

# Contract Procedure Rules

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# Section I – Definitions & Principles

## 1. Introduction

- 1.1 In the Contracts Procedure Rules, (CPR's), these definitions shall apply:
  - 1.1.1 "Budget Holder" means an Officer designated as such on a list maintained by the Chief Finance Officer
  - 1.1.2 "Chief Finance Officer" means the Officer designated as such by the Combined Authority or their nominated representative.
  - 1.1.3 "Monitoring Officer" means the Officer designated as such by the Combined Authority or their nominated representative.
  - 1.1.4 "Head of Procurement" means the officer designated as such on the Combined Authority's staffing establishment or their nominated representative.
  - 1.1.5 "Public Contracting Regulations" means the Procurement Act 2023 and any secondary legislation made under it.
  - 1.1.6 "Framework" means pre-approved procurement agreements that allow UK public sector organisations to purchase goods and services from approved suppliers without running full tender processes each time.
- 1.2 "Head of Paid Service" "Executive Director", "Director" Authority have the meaning set out in the Constitution.
- 1.3 This part of CPR's exists for the following main reasons:
  - 1.3.1 To protect the Combined Authority and it's Officers involved in the award of contracts;
  - 1.3.2 To demonstrate that the Combined Authority is obtaining value for money in the award of contracts;
  - 1.3.3 To ensure fair, equal, open and transparent treatment across all contract awards
  - 1.3.4 To provide the means of securing competition in the procurement of contracts;
  - 1.3.5 To prevent corruption, or allegations of corruption, in the award of contracts;
  - 1.3.6 To ensure compliance with legislation and regulations; and
  - 1.3.7 To ensure alignment to the Authority's objectives as set out in the Corporate Plan and individual directorate business plans.
- 1.4 A contract is an agreement made between two or more parties that creates legally binding obligations between them. Contracts are covered by contract law. The contract sets out those obligations and the actions that can be taken if they are not met.
- 1.5 These CPR's cover the organisation's rules and procedures around the creation and approval of such contracts. It excludes:

- 1.5.1 Grant Agreements
- 1.5.2 Secondment Agreements
- 1.5.3 Funding Agreements
- 1.5.4 Property transactions

## **2. Compliance with Contract Procedure Rules and Legislation**

- 2.1 Every contract made by or on behalf of the Combined Authority and all procedures relating thereto shall comply with these Contract Procedure Rules and the Financial Regulations. The only permissible exception is:
  - 2.1.1 Contracts procured through South Yorkshire Police (for which separate Standing Orders will apply, as approved by the Mayor under their Police and Crime Commissioner functions).
- 2.2 Within approved budgets Officers are, empowered to seek tenders and quotations for goods, services and works in accordance with these CPRs. These officers are empowered to authorise any other suitable officer to lead a procurement process on their behalf.
- 2.3 Contracts relating to legal services must be referred to and authorised by the Monitoring Officer.
- 2.4 Where a contract award following a procurement exercise meets the criteria of a Key Decision the Officer should pay due regard to, and act in accordance with, Part 5B of the Constitution.
- 2.5 Any subsidiary company of the Combined Authority shall be required to adopt the provisions of these Contract Procedure Rules insofar as they are not inconsistent with, or in conflict with, any provisions of the Companies Act 2006, and regulations made thereunder or the Articles of Association of that Company.
- 2.6 Any departure from compliance with these Contract Procedure Rules will require approval of the appropriate Executive Director in consultation with the Chief Financial Officer and Monitoring Officer.

### **Conflicts Of Interest**

- 2.7 An interest includes a personal, professional or financial interest and may be direct or indirect.
- 2.8 No contract for goods, services or an interest in property shall be granted to :
  - 2.8.1 an officer of the Combined Authority without the written approval of the Head of Paid Service in consultation with the Monitoring Officer;
  - 2.8.2 a close relative of any current officer (as set out in the Officer Code of Conduct; without the written approval of the Head of Paid Service in consultation with the Monitoring Officer;
  - 2.8.3 ex-employee of the Combined Authority within 2 years of leaving without the

written approval of the Head of Paid Service in consultation with the Monitoring Officer;

