



## **PROCUREMENT CODE - ADDENDUM SUPPLEMENTARY REQUIREMENTS**

**to reflect the transition from Public Contracts Regulations (PCR) 2015 and Concession Contracts Regulations (CCR) 2015 TO Procurement Act (PA) 2023 & Procurement Regulations (PR) 2024**

**Last updated: 21 February 2025**

## A. INTRODUCTION

The City Corporation's Procurement Code, as approved by the Court of Common Council, was last revised in July 2023. It has been framed around the Public Contracts Regulations 2015 and Concessions Contract Regulations 2015. The Code constitutes the procurement policy and procedure that must be followed when any procurement is undertaken by the City Corporation (across all its activities and functions) and is designed to ensure that risks are minimised, procurement complies with relevant public procurement legislation, and that our procurement expenditure supports relevant national and City Corporation policy outcomes.

From 24<sup>th</sup> February 2025, new public procurement legislation is being introduced, The Procurement Act 2023 (PA 2023) and The Procurement Regulations 2024 (PR 2024). This legislation **applies only** to the City Corporation's functions as a local authority, police authority and port health authority ("public procurement").

There will be a protracted phase, of potentially several years, where some types of public procurement will continue under Public Contracts Regulations 2015 and Concessions Contract Regulations 2015. Users must consult with the Commercial Services team for confirmation as to which set of regulations their public procurement is subject to. This will not be subjective, or at anyone's discretion, the legislation is clear.

**This Addendum has been prepared to incorporate the revised legal requirements within the City Corporation's Procurement Code. This Addendum therefore forms a supplementary part of the City Corporation's Procurement Code.** This Addendum sets out specific information to support users in understanding how to apply the Code to their procurement activities.

**Where a procurement is not subject to the new public procurement legislation, the principles set out in the Procurement Code must still be applied subject to this Addendum, reflecting the current procurement policy of the City Corporation.**

Exceptions to the City Corporation's Procurement Code are only permissible where expressly stated in the Code or where a decision to the contrary has been taken with the advice of the Comptroller & City Solicitors office.

This document must, therefore, be read in conjunction with the existing City Corporation's Procurement Code (Parts 1 and 2). Where any conflict is perceived, advice must be sought from the Commercial Services team in the first instance, who reserve the right to escalate to the Comptroller & City Solicitor where necessary.

Changes to the City Corporation's wider internal corporate governance procedures are not immediately required for the purpose of complying with the new public procurement legislation.

Please note that [Health Care Services \(Provider Selection Regime\) Regulations 2023](#) (PSR2023), and any procurement we undertake under it, are unaffected by the introduction of the new PA 2023 and PR 2024 since the PSR2023 applies to a discrete area of procurement limited to health and social services.

## B. IMPLICATIONS

### General

1. Applicability to the City Corporation
  - 1.1. The Procurement Act 2023 does not apply retrospectively. It only applies to public procurements which commence on or after 24<sup>th</sup> February 2025. The Act is clear on what defines the start of a procurement process. The Commercial Services team can advise where necessary.
  - 1.2. PA 2023 makes specific reference to City of London Corporation. It states that where we are not acting in our capacities as a local authority, police authority or port health authority, we are not required to comply with the Act. In practice this means that procurement expenditure in respect of the following functions (or institutional departments of the City Corporation) for example is not subject to the PA 2023:-
    - 1.2.1. City of London School
    - 1.2.2. City of London School for Girls
    - 1.2.3. City Junior School
    - 1.2.4. City of London Freeman's School
    - 1.2.5. Guildhall School of Music & Drama
    - 1.2.6. Billingsgate Market
    - 1.2.7. Smithfield Market
    - 1.2.8. Monument
    - 1.2.9. City Bridge Foundation
    - 1.2.10. Hampstead Health, Epping Forest, West Ham Park or the Commons when acting as charity trustee
  - 1.3. Some departments of the City Corporation may have some expenditure or projects which are subject to the PA 2023 and some which are not.
  - 1.4. Officers responsible for expenditure on procurement should take advice if they are unclear whether the PA 2023 and Regulations apply. Where the Comptroller & City Solicitor has been consulted under the Code (and this Addendum), evidence of the Comptroller's written advice should be provided to the Commercial Services Team when requesting support with the procurement procedure.
  - 1.5. Until such time as a fully revised Procurement Code is adopted by the City Corporation and published, which is expected to be summer 2025, the existing Procurement Code and associated procedures continue to apply, **EXCEPT** that where the new procurement is in our capacity as a local authority, police authority or port health authority (a "public procurement") the Code is modified such that the PA 2023 applies to those procurements (to reflect the new public law) and the Code must be read with reference to this Addendum.
  - 1.6. For the City Corporation's NON-local authority, police authority and port health authority functions, responsible departments and institutions might, after taking the advice of the Comptroller & City Solicitor's Department and the Commercial Services Team, choose as a matter of policy to apply the PA 2023 requirements. This might arise, for example, in choosing to procure under a new framework agreement let under the PA 2023 where this is available (see paragraph 3 below).

