

Contract Regulations

Office of the Police and Crime Commissioner and Chief
Constable

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| OFFICIAL | |
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1. WHAT IS A CONTRACT

- 1.1. A contract is an agreement between two parties which is intended to be enforceable by the law for the supply of goods works and/or services. Employees should avoid giving verbal commitments to suppliers as this can constitute a contract.
- 1.2. The terms and conditions to be applied to the contract provide clarity and protection to the participants, and the specification of the requirement should be clearly understood by both parties. Their length and complexity are likely to depend on the extent of cost and complexity of the goods or services to be supplied.

2. WHY ARE THESE REGULATIONS IMPORTANT?

- 2.1. All staff, shall make every effort to ensure that the best value for money is achieved for the acquisition and delivery of:
 - goods or materials;
 - services and consultancy;
 - building works;
 - the supply of goods or services to third parties which provide Staffordshire Police with an income.
- 2.2. Such efforts shall also continue throughout the lifetime of any contract to ensure that best value for money is maintained in the quality and standard of all goods, services and works supplied and in the review of proposals to change or vary any feature of any contract during its lifetime.

3. DEFINITIONS WITHIN THE REGULATIONS

- 3.1. The PCC's chief finance officer is referred to as the Director of Finance and Performance.
- 3.2. The Chief Constable's chief finance officer is the Chief Finance Officer.
- 3.3. The Chief Executive also fulfils the monitoring officer role.
- 3.4. The OPCC shall refer to the PCC, Deputy PCC and all members of staff reporting directly to the PCC.
- 3.5. The Force shall refer to the Chief Constable, police officers, police staff, police community support officers (PCSO), special constabulary, volunteers and other members of the wider police family under the Chief Constable's direction.
- 3.6. OPCC Chief Officers, when referred to as a generic term, shall mean the Chief Executive, Director of Finance & Performance.
- 3.7. Force Chief Officers, when referred to as a generic term, shall mean the Chief Constable, Chief Finance Officer and all other members of the Chief Constable's Executive Team.
- 3.8. Staff or employees, when referred to as a generic term, shall refer to police officers, police staff (Force and OPCC) and other members of the wider police family.
- 3.9. The expression 'authorised officer' refers to employees authorised by a chief officer.

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- 3.10. The expression 'contract' refers to any commitment (including purchase orders, memoranda of understanding, leases and service level agreements) to acquire, purchase or sell goods, services or building works made on behalf of the PCC, the Force or their affiliated bodies.
- 3.11. The expression 'best value for money' shall mean the most cost effective means of meeting the need and takes account of whole life costs.
- 3.12. Within these Regulations, most of the references are made to the responsibilities of the Chief Constable since most of the day-to-day financial management is vested with that post. However, where resources are under the control of the Chief Executive or Director of Finance and Performance, the duties, rights and powers as detailed for the Chief Constable shall apply equally to the Chief Executive or Director of Finance and Performance.
- 3.13. The terms Chief Constable, Chief Finance Officer, Chief Executive and Director of Finance and Performance include any member of staff, contractors or agents to whom particular responsibilities may be delegated. However, the level of such delegated responsibility must be evidenced clearly, made to an appropriate level and the member of staff given sufficient authority, training and resources to undertake the duty in hand.

4. KEY CONTROLS

- 4.1. No contract or project shall be deliberately or artificially divided into a number of separate contracts in order to avoid the obligations set out in these Contract Regulations, or any statute or EU Directive.
- 4.2. Competition shall be encouraged from potential providers to supply the OPCC or Force with goods, services, building works, etc.
- 4.3. Every contract concluded on behalf of the OPCC or Force shall comply with:
 - the EU Treaty;
 - any relevant Directives of the EU for the time being in force in the United Kingdom including any requirement for aggregation;
 - any laws of the United Kingdom including any Act of Parliament requiring the letting of contracts by competitive tendering, contract mandation or relating to Best Value;
 - the requirement of the Code of Practice for Local Authorities on Data Transparency to publish copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector on the website.
 - College of Policing – Code of Ethics
- 4.4. Subject to compliance with 4.3, exemption from any of the following provisions of these Contract Regulations may only be made:
 - a) by direction of the PCC; or by the Director of Finance and Performance
 - b) by An OPCC Chief Officer or Force Chief Officer in an emergency (subject to notifying the PCC or Director of Finance and Performance)

Providing these actions are lawful, ethical and justifiable within the context of policing.

