relevant Procurement Business Partner must ensure that all relevant documentation is complete. This will include the specification for the service, relevant standards, the evaluation criteria against which bidders will be assessed and the terms and conditions that will apply to the contract. Once this documentation is complete, a decision can be taken to issue an ITQ or ITT. This will usually be undertaken by placing the invitation on the e-tendering system or directly contacting potential suppliers. Consideration should also be given to whether an advertisement is published. Generally, the greater the interest of the contract

to potential bidders, the more appropriate it will be to consider advertising. Examples of where such advertisements may be placed include:

- The COPCC website
- Portal websites specifically created for contract advertisements
- National official journals, or
- Contract with a value of £100,000 or greater will be advertised via Blue Light Portal.
- All EU procurements should be advertised in the first instance via Journal of the European Union (OJEU)/ Tenders Electronic Daily (TED) and Contracts Finder (the Governments opportunities portal) to comply with EU Directive

Your Procurement Business Partner can provide further advice on the appropriateness of placing an advertisement.

All ITQ/ITT and supporting documentation must clearly state that no Quote/Tender will be considered unless it is received by the date and time stipulated in the ITQ/ITT. The full list of information that is included will depend on the complexity of the supply or service but as a minimum all ITQ/ITT should include the following:

- A specification that describes the requirements in sufficient detail to enable the submission of competitive offers.
- A requirement for bidders to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- A requirement for bidders to complete fully and sign all Tender documents including a form of tender and certificates relating to canvassing and non-collusion
- Notification that tenders are submitted on the basis that they are compiled at the bidder's expense.
- A description of the award procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and in descending order of importance.
- Notification that no tender will be considered unless it is in accordance with the "Instructions to Tender".
- A stipulation that any tenders submitted by fax or other electronic means shall not be considered, unless they comply with the rules on tender submission.
- The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

All ITT or Quotations must state that the Commissioner / Constabulary are not bound to accept any Quotation or Tender. All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

## PROCUREMENT PROCESS

### Receipt, custody and opening of tenders

There are rules to follow in receiving, custody and opening tenders from suppliers to ensure the process is fair and transparent. This includes ensuring that tenders are not opened before the closing date and that there are no changes to the original electronic version of the tender after the closing deadline. Utilisation of the e-tendering system will make the process easier to manage and will ensure that information on our tender documents and contracts is open and accessible. The system will record and allow an audit of all transactions. This means that we can demonstrate that we are fully compliant with our own procedures and all relevant regulations and directives, reducing the risk of procurement challenge.

Candidates must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirement. This should normally be between one week and four weeks for less complex tenders and a min of four weeks for complex tenders. The EU Procurement Regulation 2016 lays down specific time periods for each process.

### Electronic Tenders

The process for receipt, custody and opening of tenders should be managed where possible using the e-tendering system. All Tenders greater than £100,000 should be returned electronically via e-tendering

The e tendering system provides safeguarding to ensure that all tenders are securely managed prior to opening and the precise time and date of receipt are recorded.

### Manual Tenders

The relevant officer must not disclose the names of candidates to any staff involved in the receipt, custody or opening of tenders. The Chief Executive shall secure through the Director of Legal Services that tenders are held safely until the appointed time of opening. Each tender must be:-

- adequately protected immediately on receipt to guard against amendment of its contents
- recorded immediately on receipt to subsequently verify the date and precise time it was received.

## All Tenders

The Chief Executive shall secure through the Director of Legal Services, that all tenders are opened/released at the same time after the submission deadline has ended. Tenders must be opened in the presence of the Authorised Officer or his or her representative plus one officer from legal services. In some cases the Chief Executive may determine to be present at the opening of tenders.

Upon opening, a summary of the main terms of each Tender (i.e. significant issues that are unique to each tender submission and were not stated in the tender invitation documents such as tender sum, construction period, etc.) must be recorded in the Tender Record Book. The summary must be signed by those engaged in the opening of the tenders.