## Requirements of the New Public Procurement Legislation (PA 2023 & PR 2024)

### 2. Financial Thresholds

2.1. Applicability of PA 2023 to our public procurement is determined by reference to the expected value of the contract. The financial thresholds, with effect from 24<sup>th</sup> February to 31 December 2025, are:-

Goods and services	£ 214,904
Works	£ 5,372,609
Light touch	£ 663,540
Concessions	£ 5,372,609
Light touch concessions	£ 5,372,609

2.2. Contract values for the purpose of establishing the applicability of the legislation must include any applicable VAT.

### 3. Frameworks

3.1. Frameworks let under PCR 2015 can continue to be used for as long as their terms allow unless the framework operator terminates them sooner. New call offs can be awarded under those frameworks and will still be managed under the rules of PCR 2015.

3.2. Where a framework has been let under the new PA 2023, all call off contracts will also be run under that new Act. It may remain open to the City Corporation in the exercise of its discretion to use these frameworks in procuring in a capacity other than as a local authority, police authority or port health authority. This will be dependent upon the terms of the framework and professional advice (see paragraph 1.6 above).

3.3. The due diligence procedure which we currently follow when evaluating potential new framework sources, is unchanged.

### 4. Below threshold procedures

4.1. Specifically, there is a new concept of 'convertible' contracts. These are ones which are initially awarded below the Find a Tender Service threshold but which, as a consequence of a modification, will exceed the FTS threshold. PA 2023 stipulates that from the point at which they first exceed the relevant threshold, they become subject to the full regulations (PA 2023 and PR 2024). It is therefore essential that the Commercial Services team are informed about all changes so that we monitor cumulative spend and ensure compliance with the new requirements.

### 5. Public Notices

5.1. The new PA 2023 introduces several new public notices which we are required to publish at specific stages in the procedure. They are further detailed below but in summary:-

5.1.1. Some of these are effective before the tendering phase so it is essential that the Commercial Services team are consulted at the outset.

5.1.2. Some of these are effective after award of the contract so it is essential that the Commercial Services team remain informed throughout the life of the contract.

5.1.3. Where the Commercial Services team currently publish public notices on behalf of the wider Corporation, they will continue to do so.

## 6. Conflict of Interest

6.1. The new PA 2023 is prescriptive about how conflict is defined, managed and recorded. Officers are required to declare any potential conflict as defined in the PA 2023 to enable the Commercial Services team to comply with the Act.

## 7. Contract Publication & Redaction

7.1. For some contracts we are required to publish a copy of the Contract, generally where contracts are of a value of £5m or more. This will necessitate redactions of the relevant Contracts. You must consult with the Comptroller & City Solicitor and with the Commercial Services Team in a timely way to enable us to meet our obligations.

## 8. Change Control

8.1. The new PA 2023 introduces new, prescriptive rules on when modification of contracts, after award, is permitted. Details of the changes made must also be published in some circumstances. You must consult with the Commercial Services Team for advice before making any commitments to suppliers.

## 9. Contract Performance

9.1. For some contracts we are required to publish formal notices declaring how the supplier is performing against the contract (referred to generically as KPI's). KPIs must be published and the suppliers' performance against them – generally for contracts of £5m or more in value. The way in which this must be done is prescribed in the legislation so you must consult with the Commercial Services team where this is relevant.

## 10. Contract termination

10.1. The new PA 2023 introduces a new obligation for us to publish a formal Notice when a contract ends. This applies to termination for any reason, including natural expiry. You must therefore consult with the Commercial Services Team when a contract is being terminated.

## 11. Our performance

11.1. The City Corporation will comply with the new requirements to publish specific public notices on our own performance, noting that these requirements are not immediately effective.