- 2.8.4 a Member of the Combined Authority, or its Committees, or the Deputy Mayor for Policing and Crime, or their respective spouse/civil partner/co-habitee without the written approval of the Head of Paid Service in consultation with the Monitoring Officer;
  - 2.8.5 a supplier where a conflict of interest puts the supplier at an unfair advantage and where steps cannot be taken to avoid that advantage, or the supplier refuses to take any necessary steps in order to ensure it is not put at an unfair advantage.
- 2.9 Before publishing a tender or transparency notice in relation to each procurement exercise, or before publishing a dynamic market notice in relation to the establishment of a dynamic market, the Head of Procurement must prepare a conflicts assessment in relation to the procurement or establishment and publish the fact in accordance with 2.9.3 that this has been done, and must:
- 2.9.1 keep any conflicts assessment under review
  - 2.9.2 revise the assessment as necessary, and
  - 2.9.3 when publishing any relevant notice (relevant notice includes a tender notice, transparency notice, dynamic market notice, contract details notice, or a contract change notice), confirm within that notice that a conflicts assessment has been prepared reviewed and if necessary revised.
- 2.10 The conflicts assessment must include details of:
- 2.10.1 conflicts or potential conflicts of interest identified (duty to identify)
  - 2.10.2 any steps taken or that will be taken to mitigate the conflict.
- 2.11 All relationships of a business or private nature with external contractors, or potential contractors, must be made known, by those officers who may influence a procurement exercise, to the Head of Procurement in advance of the preparation of the conflicts assessment. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives.
- 2.12 As well as making a declaration of interest to the Head of Procurement in accordance with Paragraph 2.11 above, officers who influence the procurement process in any way, must declare any interest or relationship in accordance with any requirements under the Officers' Code of Conduct and the Declaration of Interest process.
- 2.13 All officers must be prepared to justify to the Combined Authority their actions and those of their staff in relation to the invitation of tenders and the placing of work and should take all necessary precautions to safeguard the Combined Authority, its staff and themselves against allegations that any person has been unduly favoured without proper cause.
- 2.14 It shall be a guiding principle, when any employee is making a determination under this part of the Contract Procedure Rules, that in making such determination they have regard to the need to demonstrate that the Combined Authority will obtain value for money and that reasonable steps are taken to ensure that no supplier or potential supplier is treated unfairly

in the selection process and that a written record of each determination and the reasons for making it is kept on a file maintained by an officer for that purpose or on the purchase ordering system.

## **UK Legislation**

- 2.15 These Contract Procedure Rules shall be subject to any procedures that may apply pursuant to the Public Contracts Regulations 2015, the Procurement Act 2023, the Transport Acts (1968, 1985 and 2000), the Bus Services Act 2017 and the Public Service Obligations in Transport Regulations 2023 (PSO) including any amendments or superseding legislation as applicable and by reason of the United Kingdom's membership of the World Trade Organisation and if any conflict with Contract Procedure Rules arises, the Procurement Act or the PSO shall prevail.
- 2.16 A contract, or series of contracts, the aggregate amount or value of which (including VAT) exceed the financial thresholds set in Procurement Policy Notes issued by the Cabinet Office, shall be let only in accordance with the requirements of the Procurement Act 2023. The Head of Procurement shall keep Officers informed of the latest financial thresholds by updating them on the intranet.
- 2.17 Contracts, tenders or quotes must never be artificially divided to bring them below the relevant threshold. Such actions will be seen as a breach of Contract Procedure Rules.
- 2.18 The Procurement Act 2023 sets out a requirement to publish a pipeline notice of contracts to be let in the following 18 months to enable inclusion in the Pipeline Notice in the Government online system.

## **Frameworks**

- 2.19 Frameworks should be considered before undertaking any tender process in Category D referred to in paragraph 3.2. Only where a suitable framework offering value for money cannot be identified should a full tender process be undertaken.
- 2.20 Where a Framework is utilised any contract award must be compliant with the terms of the Framework. This may include the option for a direct award but where this is not permitted tenders compliant with the Framework's requirements must be sought and evaluated, if necessary, via mini- competitions.

