



Durham Constabulary

The Office of the Police, Crime and Victims Commissioner & the Office of the Chief Constable for Durham Procurement Rules and Procedures

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PCVC Procurement Rules & Procedures

Introduction & Compliance

- All purchase orders and contracts for works, products or services made by or on behalf of the Constabulary and the Police, Crime and victims Commissioner, shall be made in accordance with these rules and procedures.
- All contracts shall comply with statutory requirements including, but not limited to, UK legislation, Directives of the European Community, and relevant Government Guidance.
- The PCVC and Chief Constable require all procurement activity to be undertaken in a transparent, fair and consistent manner, and in accordance with the Force Code of Ethics ensuring the highest standards of probity and accountability. All procurement undertaken on behalf of the Force and PCVC will operate under robust principles and procedures to ensure best value.
- No exceptions shall be made other than those indicated in the “Exception to Normal Procedures and Sole Supplier Requirements”.
- ***All officers and employees shall comply with these rules and procedures and any failure to do so may result in disciplinary action.***

Competitive Procurement

- For works, products or services not available from an existing contract, the procurement team will arrange for the acceptance of quotations and bids which will be based on the principle of best overall value for money, i.e. the most economically advantageous offer. Criteria for the award of contracts shall be recorded in advance of the invitation and strictly observed by officer's evaluating the bids.
- When requesting quotations from contractors who are not yet listed on the central database discussions must be held with Procurement to ensure that the correct procurement process is carried out. Consistency must be observed when dealing with several contractors and on no account must the current thresholds, available budget be disclosed or one competitor's quotation (costs) be disclosed to another.
- Evaluation models shall generally be weighted such that the highest percentage score will be allocated to the area which holds the most strategic value or importance during the life cycle of the service requirement.
- The criteria may include cost and qualitative elements. The evaluation process must be non-biased, transparent, objective, systematic, thorough and fair. And MUST NOT be changed or amended 'to suit' after the deadline date when supplier responses have been received
- The procurement team during the evaluation period may need to ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must not involve changes to the basic details of the bidding organisation's submission.
- In order to ensure consistency of the process all clarification questions must be raised via the e-tendering system and Bidders must also respond via the same

system. In cases where an e-tender system has not been used for any competitive procurement exercise where more than one quotation or bid is required the procurement team should ensure any clarifications are requested in writing, or by e-mail, and bidding organisations asked to respond by the same means.

- When requesting clarifications to any ambiguous responses, the Procurement Officer responsible must make a record of each and every question raised, to which bidder and date along with the bidder's response on the dedicated clarification log document and held in the relevant ITT folder.
- If the same clarification questions relate to more than one bidder, the exact same wording must be used on the request to clarify, names of the competing organisations must not be disclosed to any other.

Value

- Estimated value is deemed to be the aggregate cost, in any Force and any that is reasonably anticipated over the lifetime of the provision (full term of contract). If the lifetime is unknown, then the aggregate cost should be based on 48 months (e.g. three years and one year's extension).
- Requirements must not be disaggregated (split or separated into smaller purchase requirements) in Force or PCVC in order to avoid competitive procurement **under any circumstances**.
- Following a competitive procurement exercise a contract will be formed. If that contract is agreed for a certain length of time (the term e.g. 4 years) the contract should not be extended. Extensions should only be used when an extension has been prior agreed as part of the original procurement documents and outlined as a clause within the agreement signed by all parties. Extension periods should always be considered at the start of a procurement exercise (tender) to ensure that aggregated contract spend has been accounted for, if in the event that an extension of contract may be required this must also be notified immediately to the procurement section to assist with the structure of the procurement documents;

Variations

- The authority levels shall also apply to variations to contract, i.e. any additional costs resulting from the variation must be aggregated ideally where possible and known at that point with the original contract value for the purposes of authorisation and also future requirements (new procurements)
- However, there must be no agreement for variation to contract without involvement of the procurement section to allow for adherence to contract regulations and audit requirements.
- Except where the Public Contracts Regulations (2015) apply, the Executive has the power to waive any requirements within these PRs for specific projects.
- Additionally, and where proceeding under a Variation does not breach the Public Contracts Regulations (2015), these Rules may be waived or varied where the circumstances are authorised by the Executive Team, (advised as appropriate by

the Head of Procurement or responsible Procurement Officer) as meeting any of the following criteria:

- (a) with an organisation already engaged by the Force for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement, without exposing the Force to unacceptable risk;
 - (b) involving cases of genuine, unforeseen urgency, where it is not possible to comply with these Procurement Regulations;
 - (c) for the purchase of unique work, specific item or specimen, to meet the specific requirements of a particular project event, or otherwise for the protection of exclusive rights which cannot be procured competitively due to the nature of the requirement;
 - (d) in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this; or
 - (e) where relevant UK or EU legislation not otherwise referred to in these Procurement Regulations prevents the usual procurement process from being followed.
- The procurement Officer must complete the relevant form for Variation, as contained within folder no.23 T&C's, which must be authorised by the relevant internal stakeholder or their Head of Service before being submitted to the Head of Procurement. Head of Procurement will review the Application for Variation before obtaining a decision from the Executive team or ACO (or other officer as delegated).
 - Committing to expenditure with a supplier, without a valid contract or a Variation in place, is a breach of these PRs. Therefore, where a Variation is being sought retrospectively, for expenditure to which a Service Area has already, the retrospective application must be authorised by the responsible procurement officer, to make them aware of the breach, before it is submitted to the Head of Procurement.
 - Every Variation form will be recorded on a master register to be maintained by the Procurement team.
 - Where a Variation is being applied for by the Procurement team, it must also be scrutinised by the force ACO, to ensure the robustness of the procedure.

- The table below describes the procedure and authority levels dependent on the estimated value of the procurement.

Estimated Value over the life of the contract	Quotation / Tender Requirements	Levels of Delegated Authority to accept quotations/tenders
<p><u>In ALL cases please follow the below guidance when a procurement is required</u></p> <p>Please ensure that a requisition is raised on the Agresso Finance system ASAP prior to any commitment with suppliers.</p> <p>No purchase order / No invoice payment.</p>		
<p>For purchases up to £10,000</p> <p>< £10,000</p>	<p>If there is an existing supplier listed on the Agresso finance system the local stake holder/s is permitted to use any of the listed suppliers and source one quotation direct.</p> <p>Process required:</p> <ol style="list-style-type: none"> Supplier quotation (written format) Requisition raised Quotation uploaded to requisition as an attachment Authorisation process begins <p>In the event that there is not an existing supplier still proceed to raise a requisition onto Agresso providing as much detail as possible about the item/service</p> <p>one quotation shall be obtained from a new provider by procurement only, no other quotations obtained direct by non-procurement staff will be entertained</p> <p>For additional guidance refer to explanation of thresholds</p>	<p>Purchase orders and contracts with existing suppliers to be approved locally by Officers with relevant authority in accordance with financial instructions</p> <p>New providers will be sourced and approved by Procurement only and a new supplier account opened on the Agresso system by Finance following the approval of Procurement</p> <p>Authority to proceed to contract will be issued by the Procurement Team</p>
<p>For purchases between £10,000 up to £50,000</p>	<p>Three formal written quotations to be obtained by stake holders from existing suppliers, three quotations are requested to ensure VFM</p> <p>Process required:</p>	<p>Purchase orders and contracts with existing suppliers to be approved locally by Officers with relevant authority in accordance with financial instructions</p>