The process for receipt, custody and opening of tenders should be managed using the e-tendering system unless the system fails. In these cases the following manual process will should be adopted:

Companies should be notified in writing (this can be via e-mail) that the electronic system is not available:

- They should be reminded that failure to comply with instructions may invalidate their tender.
- They shall be instructed to return their bids in packages marked as instructed in the ITT.
- Companies shall be instructed to address tender packages to the Director of Legal Services.
- On receipt of “hard copy” tenders, these shall be appropriately marked and securely stored in a locked cabinet or room until the allotted opening date and time.
- Packages should not identify the sender and should be signed by the person receiving them with the date and time received
- Packaging should be retained as evidence of the time of receipt.

A minimum of one Authorised Officer and a Legal Services representative shall be required to open tenders. Each package will be opened in turn and the following information shall be recorded in the Tender Record Book.

- the names and signatures of the two staff responsible for opening the tenders
- the time, date and place of tender opening
- the name of the company who submitted the tender
- the total value of the tender submission
- in the event that this value cannot be identified (perhaps due to the complexity of the tender or because a range of options have been offered) the term “as per attached copy schedules” shall be entered

The Tender Record Book shall be ruled off to prevent further additional entries being made.

## PROCUREMENT PROCESS

### Late Tenders

#### Principle of Proportionality

Late tenders should normally be rejected unless (1) late delivery is a result of actions outside the control of the tenderer or (2) other exceptional circumstances exist which the PCC, in exercising reasonable discretion, deems sufficient to allow acceptance. Where a decision is made to accept a late tender, then it is sensible to document the time of receipt of that tender and the reasons why the tender has been accepted.

If the sender has not already alerted procurement that the tender may be late, under no circumstances must the tender be opened until the reasons have been verified and approval granted by the Chief Executive with legal and procurement advice. The PCCCFO must be consulted. The reason for the decision including the legal and procurement advice taken and the comments of the PCCCFO must be recorded and maintained with the procurement records.

If approval is received, Legal will witness the tender in the usual manner but will also record on the form that the tender was received late, the reason for this, and that approval was received for its acceptance

If approval is not received, the unopened tender will be returned by Procurement to the supplier, and recorded on the Tender Opening Form as part of the audit trail. Procurement will also inform the tenderer in writing that their tender has not been accepted, with the reason(s) for its non-acceptance

Any late tenders must all be treated equally with regards to their acceptance or refusal.

#### Technical Fault

If it is proven that there was a technical fault with the e-tendering system that prevented the upload of the tender submission by the bidder(s) then Head of Procurement must be consulted. The event and decision should be duly recorded and maintained with the procurement records for that particular tender.

## PROCUREMENT PROCESS

### Evaluation tenders

Authorised Officers are responsible for ensuring that all suppliers submitting a tender/quotation are suitably assessed against the specification and evaluation/award criteria documentation. For contracts above £100,000, or where a tender process has been conducted, the assessment process must include ensuring that the potential suppliers have sound economic and financial standing and the technical ability and capacity to fulfil the requirements. Relevant information requirements will have been included within the ITT documentation and the assessment process should ensure that the appropriate advice is taken from relevant professional support staff.

Where Framework Agreements are used advice should be sought from the relevant business partner to determine whether the above assessments should be carried out. This will depend on the robustness of the information provided by the suppliers in response to the Framework tender process and the length of time since that information has been subject to review.

Financial assessments should consider, in relation to subsidiary companies within a group, the soundness of the group together with the appropriateness of obtaining a bond or a 'guarantee' from the parent company.

Quotes/ tenders must be evaluated in accordance with the Award Criteria set out in the ITQ / ITT. During this process, Authorised Officers shall ensure that submitted quote/ tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

The arithmetic in compliant quotes/ tenders must be checked. If arithmetical errors are found they should be notified to the bidder, who should be requested to confirm or withdraw their bid. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.