## **Technical Standards**

- 2.21 Procurement documents may not refer to a United Kingdom standard unless the standard adopts an internationally recognised equivalent, or there is no internationally recognised equivalent. If procurement documents refer to a United Kingdom standard, they must also provide that tenders, proposals or applications that are deemed by the Combined Authority to be an equivalent standard from another state, territory or organisation of states or territories will be treated as having satisfied the United Kingdom standard.

## **Data Protection**

- 2.22 Where required by the Combined Authority's Data Protection Policy a Data Protection Impact Assessment will be carried out prior to procurement to identify potential personal data processing.
- 2.23 Where a contract involves data processing by the contractor/supplier on behalf of the

Combined Authority, then sufficient due diligence shall be undertaken to ensure that the Combined Authority only uses contractors who provide guarantees to implement appropriate technical and organisational measures in such a manner so as to meet the requirements of the UK General Data Protection Regulation and protect the rights of individuals.

## **Section II – Works, Goods and Services**

### **3. Tendering – Financial Categories and Thresholds**

- 3.1 This section applies to all contracts except those details in clause 1.5.
- 3.2 For the purpose of determining the requisite tendering procedure, the following financial categories shall apply to all contracts for the execution of works, the supply of goods or the supply of services (whether by or to the Combined Authority) unless a Framework is being utilised:

Category A	Up to and including £30,000 incl. VAT
Category B	Over £30,000 to and including £150,000 incl. VAT
Category C	Over £150,000 incl. VAT up to threshold as stated in Public Contracting Regulations incl. VAT
Category D	Over relevant threshold under Public Contracting Regulations

The current thresholds under Public Contracting Regulations are published here <https://www.gov.uk/government/publications/ppn-1123-new-thresholds/procurement-policy-note-1123-new-thresholds-html>.

- 3.3 Categorisation is to be determined on the basis of a proper and reasonable estimated value. The estimate should reflect the highest possible payment, considering any options for additional goods, services, or works, or extensions to the contract term and include the whole life of the batched (if applicable) contract including VAT and must not be artificially divided to bring them into a lower value category. Deliberate disaggregation is a breach of the Public Contracting Regulations and PSO.
- 3.4 The Procurement Function must ensure the relevant Common Procurement Vocabulary, (CPV), code is used when determining applicable thresholds.

### **4. Category A Procedures**

- 4.1 Budget Holders must be able to demonstrate that value for money has been obtained for this category of contract. Normally this should be achieved through acquiring more than one quote and keeping a written record of this. The amount of effort expended to demonstrate value for money should be proportionate to the value of the contract at all times.
- 4.2 For values above £5,000 the Budget Holder must ensure that full details are provided to the Procurement Function in order to comply with the Local Government Transparency Code 2015.



## **5. Category B Procedures**

- 5.1 Any procurement with a total contract value over £30,000 including VAT must be led by a member of the Procurement Function.
- 5.2 A sufficient number of quotations must be sought in order to demonstrate value for money. The amount of effort expended to demonstrate value for money should be proportionate to both the value and the subject of the contract at all times.
- 5.3 Quotations should be sought via the electronic tender management system.
- 5.4 Quotations should be requested from at least one local supplier wherever possible. Consideration may also be given as to whether the procurement could be reserved for local suppliers only, at this level.
- 5.5 The relevant draft contract must be issued with the quotation pack.
- 5.6 An award notice must be published on the Government's online system for all procurements equal to or above £30,000 including VAT.

## **6. Category C Procedures**

- 6.1 Any procurement with a total contract value over £150,000 including VAT must be led by a member of the Procurement Function.
- 6.2 An open competition should be undertaken and quotations should be sought via the electronic tender management system.
- 6.3 Unless invitation only a Tender Notice should be published via the Government's online system.
- 6.4 A light touch Procurement Strategy must be documented and approved before tenders are issued.
- 6.5 The relevant draft contract must be issued with the tender pack.
- 6.6 An award notice must be published on the Government's online system for all procurements equal to or above £30,000 including VAT.

## **7. Category D Procedures**

- 7.1 All procurement over the relevant threshold under Public Contracting Regulations (see 3.3) must be led by a member of the Procurement Function. All tenders must be advertised via the Government's online system for all contracts within this category.
- 7.2 Any engagement with the market, supervised by the Head of Procurement, must be undertaken before the tender is issued.
- 7.3 A Procurement Strategy must be documented and approved before tenders are issued.
- 7.4 Publication of Category D tenders shall be carried out strictly in accordance with relevant legislative requirements or terms of any Procurement Framework and will ensure any Notices are submitted in accordance with the relevant legislation.