	<p>a. Three separate supplier quotations (written format)</p> <p>b. Requisition raised</p> <p>c. Best Value quotation uploaded to requisition as an attachment</p> <p>d. Authorisation process begins</p> <p>In the event that we don't have any existing supplier/s still proceed to raise a requisition onto Agresso providing as much detail as possible about the item/service. Three quotations shall be obtained from new providers by procurement only, no other quotations obtained direct by non-procurement staff will be entertained</p> <p>For additional guidance refer to explanation of thresholds</p>	<p>New providers will be sourced and approved by Procurement only and a new supplier account opened on the Agresso system by Finance following the approval of Procurement</p> <p>Authority to proceed to contract' will be issued by the Procurement Team</p>
> £50,000	<p>All procurement to be managed by the Force Procurement Team.</p> <p>Some of the standard forms used in a higher value procurement</p> <ul style="list-style-type: none"> * Stake Holder Risk analysis template * Stake Holder Specification * Procurement Litigation report * Ext Contracts Finder (H/O) * Tender Document * Numerous assurance forms * Supplier Questionnaire* * Evaluation document * Contract Ts & Cs drafted / agreed * Supplier Comms / Clarification Log * Various Supplier feedback Letters * Contract award authorisation document agreed * Contract agreed /signed * Contracts Finder updated (H/O) and BLPD 	<p>On conclusion of the procurement process an 'Authority to proceed to contract' will be issued by the Procurement Team and will be signed by one of the below officers with relevant authority in accordance with Financial Instructions and returned to the Procurement Team.</p> <p>Up to £100,000 (Head of Procurement)</p> <p>£100,000 to £1,000,000 (CFO or ACO)</p> <p>Over £1,000,000 (PCC or CFO)</p> <p>No fewer than 5 competing organisations will be invited to tender– subject to chosen route of procurement or restriction of service providers</p>

Explanation of Thresholds

- **For purchases up to £10,000**, if local stake holders are unsure whether or not we already have listed providers they must check with Procurement in the first instance to establish if the force has **existing supplier** accounts or contracts held on the Agresso finance system which can quickly assist with the requirement.
- One quotation will be accepted if the purchase comes from an **existing Agresso registered supplier**, the quotation can be sourced directly by the local stake holder.

- Please ensure that when asking for a quotation that it's established whether or not **carriage is to be charged** and any discount for Police has been applied

Once the quotation is received, the stakeholder **MUST** arrange with their admin team to have a requisition entered onto the Agresso Finance system and a copy of that quotation **MUST** also be uploaded for audit and proof of costs agreed.

* Please note that requisitions may not be authorised until a copy of the quotation has been attached. A separate Administrators guidance document is available to show how to upload a supplier quotation

The requisition will then go through the correct authorisation procedure which in turn once authorised will result in a purchase order which will be sent to the chosen supplier.

- In the event that there is not an existing supplier account on Agresso a purchase requisition will still need to be raised by the relevant admin team on the Agresso system and which must provide a detailed description of what's required, the quantity, the associated financial cost centre and account codes, where the services are to be delivered to and whether or not the requirement is needed urgently.

Please help your Admin Teams by providing as much detail of the product or service required so that the Admin person has all of the details to hand and completes the requisition correctly. This will alleviate the chances of the requirement being delayed due to ambiguity.

- The requisition will then be forwarded to procurement, one quotation shall be obtained by **Procurement only**
- Once a suitable quotation is accepted by the stake holder, procurement will authorise the opening of a new supplier account on the Agresso system. The purchase must be recorded via the Agresso system with the chosen quotation uploaded for audit purposes.
- Please note separate purchase requests (smaller value requisitions) relating to the same procurement will not be entertained
- **For purchases between £10,000 and £50,000**, three written quotations must be obtained from **existing suppliers** already set up on the Agresso system. The quotations can be sourced directly by the local stake holder.
- Please ensure that when asking for quotations that it's established whether or not carriage is to be charged and any discount has been applied

Once the quotations have been received from existing suppliers, the stakeholder

MUST arrange with their admin team to have a requisition raised onto the Agresso Finance system and a copy of the preferred Best Value quotation MUST also be uploaded for audit and proof of costs agreed.

- In the event that there is **not** an existing supplier account on Agresso a purchase requisition will still need to be raised by the relevant admin team on the Agresso system and which must provide a detailed description of what's required, the quantity, the associated financial cost centre and account codes, where the services are to be delivered to and whether or not the requirement is needed urgently.

Please help your Admin Teams by providing as much detail of the product or service required so that the Admin person has all of the details to hand and completes the requisition correctly. This will alleviate the chances of the requirement being delayed due to ambiguity.