#### PROCUREMENT PROCESS

##### Clarifications affecting tenders received

In more complex procurements, following the receipt of tenders, it may be necessary to clarify certain aspects of a bid either in writing or by conducting discussions with suppliers to ensure the tender is properly understood. Any such discussions must be managed with care and must not go beyond achieving an understanding of the bid received. The process of doing this is referred to as clarification. All discussion must be conducted in a manner which is conducive to fairness and openness and provides equal opportunities for all bidders. Care must be taken during clarification meetings to ensure no indication is provided to any supplier as to the level of interest in the tender. Any communications issued to inform or assist any particular supplier must also be sent to all other participating suppliers and consideration should be given to whether any clarifications can be issued to all suppliers. Clarification must never seek to change or alter the prices of the bid unless there is evidence to suggest that figures are incorrect. Your Procurement Business Partner should always be

engaged in clarification discussions and the outcomes must be clearly documented, signed off by the Authorised Officers and retained in accordance with the requirements for procurement records.

## PROCUREMENT PROCESS

### Post Tender Negotiations

Discussions with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price which could result in a challenge.

If post-tender negotiations are necessary after a single-stage tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the bidder who is identified as having submitted the best tender and after all unsuccessful candidates have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Approval must be sought from the Chief Executive to carry out post-tender negotiations. This approval must be confirmed in writing. The process for negotiation should ensure that there are recorded minutes of all meetings and that both parties agree actions in writing. Post-tender negotiation must be conducted by a team of at least two Authorised Officers, one of whom must be the relevant Procurement Business Partner. Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered. The relevant procurement business partner will provide advice.

## PROCUREMENT PROCESS

### Alteration to Tenders

No alteration to tenders may be made after the closing deadline unless evidence has been provided that the amendment is to:

- provide completeness; or
- correct an arithmetical error

Any such amendment or change must be signed off by at least two Authorised Officers. Any changes which alter the final costs must be supported by documentation confirming the change from the company who submitted the bid.

## PROCUREMENT PROCESS

### Award of Contract and Debriefing Tenderers

No contract for the execution of works or for the supply of goods or services shall be made unless budgetary provision has been made in annual revenue or capital estimates approved by the COPCC or unless an estimate is reported to and approved by the PCCCFO. For contracts over £100,000, a 'contract signature request form' must be completed by the Authorised Officer and certified to confirm that budgetary provision exists and to enable the Chief Executive to sign the contract.

Authorised Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules and, in respect of proposed contracts that are less than £100,000, the approval of the Director/Commander has been secured, and for contracts expected to exceed £100,000, the approval of the Chief Executive has been secured.

Apart from the debriefing required or permitted by the EU Remedies Directive, the confidentiality of quotations, tenders and the identity of suppliers must be preserved at all times and information about one supplier's response must not be given to another supplier.

Where provision has been made within the annual budget or formally approved capital programme, a tender may be accepted if it is within the estimate. Where a tender exceeds the estimated amount by more than the lower of £100,000 or 10%, the Chief Executive shall be advised accordingly.

Where the Total Value is over £100,000 the procurement business partner must notify all suppliers simultaneously and as soon as possible of the intention to award the contract to the successful supplier. For all contracts subject to EU Procurement Directives, the procurement business partner must ensure compliance with intent to award requirements under standstill rules. Failure to comply with the procedures can trigger serious penalties contained in the Remedies Directive. Unsuccessful

candidates must be issued with an “award decision notice”. This has to be done as soon as possible after making the decision and by the most rapid means possible. The notice must be issued by the relevant Procurement Business Partner and contain:

- the award criteria (including sub-criteria and weightings used)
- the score of the recipient and the winning bidder
- reasons for the decision, including the characteristics and relative advantages of the successful bid
- if the bid was not held to be compliant with any technical specification, the reasons for that decision
- the name of the successful bidder
- a precise statement of when the standstill period starts and ends, including how it may be affected by any “contingencies” e.g. complaints or challenges
- the date after which the contract may be entered into.

If the decision is challenged by an unsuccessful supplier then the contract shall not be awarded and the Authorised Officer shall immediately notify the Chief Executive who will seek legal and procurement advice as appropriate.

