

February 2020

Procurement Policy

Introduction

1. The Legal Services Board (LSB) is committed to:
 - a) achieving value for money on all procurements;
 - b) complying with the [Public Contracts Regulations 2015 \(SI No.102\)](#) (the “PCR”), all other applicable legislation¹, Government policies, the LSB’s own internal policies² and good practice (hereafter referred to as “Procurement Requirements”); and
 - c) working with firms that demonstrate a commitment to equality, diversity and sustainability, with fair and ethical practices.
2. In all procurement activities, the LSB will:
 - a) establish levels of competition appropriate and proportionate to the size, value, risks and complexity of the purchase;
 - b) communicate our requirements and evaluation criteria; and
 - c) operate with integrity, objectivity, fairness, efficiency, transparency and professionalism.
3. This policy applies to all colleagues and must be considered before the LSB procures or purchases any goods or services (including engaging external consultants and research services). It should be read in conjunction with the LSB’s Finance Regulations, Governance Manual and other policies and practices covering project and risk management at the LSB. This Policy will be reviewed annually by the Head, Finance and IT in consultation with the General Counsel.
4. You must comply with this Policy when buying, procuring or purchasing all goods and services for the LSB. The Policy is designed to ensure that the LSB complies with its obligations under law and good practice for public bodies, and to minimise legal, financial and other risks. The Policy may only be waived in exceptional circumstances as

¹ The PCR implemented [Directive 2014/24](#) on public procurement (OJ 2014 L94/65). At the date of drafting this Policy the PCR and [Directive 2014/24 apply in the UK until 31 December 2020, the end of the transition period for the UK’s withdrawal from the EU](#).

² In particular, the LSB’s Scheme of Delegation, Policy on Anti-Corruption and Bribery, and Policy on Interests.

described in this Policy. Questions and concerns about this Policy and its application should be directed to:

- a) Head, Finance and IT – matters relating to the overall procurement policy, finance and budgeting.
- b) General Counsel – matters relating to legal requirements, terms of agreement drafting and review of draft contracts.
- c) Corporate Services Manager – matters relating to project and risk management.

Procurement process

- 5. Procurement activities need to consider price, quality, delivery, service and sustainability factors. The Government’s over-riding policy requirement is that all public procurement must be based on value for money, defined as “the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought”. Transparency, and equality and diversity requirements need to be considered, as well as fair and ethical practices.
- 6. This Policy sets out four different “Procurement Processes” – which one of these processes is applicable will depend on the value of the goods and services that the LSB is intending to purchase (see [Table 1](#) below). Each process is designed to ensure that the LSB complies with the Procurement Requirements and is proportionate to the value of the procurement. Note that these are minimum requirements. If the procurement is low in contract value, but particularly risky or of high strategic value to the LSB, it might be prudent to undertake a higher-level procurement process.

Table 1: Procurement process requirements

Contract Value Band (excl. VAT)	Procurement process requirements
Procurement Process 1 £0 to £4,999	<ol style="list-style-type: none"> 1. Seek advice from the Head, Finance and IT and/or General Counsel prior to undertaking Procurement Process 1. 2. Obtain at least two independent quotes. 3. Consider using the Crown Commercial Service (refer to the Crown Commercial Service section below). 4. Consider sustainable procurement (refer to the Sustainable procurement section below). 5. Assess suppliers’ commitment to equality and diversity, and faith and ethical labour practices (refer to the Equality and diversity, and Fair and ethical practices sections below). 6. Ensure contracts and any renewals are reviewed by the General Counsel before the LSB enters into any agreement. 7. Complete the new supplier form and have it approved by the Head, Finance and IT before entering into any agreements with a new supplier (refer to the New supplier form section below).