- The requisition will then be forwarded to procurement, three quotations shall be obtained by **Procurement only**
- Please note separate purchase requests (smaller value requisitions) relating to the same procurement will not be entertained.
- **For purchases over £50,000** the mandatory involvement of the Procurement Team is required. The Procurement Team will provide advice and guidance on all procurement matters and contracts over £50,000.
- On conclusion of the procurement process an 'Authority to proceed to contract' will be issued by the Procurement Team and will be signed by the below officers with relevant authority in accordance with Financial Instructions
 - Up to £100,000 (Head of Procurement or ACO)
 - £100,000 to £1,000,000 (ACO, or COS)
 - Over £1,000,000 (CC, PCVC, ACO or COS)
- For all of the above the Officer with delegated authority to authorise orders or contracts committing the expenditure does so on behalf of the PCVC and CC.

Exceptions to Normal Procedures and Sole Supplier Requirements

- All exceptions to normal procedures must be approved by the ACO, CC or PCVC in consultation with the Head of Procurement.
- Sole supplier requests should only be used in **very exceptional circumstances**.

The Head of Procurement or ACO will consider and approve requests for Exceptions to normal procedures under the following circumstances:

- Where it can be evidenced that only one supplier is able to carry out the work or service or to supply products for technical reasons or because of exclusive rights;
- Extensions to existing contract where there is a genuinely justifiable case to use an existing contractor/supplier to maintain continuity of supply or site experience;
- The contract has been classified as secret by the Chief Constable 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 impracticable. For example a genuine unforeseeable operational need arises. However failure to plan ahead and take action within appropriate timescales does not constitute grounds for an urgency exception.
- Procurement have a specific form which supports the above requirement. This also assists with audit reviews and helps reduce the risk of non-adherence to regulations, this form must be completed and authorised prior to committing to the exception.

Competitive Procurement Using Tenders

- The ACO will have responsibility to ensure appropriate Procurement Policy and Procedures are in place covering matters such as:
 - The procedures to be applied in respect of the whole tendering process i.e. initial tender, specifications and standards, and evaluation and appointment of contractors and consultants;
 - Processes regarding the use of subcontractors;
 - Processes regarding variations to contract;
 - The process to be undertaken in relation to declarations of interest in a contract;
 - The procedures to be followed in relation to Collaborative Contracts;
 - The adoption of Framework Agreements;
 - The Procedures to be followed in applying for an exception to Standing Orders, including:
 - The formal procedure to be adopted to evidence alternative provision is not available;
 - The formal justification of emergency provision;
 - The achievement of Value for Money, and the minimisation of risks to the Force and the PCVC.
- The Procurement Policy and Procedures will set out arrangements for the recording and retention of information in relation to procurement activity.
- The ACO will ensure appropriate Financial Instructions are provided for use by staff.

Late Submissions

- Tenders, Quotations or Selection Questionnaires which are received after the stated deadline shall be automatically rejected, except in the following circumstances:
- Where the delay in submission is the result of a failure of the electronic system, and where this can be verified to be the case, or:

- Where only one submission is received, and where this submission has arrived late, but is compliant in every other respect, and with the approval of Corporate Procurement.

Tender Opening & Verification Procedure

- Electronic Tendering
- The PCVC supports the use of electronic means for the invitation and receipt of tenders through the selected e-tendering system in line with the system requirements.
- The ACO will ensure that the selected systems and the related procedures incorporate appropriate safeguards to ensure the integrity of the tendering process

Shortlisting

- Any shortlisting (i.e. Selection Questionnaire (SQ)) must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the Public Contracts Regulations (2015), and must be issued using the Forces version of the Government Standard Selection Questionnaire template. Officers should refer to any further guidance contained on the Governments website.
- Where applying financial turnover threshold as a shortlisting criteria, the threshold used must be no more than two times the estimated total value of the proposed contract.
- When shortlisting as part of a restricted tender process, a minimum of five bidding organisations should be shortlisted to tender, except in cases where fewer than five compliant SQ responses are received. In a Competitive Dialogue or Competitive Procedure with Negotiation, the minimum shall be three, except in cases where fewer than three compliant SQ responses are received.

Form of Contract

- Do not agree to any supplier's terms and condition without seeking advice from Legal in the first instance and/or then Procurement (the Force has its own formal terms and conditions that we expect suppliers to sign up to).
- It is strongly advised that, legal advice is sought in relation to contracts with support from the procurement section.
- All contracts shall be in writing.
- All contracts must be notified to procurement team and recorded on the central procurement contracts register

EU Remedies Directive

This section has been included to share the consequences awaiting those organisations that transgress procurement rules.