For all contracts where the total value exceeds £100,000 and a tender exercise or a mini-competition against a Framework Agreement has been undertaken a formal tender evaluation report shall be prepared for the attention of the Chief Executive. The report should detail the scoring matrix used, the tender bid scores, identify the winning bidder, and the justification for the winning bid (lowest price or MEAT).

## Procurement and Contracting Procedures: Contract Formalities

### Contract Formalities

This section of the procurement and contracting procedures sets out the formal arrangements that must be in place in respect of contracting including the procedures for contract extension, variation and termination.

#### CONTRACT FORMALITIES

### Contract Documents

The COPCC order form or standard terms and conditions issued by a relevant professional body must be used wherever possible. In addition, every contract of purchase over £100,000 must also state clearly, and subject to reaching agreement with the contractor.

- that the contractor may not assign or sub-contract without prior written consent
- any insurance requirements
- health and safety requirements
- DPA requirements, if relevant
- that professional standards are to be met if relevant
- Equality Act requirements
- FOI requirements
- where agents are used to let contracts, that agents must comply with the COPCC Procurement Regulations
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

The Chief Executive is responsible for securing that all contracts that exceed £100,000 are prepared in writing by the Director of Legal Services and must clearly specify:-

- What is to be supplied (i.e. the works, goods, supplies, materials, services)
- the provisions for payment (i.e. the price to be paid and when)
- the time, or times, within which the contract is to be performed
- the provision for the Commissioner to terminate the contract

In order to appropriately protect the Organisation contracts may need to include a number of specific clauses in addition to standard terms and conditions. Such clauses may specify

arrangements in the event of a supplier failing to deliver (default clauses) including arrangements for penalties and liquidated damages. It may also be appropriate for some contracts, e.g. construction/works contracts, to include stage payments and/or retention payments that are released after a suitable period for identifying any defects. These types of contracts will typically also make provision for an examination of the final accounts presented for payment. Legal Services will advise on the need for any such clauses and provide a form of words for the contract terms.

The approval of the Chief Executive, who may seek legal and financial advice, must be sought for the following contracts:

- where the Total Value exceeds £50,000
- those involving leasing arrangements
- those that are complex in any other way

Agreement shall be completed as follows:

Total Value	Method of Completion	By
Up to £50,000	Signature	Director/Commander
Above £50,000	Signature or Sealing (as required)	Chief Executive

All contracts above £50,000 must be concluded formally in writing by Legal Services before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Chief Executive (or Deputy in his/her absence). An award letter is insufficient. Letters of Intent must be approved by the Chief Executive. The Authorised Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it. It is important to ensure that the contract is in the name of the relevant legal entity.

#### CONTRACT FORMALITIES

##### Sealing

Where contracts are completed by each side adding their formal seal, such contracts shall be signed by a representative on behalf of the Commissioner, together with the fixing of the Commissioner's seal, and must be witnessed by a further Officer.

Every sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the Chief Executive acting under delegated powers. A contract must be sealed where:

- the Commissioner may wish to enforce the contract more than six years after its end
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services,
- or is a 'Contract Variation' which has the effect of increasing the value of a contract which has already been subject to sealing

The Chief Executive shall secure that a register of sealed contracts shall be maintained on behalf of the COPCC by the Head of Procurement.

## CONTRACT FORMALITIES

### Bond and Parent Company Guarantees

Authorised Officers must consult the PCCCFO/CCCFO about whether a Parent Company Guarantee is necessary when a supplier is a subsidiary of the parent company and:

- the Total Value exceeds £250,000, or
- award is based on evaluation of the parent company

The relevant Authorised Officer must consult the PCCCFO/CCCFO about whether a Bond is required:

- where the Total Value exceeds £500,000.
- or where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract.