- 4.5. The PCC shall be informed of the circumstances of every exemption made under 4.4(b) at the earliest opportunity.
- 4.6. In addition to adhering to the above, any employee who is engaged in any activities or processes leading to the award of a contract or in its subsequent delivery, shall:

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- show no undue favour to or discriminate against any contractor or potential contractor;
 - carry out their work in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information).
 - not breach the requirements of the OPCC and Force Policies relating to gifts and gratuities, hospitality, discounts, travel and other potential conflicts of interest.
- 4.7. These Contract Regulations shall apply, irrespective of whether the contract is financed with monies provided by the PCC or any other person or body e.g. grants from local councils and other partnership monies.

5. POWER TO DELEGATE

- 5.1. A chief officer may delegate their powers under these Contract Regulations to an authorised officer.

6. PURCHASING PROCEDURES AND THRESHOLDS

- 6.1. The procedure to be followed shall be determined by reference to the estimated value of the purchase as set out below (except for contracts for building construction contracts selected from the Approved List of Contractors for Small Construction Contracts). Unless specified otherwise the value of the contract is the estimated whole life cost. The Head of Procurement shall produce and agree with both CFO's more detailed instructions consistent with the following limits (and operative statutory requirements and operative framework agreements): Specific Chief Finance Officer approval will be required for any exemption including in respect of single tender action.
- Up to £10,000 – One written quote
 - Between £10,000 and £75,000 – Three written quotes as part of a simple tender process
 - Between £75,000 and EU threshold – Full tender process
 - Above EU Threshold – Relevant EU Directives
- 6.2. Unless specified otherwise, the value of the contract is the estimated whole life cost. Where a contract is collaborative, its value shall be the cumulative estimated whole life cost of all the organisations eligible to use it.

7. ADVANCE PAYMENTS

- 7.1. The authority will not make advanced payments for any goods or services unless authorised by the Chief Finance Officer.

8. FRAMEWORK CONTRACTS

- 8.1. There are a number of buying consortia that provide framework contracts. Alternatively framework contracts may have been entered into by the PCC. Framework contracts provide an efficient and effective manner through which to purchase goods and services, including building works. Where there is an appropriate framework covering the goods, services or building works concerned, the framework(s) shall be considered prior to any new

procurement exercise being initiated, provided it provides best value and meets the operational requirements of the Force.

- 8.2. Under the Police Act 1996 (as amended) contracts may be mandated for the Police Service. A full list will be maintained and published on the intranet.

9. FORCE CONTRACTS

- 9.1. The use of central contracts set up by Procurement Services for goods and services is mandatory. Details can be found in the Purchasing Manual on the intranet. Should there be exceptional reasons for deviating from these contracts authorisation must be sought from the Head of Procurement or Deputy prior to undertaking any activity.

10. SELECTION CRITERIA

- 10.1. Unless otherwise approved by the Head of Procurement or Deputy, the selection of organisations to be invited to quote or tender under these Contract Regulations shall be based on a combination of technical capacity, quality and financial standing, in accordance with the principles of the EU directives.

11. INVITATIONS TO TENDER

- 11.1. Tenders over £75,000 will be advertised in Contract Finder.
- 11.2. Where the estimated value of the prospective contract exceeds the threshold set by the EU Regulations it will be necessary for the tender to be advertised in the Official Journal of European Union. Requests for advice on EU Directives should be referred to the Procurement Service.
- 11.3. All tenders issued shall consist of instructions to tenderers (above £75,000) regarding submission information, terms, conditions and specification with a pricing schedule are to be returned electronically via the e sourcing portal.

12. OPENING OF TENDERS

- 12.1. All tenders shall be opened at one time, which shall be as soon as practicable after the time appointed for their opening in the invitation to tender.
- 12.2. Only procurement officers are authorised to open tenders.

13. EVALUATION OF TENDERS

- 13.1. Assessment criteria may be made on appropriate technical, qualitative and financial grounds which are appropriate to the contract concerned. These must be agreed before the Tender is issued in consultation with an appropriate stakeholder group, which should include financial and technical/practitioner representation. These must be published and all sub-criteria in the tender documents,
- 13.2. Evaluations of the Tender submissions are to be carried out by the stakeholder group based on the agreed criteria which shall be applied to all tenderers fairly, transparently and consistently.

- 13.3. Those members of staff involved in the evaluation process should be mindful of the Financial Regulation 3.4 and related policies on gifts, loans and hospitality.