- 7.5 Draft contracts must be issued with the tender pack.
- 7.6 Sufficient time must be allocated to ensure correct processes are followed for Category D procurements.
- 7.7 For all contracts with a value of £5 million or more the Procurement Function in consultation with the client must assess whether Key Performance Indicators are required to be incorporated and published as provided for in the Procurement Act 2023.

## **8. Orders & Contracts**

- 8.1 In conjunction with the Head of Procurement and the Monitoring Officer a contract should be created for Category B, C and D in all circumstances. Contracts for Category A should only be considered if the Monitoring Officer believes terms and conditions above the standard purchase order terms are required.

## **9. Waivers for the direct award of a Contract**

- 9.1 Category B to C procedures should only be waived and awarded via a waiver for the direct award of a contract in exceptional circumstances and only when the justifications laid out in the Procurement Act 2023, Transport Acts of 1968, 1985 and 2000, Bus Services Act(s) or the Public Service Obligations in Transport Regulations 2023 (including any amendments or superseding legislation as applicable) apply. These include:
  - 9.1.1 Competition is absent for technical reasons.
  - 9.1.2 The protection of exclusive rights applies, including intellectual property rights
  - 9.1.3 Extreme and unavoidable urgency brought about by unforeseen events. Insufficient time and lack of planning are not deemed to be valid reasons. This includes the execution of works or the purchase of goods, materials or services necessary for urgent maintenance repairs to land, buildings, vehicles or plant to prevent danger to authorised users or the general public or to prevent rapid and progressive deterioration, or to maintain essential or statutory services.
  - 9.1.4 Production of a prototype, or supply of other novel goods or services
  - 9.1.5 Creation or acquisition of a unique work of art or artistic performance
  - 9.1.6 Supply of similar goods, services or works by the existing supplier which are intended as an extension to, or partial replacement of, existing goods, services or works.
  - 9.1.7 A supplier is undergoing insolvency proceedings.
  - 9.1.8 Where the de-minimis provisions of the Transport Act 1985 (as amended) and the Public Service Obligations in Transport Regulations 2023 apply. Contracts for local bus services may only be awarded in accordance with those regulations and any criteria approved from time to time by the Combined Authority.
- 9.2 A waiver cannot, as a matter of law, excuse non-compliance with any law pertaining to public procurement.

- 9.3 The Head of Procurement must be consulted in writing on all requests for a waiver for the direct award of a contract, prior to approval being sought.
- 9.4 Any request for a waiver for the direct award of a contract may only be approved where value for money can be demonstrated.
- 9.5 Any request for a waiver for the direct award of a contract must be approved in writing, as follows before a contract is awarded is raised, subject to the Head of Procurement requiring any decision to be escalated to a higher level:
- Category B: Executive Director in consultation with the Head of Procurement. Except for contracts relating to Policing and Crime which must be approved by the Deputy Mayor for Policing and Crime.
  - Category C: Executive Director in consultation with the Portfolio Leader Chief Finance Officer. Except for contracts relating to Policing and Crime which must be approved by the Deputy Mayor for Policing and Crime.
  - Category D: Head of Paid Service in consultation with the Portfolio Leader, Chief Finance Officer and Monitoring Officer.
- 9.6 All direct awards following a Waiver will be recorded and reported accordingly.

## **10. Tender Criteria and Weighting**

- 10.1 In all cases where tenders are invited, the relevant evaluation criteria and weightings shall be agreed between the Budget Holder and the Head of Procurement, and in all cases be clear in the Invitation to Tender.
- 10.2 Social value criteria with a weighting of at least 10% must be included in all contracts above £100,000 including VAT and in excess of 12 months in duration. The criteria for determining the successful tenderers shall be only those permitted by the relevant UK legislation, but subject to that, shall be such criteria as may have been specified in the tender documents (e.g. price, quality, means of delivery and timing, calibre of staff where this impacts on quality, social value, technical assistance and after-sales service).
- 10.3 Tender evaluation criteria shall be set so that the criteria may be scored on a numerical basis with the intention that the highest score taking all criteria into account will be awarded the tender. Contracts should be awarded on the basis of a Most Advantageous Tender (MAT), taking account of price, quality and social value scoring criteria. Any deviations from this must be agreed with the Head of Procurement.