Table 1: Procurement process requirements

Contract Value Band (excl. VAT)	Procurement process requirements
	<ol style="list-style-type: none"> 8. Approval as per the scheme of delegation (see 'Finance Regulations'). 9. Update the contracts register (refer to the Contracts register section below).
<p>Procurement Process 2:</p> <p>£5,000 to £24,999</p>	<ol style="list-style-type: none"> 1. Seek advice from the Head, Finance and IT and/or General Counsel prior to undertaking Procurement Process 2. 2. Obtain at least three quotes. 3. Consider using the Crown Commercial Service (refer to the Crown Commercial Service section below). 4. Consider sustainable procurement (refer to the Sustainable procurement section below). 5. Assess suppliers' commitment to equality and diversity, and faith and ethical labour practices (refer to the Equality and diversity, and Fair and ethical practices sections below). 6. Ensure contracts and any renewals are reviewed by the General Counsel before the LSB enters into any agreement. 7. Complete the new supplier form and have it approved by the Head, Finance and IT before entering into any agreements with a new supplier (refer to the New supplier form section below). 8. Approval as per the scheme of delegation (see 'Finance Regulations'). 9. Update the contracts register (refer to the Contracts register section below).
<p>Procurement Process 3:</p> <p>£25,000 and up to the Public Contracts Regulations 2015 threshold (Table 2 refers)</p>	<ol style="list-style-type: none"> 1. Speak to the Head, Finance and IT and General Counsel prior to undertaking this Procurement Process 3. 2. Consider using the Crown Commercial Service (refer to the Crown Commercial Service section below). 3. Consider sustainable procurement (refer to the Sustainable procurement section below). 4. Follow transparency requirements (refer to the Transparency section below). 5. Conduct a tender with at least four returns. 6. Assess suppliers' commitment to equality and diversity, and faith and ethical labour practices (refer to the Equality and diversity, and Fair and ethical practices sections below). 7. Ensure contracts and any renewals are reviewed by the General Counsel before the LSB enters into any agreement. 8. Complete the new supplier form and have it approved by the Head, Finance and IT before entering into any agreements with a new supplier (refer to the New supplier form section below). 9. Approval as per the scheme of delegation (see 'Finance Regulations').

Table 1: Procurement process requirements

Contract Value Band (excl. VAT)	Procurement process requirements
	10. Update the contracts register (refer to the Contracts register section below).
Procurement Process 4: PCR threshold (Table 2 refers) and above	<ol style="list-style-type: none"> 1. Seek advice from the Head, Finance and IT and General Counsel prior to undertaking Procurement Process 4. 2. Requirements and procedures are dictated by the PCR 2015. 3. Consider using the Crown Commercial Service (refer to Crown Commercial Service section below). 4. Consider sustainable procurement (refer to the Sustainable procurement section below). 5. Assess suppliers' commitment to equality and diversity, and faith and ethical labour practices (refer to the Equality and diversity, and Fair and ethical practices sections below). 6. Ensure contracts are reviewed by the General Counsel before the LSB enters into any agreement. 7. Complete the new supplier form and have it approved by the Head, Finance and IT before entering into any agreements with a new supplier (refer to the New supplier form section below). 8. Approval as per the scheme of delegation (see 'Finance Regulations'). 9. Update the contracts register (refer to the Contracts register section below).

Table 2: Public Contracts Regulations 2015 (PCR) threshold³

	Supplies	Services	Works
From 1 January 2020	£189,330	£189,330	£4,733,252

Contract value and budget

7. The contract value is the total amount that will be paid to the supplier over the life of the contract period, including any options for contract extensions, otherwise known as the whole-of-life cost. If there is no contract termination date, the contract value should be calculated over a three-year period. Note that it is good practice to have a contract end date unless there is a compelling reason to the contrary. Contracts must not be disaggregated to lower the contract value and circumvent the procurement process.
8. For the purpose of determining which process under the Policy applies to your procurement / purchase, contract value is calculated excluding VAT, as per the PCR. If the contract value is not known, then an estimated contract value would need to be used to determine the appropriate Procurement Process. Note that as the LSB cannot claim VAT back, for all internal budget purposes, calculations must include VAT. Also note that

³ [Information Note PPN 06/19 November 2019](#). Note that the thresholds are updated annually.

that the budget treatment for capital costs and operating costs are different. Please consult a member of the Finance team if you require further guidance.