## CONTRACT FORMALITIES

### Cancellations, variations or extensions of contracts

**Cancellation:** Advice must be taken from Legal Services for any cancellations. Contract terms are complex and any changes to them can be subject to challenge and be expensive. If there are difficulties with the contract or the service is no longer required, legal advice must be taken before contacting the supplier. The terms of the contract may allow for a different way of resolving the issue than termination and if cancellation costs are likely to be high it may be better to see if other areas of the business can use the supply or service. For some contracts, it may cost more to cancel than to continue with the service. Consideration must be given to all the terms and conditions of the contract before any decision is made to end a contract before the time period required to do this

to ensure that cancellation is the most appropriate choice. Where a decision is made to cancel it must be undertaken in accordance with the terms and conditions of the contract and ensure all notice periods are complied with. Wherever possible, it is good practice to convey the reasons for the cancellation, but in the event that this may not be possible additional advice may be sought from Legal Services in the first instance. Under no circumstances should employees verbally instruct suppliers, contractors or others engaged on behalf of contracted suppliers that their services or goods are no longer required. Inappropriate cancellation of contracts may result in legal action and subsequent costs being borne by the COPCC. Contract cancellations ahead of the normal expiry of the contract must be authorised by the Chief Executive. The decision to cancel must be recorded by the Head of Procurement on behalf of the COPCC with reasons and available for audit. All contract cancellations must be issued by Legal Services.

It is possible to include within contracts terms that allow for early termination, where this is considered a possible requirement. This will however introduce uncertainty for the supplier and will generally result in the contract being more expensive. Such terms should therefore only be used where absolutely necessary and legal advice should support any decision to use early termination clauses.

**Contract Variations:** Variations to contracts will generally not offer good Value for Money and can result in challenges to the contract where the variation is significant such that it changes the nature of the contract and/or it results in a substantially different contract price. For this reason, all variations to contracts can only be made after legal advice has been taken and the variation has been authorised by the Chief Executive. Advice and approval must be taken prior to contacting the contractor. In authorising a variation to contract, the value of the variation will be considered in line with the contract value to ensure that these procedures and the requirements of the EU directive have not been breached. A written Change Control Notification must be issued by Legal Services for any contract variation, which must be signed and agreed by both parties, and a copy of the signed document must be retained with the original contract. The approval for the variation must be recorded by the Head of Procurement on behalf of the COPCC with reasons and available for audit. Where the variation results in the contract value increasing to the level that is subject to sealing, the variation must be approved under seal.

**Contract Extensions:** Authorised Officers are responsible for ensuring that contracts for which they are responsible are renewed at an appropriate time and notice of the impending expiry of the

current contract should be sent to the service or goods provider. Contracts should only usually be extended where the terms allow for the extension or where the contract has been let on the basis that it is annually renewable, subject to price. Careful consideration should be given to the duration of contracts and options to extend when the tender is initially issued to avoid procurement challenge. A written Contract Change Notification must be issued by Legal Services for contract extensions. Where there is a need to extend a contract outside the contract term and provisions allow for extension, legal advice must be sought and the extension must be authorised by the Chief Executive. Any decision to authorise the extension must carefully balance the procurement risk against the business need to extend. The approval for the extension must be recorded by the Head of Procurement on behalf of the COPCC with reasons and available for audit.

## PROCUREMENT AND CONTRACTING PROCEDURES: RECORD KEEPING AND DOCUMENT RETENTION

### Record Keeping and Document Retention

The requirements in respect of record keeping depend on the amount or Total Value of the contract. The requirements of these regulations are based on the Total Value exclusive of VAT. For all procurement, including that managed through quotations, basic records must be maintained. This section of the procedures sets out the requirements for record keeping, document retention and FOI.

The Chief Executive shall secure that all records are maintained in accordance with these regulations. The Head of Procurement will maintain all records on behalf of the COPCC in accordance with the arrangements for shared services. Authorised Officers are responsible for ensuring that records are kept, the procurement process is documented and that all records are submitted to the Head of Procurement.

Where the Total Value is **less than £20,000**, records must be maintained of:

- The invitation to quote and the pre quote estimate of the expenditure.
- All quotations received and the award made.