## **11. Nominated Sub-Contractors and Suppliers**

- 11.1 The requirements of Contract Procedure Rules Section II shall apply to the procurement of sub-contractors and suppliers who are to be nominated to a main contractor by the Combined Authority.
- 11.2 The terms of any invitation to a sub-contractor or supplier to submit a tender or quotation shall require an undertaking from them that if they are selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against the sub-contractor's or supplier's obligations under the main contract in relation to the works, services or goods included in the sub-contract unless provision is made to the contrary under the conditions of contract.

## **12. Duties of Agents**

- 12.1 It shall be a condition of the engagement by the Combined Authority of any person (not being an officer of the Combined Authority) to supervise a contract that, in relation to such contract, they shall comply with the requirements of these Contract Procedure Rules and the Financial Regulations as if they were an officer of the Combined Authority as well as complying with the contractual requirements.

## **13. Exceptions**

- 13.1 Section II of the Contract Procedure Rules may not apply to certain procurements/contracts including the following:
  - 13.1.1 Public sector to public sector contracts
  - 13.1.2 Some legal services
- 13.2 The application of any exception criteria must be agreed in writing with the Head of Procurement and the Monitoring Officer.

## **14. Tendering Procedure**

- 14.1 All tenders must be carried out via a secure electronic tender management system operated and managed by the Head of Procurement.
- 14.2 Where the E-Tendering system has not been used to let the contract, the SRO must ensure that full details are provided to the procurement function as soon as possible to update the register of contracts. This is to ensure compliance with the Local Government Transparency Code 2015. See section 26.
- 14.3 All invitations to tender must contain precise details as to:
  - 14.3.1 the information required from the tenderers;
  - 14.3.2 the evaluation criteria and weightings;
  - 14.3.3 a closing date and time;
  - 14.3.4 a statement that a tender that does not contain all the information required may not be considered valid;
  - 14.3.5 a statement that a tender which is submitted late may not be considered; and
  - 14.3.6 a statement that there is no obligation to accept the lowest price or any tender.
- 14.4 Any tender which is submitted late or submitted outside the electronic tender management system will only be accepted in exceptional circumstances with the approval in writing of the Head of Procurement and the Monitoring Officer.

## **15. Approval of Procurement Strategies**

- 15.1 The Head of Procurement must be consulted on any request to approve a Procurement Strategy for Category C or above. This consultation should take place prior to the final

approval being sought and evidence of this provided within the Procurement Strategy documentation. The Head of Procurement will provide a recommendation to the approver to as whether the document should be approved or not.

## **16. Acceptance of Tenders and Quotations**

- 16.1 Category A contracts may be awarded by Budget Holders.
- 16.2 All other category contract awards must follow the applicable route of the Officer Scheme of Delegation in consultation with the Head of Procurement, or Police and Crime Commissioner Functions – Joint Corporate Governance Framework in respect of contracts concerning the Mayor's PCC functions.
- 16.3 The acceptance, rejection or disqualification of a tender by or on behalf of the Combined Authority shall be notified in writing to the organisation submitting the tender by the Head of Procurement.

## **17. Equality of Tenders and Quotations**

- 17.1 In any Category B or C contract where there are two or more equal quotations all bidders shall be sent written or electronic invitations in identical terms to submit a revised quotation which will be considered in accordance with these Contract Procedure Rules and the Financial Regulations. Should a further tie occur the award of the contract will be determined by the drawing of lots.
- 17.2 In any case where two or more tenders for Category C or above contracts achieve an equal score on a full and fair evaluation of the criteria then if the Head of Procurement in conjunction with the Budget Holder considers it appropriate the contract may be awarded to the tender with the lowest price. The relative weight of quality over price in the tender shall form part of the considerations. If the prices are equal or if it would not be appropriate to award the tender based on lowest price then those bidders shall be sent a written or electronic invitation in identical terms to submit a revised quotation or tender which will be considered in accordance with these Contract Procedure Rules.