Crown Commercial Service

9. Consider using the [Crown Commercial Service](#) (CCS) for procurement. Buying through the CCS complies with LSB policy, the PCR, is intended to achieve value for money and can simplify the procurement process. The CCS has two main buying categories:
 - a) **Catalogues:** For everyday purchases, such as office supplies and technology products. Prices are published and supplies can be bought online with next-day delivery, pending supplier account setup.
 - b) **Frameworks:** For everyday but more complex requirements, such as research and professional services. Each framework has a description of the requirement, a list of suppliers that have been pre-qualified (evaluated as capable of delivering against the requirements), and standard, pre-negotiated contract terms.

Transparency

10. PCR transparency provisions require the LSB, where it undertakes procurement valued at £25,000 or more, but below the PCR threshold, to publish the following on the [Contracts Finder](#) website:
 - a) details of the contract opportunity within 24 hours, if the LSB publicly advertises it, until the opportunity closes ([regulation 110](#))
 - b) a contract award notice, within a reasonable time of the award, subject to any applicable exclusion relating to law enforcement, public interest and commercial confidentiality ([regulation 112](#)). CCS guidance recommends that award notices be published within 90 calendar days of award⁴.
11. The requirement to publish a contract opportunity on Contracts Finder does not apply where the LSB is:
 - a) not publicly advertising the opportunity, by making an opportunity known to a closed group of suppliers who have already been selected onto a Framework Agreement or Dynamic Purchasing System; or
 - b) satisfied it is lawful not to advertise an opportunity and chooses not to advertise the opportunity at all.
12. Once a contract has been awarded the LSB is required to publish an award notice with at least the following information on Contracts Finder:
 - a) the name of the contractor;
 - b) the date on which the contract was entered into;
 - c) the value of the contract; and

⁴ [Guidance on the new transparency requirements for publishing on Contracts Finder](#)

- d) whether the contractor is a small and medium-sized enterprise (SME) or Voluntary Community and Social Enterprise (VCSE).
13. There are limited circumstances where the LSB may withhold information from publication, e.g., because doing so would be prejudicial to the public interest or commercial interests. You must seek legal advice if you have concerns about publication.
14. The transparency provisions are subject to certain exclusions – for example for lease of or interests in land/buildings, legal services, and certain research and development services (regulations 10 to 14 of the PCR). You must seek legal advice if you think an exemption may be applicable.
15. There are separate transparency requirements for procurements above the PCR threshold. You will need to seek legal advice on this before embarking on any above threshold procurement exercise.

Sustainable procurement

16. Government Buying Standards (GBS)⁵ are product specifications for sustainable procurement – the process of meeting organisational needs in a way that also benefits the wider society and economy, while minimizing damage to the environment. There are specifications across a range of sectors. The sectors that are relevant to the LSB are IT equipment, furniture, electrical goods, paper products, cleaning products and services. If your procurement relates to one of these categories, you must consider meeting the minimum standards.

Equality and diversity

17. The LSB is committed to working with suppliers that demonstrate a commitment to equality and diversity. This is consistent with our own policies and practices, and our obligations under the Equality Act 2010, specifically the Public Sector Equality Duty.
18. Annex A contains a supplier equality and diversity assessment form to assess suppliers' commitment to equality and diversity relative to their size. It must be used to assess suppliers for:
- a) all service and works contracts, regardless of contract value; and
 - b) supplies contracts with a contract value greater than £24,999 (excl. VAT).
19. The supplier equality and diversity assessment form can also be used for any other procurement. Beyond this requirement, equality and diversity must be considered at all stages of the procurement process.