The EU introduced the Remedies Directive:

- To make the processes more transparent;
- To try to stop contracting authorities from awarding contracts illegally;
- To introduce effective remedies for those suppliers who have been treated unfairly.

The main issues that have brought about the changes are:

- Contracting Authorities not advertising contract opportunities correctly to introduce the element of competition for Supplies & Services;
- Unclear selection and award criteria;
- Change of award criteria, scoring methodology and/or final specification detail after the fact. All of the above should be detailed in the finalised original procurement documents and all bidders given the exact same information, do not amend any of these after the deadline response date for bids has passed and do not send to single suppliers only – fairness, transparency and consistency is a must
- Failure to aggregate spend; (several separate requisitions/ purchase orders)
- Extending contracts erroneously;
- Failure to create award notice for successful contractor;
- Discriminating against suppliers;
- Running framework contracts incorrectly (allowing non-framework suppliers to take part);
- Not advertising contracts appropriately (above certain threshold limits);
- Failure to operate the statutory stand still period (mainly for OJEU contracts).

When debriefing unsuccessful tenders following the award of a contract, please follow this guidance and above all you must speak to Procurement before giving formal feedback:

- Don't give more information than you need as you must be aware that suppliers will pick up on everything you say and conduct "fishing expeditions" to illicit information that may support the unsuccessful tenderer lodge a legal procurement challenge which may cause significant delay and cost.
- Don't use negatives such as "You lost marks for this", rather say "the successful bidder scored higher on this area".
- Mention the positives first such as "you scored highly on these areas".

- A good tactic is to point out that somebody has to win the business, nothing wrong with your tender but the other company put more detail into.....

Remedies that could be awarded include:

- Damages (up to the value of the contract);
- Stop contract award & re-tender;
- Cancel an existing contract;
- The new directive allows unsuccessful bidders to lodge a complaint up to 6 months after a decision has been made;
- No win no fee service organisations;

The following are examples of cases where damages were awarded following a poorly structured and managed procurement exercise:

- County Council: Changes in the scope of requirements and £800,000 was paid to an unsuccessful bidder;
- County Council: substantial but undisclosed damages;
- Fire Service: £122,000 damages when a supplier's tender had not been considered in full;
- County Council: sub criteria and failure to disclose scoring methodology (loss of profit's damages);
- County Council: £400,000 damages for 'not fairly comparing bids'.

Should there be more than one organisation (aggrieved supplier) who challenge a procurement process the overall costs of such could be multiplied by how many organisations challenge i.e. 4 x value of contract £3,000,000. The total potential challenge for the force could be £12,000,000. + Applicable court costs, loss of business reputation and valuable staff time lost, should we lose or not be able to justify thoroughly our process

Key Messages

It is absolutely vital:

- Stakeholders are made aware of the risks of challenge regarding specifications, award methodology and procurement process;
- Specifications are clear, easily assessed and are compliant with the fair and open treatment principles;
- Thought is given to how tenders will be evaluated. We have got to get this right before we start the process as we cannot change the scoring methodology later;
- There can be a two part evaluation in 'EU tenders' above the relevant threshold i.e. the Pre-Qualification and Tender stage Assessments;
- Scoring is checked and rechecked;
- Process is followed without exception.
- Evaluation teams are kept consistent where possible (same staff involved throughout process)

Reminder guidance

- Contracts should never be automatically extended if not prior tendered for, (not included in the original procurement documents).
- Nor should existing suppliers be used for ease to extend a contract without involvement of Procurement team
- New Quotations should never be requested unless handled by Procurement team once a contract has ended or is nearing its end in order to extend a contract
- Before the contract is due to end a new procurement exercise managed by Procurement should commence, (value will depict the route for procurement)
- Do not arrange new contracts without prior involvement of the Procurement Team, **all** contracts must be arranged by the legal team in the first instance and supported by the Procurement team. We then record contracts on the central procurement contracts register
- Procurement Team on behalf of the force must provide savings targets on a monthly basis to the Home Office, once a competitive procurement has taken place, the savings achieved (if any) should be notified to procurement immediately

Contracts extended without following the correct procedure above will not be entertained and leaves you and the organisation at risk of non-compliance