## **18. Records and Notifications**

- 18.1 The requirements for keeping records of the details of all tenders, bids and awards under all categories of contract and the notification of any such information to officers shall be in accordance with the policy approved by the Combined Authority, Head of Procurement and the Monitoring Officer from time to time.
- 18.2 This policy shall form part of the Procurement Manual and shall be implemented by the Head of Procurement in conjunction with the Chief Finance Officer and Budget Holders as appropriate.

## **19. Compliance**

- 19.1 Compliance to these Contract Procedure Rules is a mandatory requirement. Any non-compliance identified will be reported to the Head of Paid Service and the Monitoring Officer. Non-compliance may be treated as a disciplinary matter.

## **Section III – Issuing Contracts**

### **20. Preparation and Signature of Contracts**

- 20.1 A Contract can be entered into via the generation of a Purchase Order on standard terms and conditions or via a “formal contract in writing” via the Legal team.
- 20.2 Contracts covered by Section II should be prepared as follows:
  - 20.2.1 Category A: No formal contract required. Standard terms associated with purchase orders will apply unless the Monitoring Officer requires otherwise.
  - 20.2.2 Category B: A formal contract in writing should be prepared in all cases unless otherwise agreed in writing by the Monitoring Officer.
  - 20.2.3 Category C: A formal contract in writing should be prepared in all cases unless otherwise agreed in writing by the Monitoring Officer.
  - 20.2.4 Category D or above: A formal contract in writing should be prepared in all cases unless otherwise agreed in writing by the Monitoring Officer.
- 20.3 Formal contracts in writing must be signed by the Monitoring Officer or their nominee, being a Lawyer unless that person determines that the contract shall be executed under the Common Seal of the Combined Authority.
- 20.4 All formal contracts in writing should contain the relevant transparency clauses to allow for the Combined Authority to meet its transparency obligations including those required by the Public Contracting Regulations. If redactions are required to the contract these should be made by the supplier and agreed by the Combined Authority.

### **21. Contents of Contracts**

- 21.1 Every contract in writing shall specify:
  - 21.1.1 the work, materials, goods or services with a clear specification of what is required;
  - 21.1.2 the price or rates to be paid, with a statement of discounts or other deductions;
  - 21.1.3 the time or times within which the contract or elements of the contract are to be performed;
  - 21.1.4 For Contracts in excess of £5 million, Key Performance Indicators, where required under the Procurement Act 2023.
- 21.2 Unless the Monitoring Officer and the Chief Finance Officer having regard to all the circumstances, consider it to be unnecessary contracts for the execution of work shall provide for liquidated damages to be paid by the contractor in case of delays.
  - 21.2.1 the Combined Authority may require, and take sufficient security for, the due performance of any Category D contract , except for local transport services contracts.

- 21.3 In every written contract for the supply of goods or materials a clause shall be inserted to secure that, should the contractor fail to deliver the goods or materials, or any portion thereof, within the time or times specified in the contract, the Combined Authority, without prejudice to any other remedy for breach of contract, shall be at liberty to (a) request reperformance or redelivery or (b) immediate delivery of the outstanding goods or materials (c) refuse delivery by instalment (d) determine the contract in whole or in part dependent on the extent of the default allowing acceptance of any goods delivered to the date of determination (e) the contract not being exclusive and the Combined Authority have a right to purchase other goods or materials, as the case may be, of the same or similar description from another contractor. The clause shall further secure that if the amount of the cost of purchasing other goods or materials from another contractor exceeds the amount which would have been payable to the contractor this shall be recoverable from the contractor. This Contract Procedure Rule shall be drawn to the attention of all persons tendering or submitting a quotation for a contract with the Combined Authority.
- 21.4 Unless the Monitoring Officer determines otherwise, every contract for works entered into in writing by the Combined Authority shall include the right of the Combined Authority to have access to the site of works and documents of the contractor relating to such works. This right shall entitle the Combined Authority to nominate such officer as they shall deem appropriate to undertake any inspection at the site or of any documents including the right to nominate persons not in the employment of the Combined Authority.
- 21.5 Every written contract that involves the processing of personal data by a contractor on behalf of the Combined Authority shall set out the subject matter and duration of the processing, the nature and purpose of the processing, the type or personal data and categories of data subjects and the obligations and rights of the Combined Authority. In particular the contract shall contain clauses that meet the requirements of Article 28(3) of the UK General Data Protection Regulation.