Fair and ethical practices

The LSB expects suppliers to have working conditions that meet or exceed international labour standards and are not contrary to the Modern Slavery Act 2015. In particular, that there is no forced labour, no child labour, living wages are paid, no harsh treatment is used

⁵ [Sustainable procurement: the Government Buying Standards \(GBS\)](#)

or discrimination practiced, workers are not pressured to undertake overtime that do not wish to do so and a safe and hygienic working environment should be provided. Seek legal advice if the goods or services being purchased engages modern slavery risks.

New supplier form

20. Before a contract is signed with a new supplier, a new supplier form must be completed and approved by the Head, Finance and IT. This can be done as soon as the chosen supplier is known. The form can be obtained from the LSB's finance team and enables them to undertake due diligence on the supplier.

Contracts register

21. Details of new and updated contracts must be added to the contracts register by the relevant colleague that conducted the procurement. The register is owned by the Head, Finance and IT and facilitates planning for contract termination dates, negotiations for favorable contract extensions, and minimise risk for the LSB.

22. Once the LSB enters a Contract, the responsible colleague must also send a copy of the signed contract to the Head, Finance and IT, who holds all contracts centrally.

Contract extensions

23. Contract extension can only be granted when:

- a) an option to extend exists within the current contract;
- b) effort has been made to secure more favorable terms to ensure continued value for money; and
- c) it is on as good or better than current contract terms.

24. If the above conditions are met, then the extension can be approved as per the scheme of delegation (see 'Finance Regulations') once any contractual documents are reviewed by the General Counsel. If the above conditions are not met, then the relevant procurement process described in Table 1 must be followed.

Waiving this policy

25. There may be special or exceptional circumstance where the waiving of this Policy may be necessary.

26. This Policy may only be waived with the approval of the CEO and must be done as soon as possible in the procurement process to allow time for a full procurement process to take place if the waiver is not approved. To seek approval, complete the waiver form at Annex B and submit it to the Head, Finance and IT. Note that this Policy cannot be waived if the contract value is above the PCR threshold (Table 2 refers).

27. A register of waivers from this Policy will be kept and maintained by the Head, Finance and IT and reported to the Audit and Risk Assurance Committee for contracts valued at £25,000 and up.

Single source procurement

28. The most likely policy requirement for which a waiver might be sought is the requirement to obtain multiple quotes under one of two possible scenarios:

a) new procurement from a new supplier, without obtaining additional quotes or inviting competition; or

b) procurement via contract extension from an existing supplier, without obtaining additional quotes or inviting competition.

29. Undertaking a single source procurement in some cases, might be a better option for the LSB rather than following the process requirements outlined in Table 1. For example, if the procurement is small in value and urgent, there are a limited number of specialist suppliers, or it relates to implementing a larger project with an existing supplier, then it might be beneficial to procure through the existing supplier.

Supplier equality and diversity assessment form

This form will be used to assess your commitment to equality and diversity. Please answer the following questions, providing any necessary documentation.

1. Organisation size

a) What is the total number of employees/contractors/partners in your organisation?

2. Equality and diversity policy

a) Does your organisation have an equality and diversity policy, statement or strategy?

YES / NO

If YES, please provide a copy.

If NO, are you intending to implement something in the near future, and if so, when?

3. Bullying and harassment policy

a) Does your organisation have a policy/procedure to handle issues relating to bullying and/or harassment?

YES / NO

If YES, please provide a copy.

If NO, are you intending to implement something in the near future, and if so, when?

4. Equality and diversity training

a) Does your organisation provide equality and diversity training?

YES, and it's mandatory / YES, and its optional / NO

If YES, please provide an outline or description of the training, its regularity, and the percentage of your organisation that has completed the training.

If NO, are you intending to implement something in the near future, and if so, when?

Procurement policy waiver form

Supplier name:	
Value of the contract: <i>Excluding VAT</i>	
Contract start:	
Contract end:	
LSB contact:	

Purpose of the contract: <i>Outline what is being procured and why.</i>
Proposed approach: <i>Outline the proposed approach and what aspect of the policy would be waived.</i>
Justification: <i>Outline the reasons for the proposed approach.</i>

Approved / Not Approved by: <i>Print name</i>	
Signature:	