Where the Total Value is **between £20,000 and £100,000**, the following records must be kept:

- Invitation to quote, quotations and the pre quote estimate of the expenditure
- any exemptions and the reason for them
- of the reason if the lowest price is not accepted
- Records of communications with the successful contractor

Where the Total Value **exceeds £100,000** or where a formal tender process has been conducted, the Authorised Officer must record:

- The method for obtaining bids
- Any contracting decisions and the reasons for it in the form of a formal tender evaluation report
- Any exemptions together with the reasons for it
- The Award Criteria in descending order of importance
- Tender documents sent to and received from candidates
- Pre-tender market research
- Clarification and post-tender negotiations (to include minutes of meetings)
- The contract documents

- Post-contract evaluation and monitoring
- Communications with candidates and with the successful contractor throughout the period of the contract.
- Pre tender estimate of the expenditure.

All documentation relating to contracts should be retained in accordance with the retention scheme. The scheme is:

Records of tenders and contracts must be kept for six years and four months after the end of the contract. Where a contract is made under seal, the records must be kept for twelve years and four months. Records that relate to unsuccessful candidates may be scanned or stored for 12 months from award of contract provided there is no dispute about the awarded.

The Head of Procurement shall maintain a register of all contracts let on behalf of the Commissioner and will provide contract reports for the COPCC / Constabulary. The content and frequency of reports will be agreed with the Chief Executive, some examples are:

- number and value of contracts awarded;
- contracts awarded other than lowest cost;
- contracts awarded as a Single Tender Action;
- breaches of procurement regulations; and

#### RECORD KEEPING AND DOCUMENT RETENTION

#### Freedom of Information (FOI)

Information may be requested at any time on any procurement process and the Elected Local Policing Bodies (Specified Information) Order requires that ITT and contracts are openly published on the Commissioner's website. It is therefore important that all information that forms part of the procurement process is retained and filed in a way that ensures it can be easily used at a later date. This is particularly important for tender submissions and any correspondence with suppliers.

Generally whilst the submission of a tender will be considered as confidential, under FOI legislation this is likely to be insufficient as grounds for not releasing the information under an FOI request. Should an FOI request arise, appropriate steps should be adopted to enquire of prospective suppliers what, if any, information they feel should be exempt from FOI legislation, although the decision as to potential release rests with the COPCC. Before any information is released appropriate advice must be sought from the Deputy Monitoring Officer.



**PROCUREMENT AND CONTRACTING PROCEDURES: PROVIDING SERVICES AND ASSET DISPOSAL****Providing Services and Asset Disposal**

This section of the regulations sets out the rules where third parties procure from the COPCC / Constabulary. This includes where we sell surplus assets to others or provide services to external purchasers.

The rules are:

The Chief Executive must be consulted in respect of contracts to work for organisations other than the COPCC. This ensures that consideration is given to the limited staffing resources within the office and the priorities for resource allocation against the outcomes that aim to be achieved through the provision of external services.

Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting quotations and tenders or other approved method. These may be invited by advertising on the COPCC internet site. In the latter event, the method of disposal of surplus or obsolete stocks / stores or assets other than land must be formally agreed by the PCCCFO in accordance with the COPCC Scheme of Delegation. In some circumstances the trade in of obsolete equipment may be included within the tender specification for replacements. The basis upon which obsolete stocks / stores are declared surplus to requirements shall be in accordance with the COPCC Financial Regulations.

The Waste Electronic and Electrical Equipment (WEEE) Regulations 2006 aim to reduce the amount of WEEE being disposed of and require Electronic and Electrical Equipment (EEE) producers to pay for its reuse, recycling and recovery.

The COPCC / Constabulary, where appropriate, will dispose of end of life ICT and electrical equipment in line with WEEE Regulations which will include, where necessary, the use of accredited companies to ensure secure information removal prior to disposal.

Further information regarding the WEEE Regulations can be found on the Environment Agency website at <http://www.environment-agency.gov.uk/business/topics/waste/139283.aspx>.

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