## **22. Modifications to Contracts**

- 22.1 During the term of a contract, it may be necessary to modify the terms. This could include amending the requirements, costs and/or dates. Modifications to existing contracts may be made provided they are made in compliance with the Public Contracts Regulations 2015 Article 72 or the Procurement Act 2023 as applicable.
- 22.2 The Head of Procurement, the Monitoring Officer and Chief Finance Officer should be consulted on all contract modifications.
- 22.3 Prior to any modification being progressed, a Contract Modification Form must be completed by the requesting officer. The completed form must be sent to the Head of Procurement for comment and then to the Monitoring Officer for legal comment and Chief Finance Officer before approval is sought as set out below.
- 22.4 Contract Modifications that increase the value of a contract are to be approved in accordance with the Officer Scheme of Delegation set out in the Constitution.
- 22.5 For the avoidance of doubt, this Contract Procedure Rule does not apply to certain modifications that are reserved to a Contract Administrator or Engineer (or equivalent) under a civil engineering or building contract and should not be construed as limiting the authority of any such person to issue an early warning notice, agree a compensation event or act as required under the terms of the contract concerned.

- 22.6 All Contract Modification Forms and contract variations, shall be supplied to the Head of Procurement and the Monitoring Officer who shall annex it to the contract to which it relates. A copy of all variations should also be logged within the Purchase Ordering System against the relevant purchase order.

## **23. Cancellation of Contracts in Cases of Corruption**

- 23.1 Every written contract shall contain a clause empowering the Combined Authority to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any contract with the Combined Authority, or showing or forbearing to show any favour or disfavour to any person in relation to the contract or any other contract with the Combined Authority, or if the like acts shall have been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the contractor) or if, in relation to any contract with the Combined Authority, the contractor or any person employed by them or acting on their behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) and (3) of the Local Government Act 1972.

## **24. Assignment, Novation and Underletting of Contracts**

- 24.1 In every contract the contractor shall be prohibited from assigning, novating or underletting or sub-contracting the contract, or any part of it, except with the written consent of the Combined Authority.
- 24.2 In the case of a tender for services which provides for the possibility of subcontracting some or all of the services, principal contractors must include in their tender submission the percentage of work to be subcontracted, who it is to be subcontracted to and how they are going to deliver the subcontracted services and comply with the contract and relevant legislation. The principal contractor shall be expressly responsible for the actions and omissions of the subcontractor as if they were the actions or omissions of the principal contractor.

## **25. Electronic Signatures**

- 25.1 Signatures may be affixed to a contract either using physical, handwritten means or by way of an electronic signature using the Combined Authority's chosen electronic signature system only, and in accordance with any legal requirements.

## **26. Transparency**

- 26.1 The Combined Authority is required to publish any spending over £500 (excluding VAT) in accordance with the Local Government Transparency Code 2015.
- 26.2 The Code also requires the Combined Authority to publish details of every invitation to tender for contracts with a value exceeding £5,000 (excluding VAT), including the following information:
- Reference number
  - Title
  - Description of the goods/services sought



- Start, end and review dates, and
- Local authority department responsible

26.3 Additionally, the Combined Authority is required to publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000 (excluding VAT), including the information listed above plus:

- supplier name and details
- sum to be paid over the length of the contract or the estimated annual spending or budget for the contract
- Value Added Tax that cannot be recovered
- whether or not the contract was the result of an invitation to quote or a published invitation to tender, and
- whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number

26.4 Under the Procurement Act 2023, where the Combined Authority intends to publicly advertise a below-threshold contract worth £30,000 or more (inclusive of VAT) it must publish a below-threshold tender notice on the central digital platform.

26.5 The Act also requires the Combined Authority to publish copies of all contracts with an estimated Contract Value of more than £5million (inclusive of VAT). Contracts will be published electronically and commercially confidential information may be subject to redaction under section 94 of the Act.

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