14. ACCEPTANCE OF TENDERS

14.1. The following procedures shall be applied for the acceptance of a quotation or tender:

- The PCC's terms and conditions shall apply unless an approved framework is used for purpose of buying goods or services. Where this is not possible the Head of Procurement or Deputy must authorise any deviation.
- Acceptance shall be made in writing.
- Where the lowest or the most economically advantageous quotation or tender, which meets the specification and the quality and technical standards required, is acceptable, then formal acceptance shall be as per the bullet points in section 6.1 above.
- The successful tenderer shall be advised as soon as possible after the decision has been made on the award of a contract. At the same time unsuccessful tenderers shall be advised of the decision. In the case of contracts subject to EU Procurement Regulations a period of 10 days shall then lapse before a formal contract is awarded in order to allow unsuccessful tenderers to challenge the decision should they choose to do so.

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- 15.1. In order for the PCC to comply with best practice and legislation, successful tenderers shall be required to provide details, where appropriate, of the Company's compliance with Corporate and Social Responsibilities i.e. Environmental Policy.
- 15.2. All successful tenderers shall be expected to provide details of their Business Continuity Plan where appropriate.
- 15.3. All successful tenderers shall be expected to comply with the Force Security Policy.
- 15.4. All Suppliers' staff deployed on force premises shall be required to comply with appropriate OPCC and Force policies.
- 15.5. Formal contracts for the provision of services and the execution of work shall provide for appropriate remedy to be provided by the contractor in case the terms of the contract are not duly performed. The PCC may also require sufficient security (e.g. parent company bond) for the due performance of any such contract.

16. CONTRACT MONITORING

- 16.1. Where appropriate contracts shall be monitored and measured by the way of performance indicators and regular review meetings involving the Supplier and stakeholder representation.

17. CONTRACTS - CANCELLATION

- 17.1. Where a Contractor is failing to provide the agreed service evidence shall be required in order to terminate the agreement. Procurement Services must be notified by email of the wish to terminate contracts over £75,000 for poor performance or failure to deliver.

- 17.2. Escalation processes include reporting any defaults during the Contract Review Meetings which should include Procurement representation.

18. EXCEPTIONAL CIRCUMSTANCES

- 18.1. The requirements within these Contract Regulations that competition is required for tenders and quotations may be set aside when exceptional circumstances are incurred. By definition the circumstances leading to this action must be exceptional to those normally experienced and an individual who believes that they have a case must provide evidence supporting their conclusion to the Chief Finance Officer in the first instance, for consideration by OPCC Chief Officers or Force Chief Officers, as below.

18.2. PROPRIETARY ARTICLE OR SERVICE

- 18.2.1.** Proprietary articles and services are those for which it has been established that there is only one source of supply. Above £75,000 the Director of Finance and Performance must approve the award of a contract to the sole supplier of the article or service on the recommendation of the Head of Procurement that he is satisfied that the requirement can only be fulfilled by the proprietary article or service.

18.3. ACQUISITIONS UNDER A FRAMEWORK CONTRACT

- 18.3.1.** Where best value for money can be substantiated, the acquisition of goods or materials, the provision of services and the execution of building works may be made through an appropriate framework contract awarded by another authority or public body where the conditions of contract make the framework available to the PCC and or Force. The use of such contracts must be agreed by the Procurement Department. Approved contracts are listed in the Purchasing Manual. Some of the frameworks (where there are multiple suppliers on a framework) have a requirement for a mini competition – Further guidance should be sought prior to selecting a supplier. Guidance will be provided by Procurement Services.

19. CONTRACT PUBLICATION AND CONTRACTS REGISTER

- 19.1. It is a requirement under Statutory Instrument 2479 to publish details of contracts over £10,000. Procurement Services will retain a copy of each contract and publish details on the Contracts Register for both the Office of the Police and Crime Commissioner and the Chief Constable.
- 19.2. A record of all contracts let with a value in excess of £10,000 shall be maintained by the Head of Procurement.
- 19.3. The Public Contracts Regulations 2015 require all awards in excess of £25,000, including the results of further competition exercises, to be published on “Contracts Finder”.

20. ETHICAL CODE

- 20.1. Any personal interest which may impinge or might reasonably be deemed by others to impinge on a person’s impartiality in relation to any order or contract (for the supply of goods services or works) made by or on behalf of the PCC shall be declared in writing to the Head of

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Procurement. The Head of Procurement will respond confirming the action required. A Force policy Guideline sets out guidance on registering business interests.

- 20.2. Should an officer or member of staff come into contact with a supplier who is asking about a current tender process or has a face to face meeting with a supplier during a tender exercise these meetings should be recorded in writing and submitted to the Head of Procurement or Chief Finance Officer. A record should be shared with the Director of Finance and Performance on request.