South West
Regional Collaboration Programme

# PROCUREMENT REGULATIONS FOR THE SOUTH WEST POLICE PROCUREMENT SERVICE

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# SECTION 1 – INTRODUCTION AND PURPOSE

## 1.1 Primary Objectives

1.1.1 The South West Police Procurement Department ('SWPPD') was established in April 2012 to provide a procurement service to the police services of Devon & Cornwall, Dorset, Gloucestershire and Wiltshire. In May 2021 Avon and Somerset joined the collaboration and the name was amended to South West Police Procurement Service (SWPPS).

1.1.2 The Chief Constable of Devon and Cornwall is the host authority for SWPPS employing all the staff in SWPPS.

1.1.3 Each Customer delegates to the SWPPS authority to conduct procurements of goods, services or works notified by a Customer to the SWPPS strictly in accordance with these regulations.

1.1.4 A Customer may also use the SWPPS to advise on the acquisition or disposal of real property although for the avoidance of doubt the delegation in clause 1.1.3 does not apply to acquisitions and disposals of property.

1.1.5 These Regulations apply to each Customer and the SWPPS. They have 4 primary objectives:

(a) To ensure that procurements conducted on behalf of any Customer by the SWPPS deliver Value For Money.

(b) To ensure that procurements conducted on behalf of any Customer by the SWPPS comply with Legislation.

(c) To establish procurement procedures which, when followed, should protect the Customers and their officers and staff and the SWPPS from any allegation of acting unfairly or unlawfully which may be made in connection with any procurement undertaken on behalf of any of the Customers by the SWPPS of goods, services or works.

(d) To ensure that any risks to a Customer associated with entering into a contract resulting from any procurement conducted on behalf of the Customer by the SWPPS are assessed as part of the procurement process.

## 1.2 Relationship between the Customers and the SWPPS

1.2.1 At the start of each calendar year each Customer will use its reasonable endeavours to identify the procurements of goods, services and works it is likely to require in that year regardless of its value. Each Customer will pass this information to the SWPPS.

1.2.2 Notwithstanding clause 1.2.1 each Customer shall make details available to the SWPPS of any procurement of goods, services or works that it requires regardless of its value.

1.2.3 For procurements the value of which is less than £50,000 (calculated on the basis of the estimated contract value across all participating Customers) the SWPPS will advise a Customer of solutions that exist to meet the relevant procurement requirement in collaboration with other Customers.

1.2.4 For procurements worth more than £50,000 (calculated on the basis of the estimated contract value across all participating Customers) the SWPPS will undertake the relevant procurement process in accordance with these Regulations.

1.2.5 The SWPPS will not implement a procurement solution for any Customer without the authorisation of the relevant Customer.

1.2.6 The SWPPS will keep a Customer informed about the progress of any procurement it undertakes on behalf of that Customer.

1.2.7 Before any Contract is awarded, each participating Customer must give its authorisation.

## 1.3 General Procurement Principles

1.3.1 These procurement regulations are subject to the principles outlined in the Legislation. In particular the SWPPS shall apply Section 12 of the Procurement Act 2023 to any procurement process it undertakes whether it is an above or below threshold procurement. Section 12 of PA23 says:

(1) In carrying out a covered procurement, a contracting authority must have regard to the importance of—

(a) delivering value for money;

(b) maximising public benefit;

(c) sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions;

(d) acting, and being seen to act, with integrity.

(2) In carrying out a covered procurement, a contracting authority must treat suppliers the same unless a difference between the suppliers justifies different treatment.

(3) If a contracting authority considers that different treatment is justified in a particular case, the authority must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.

(4) In carrying out a covered procurement, a contracting authority must—

(a) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and

(b) consider whether such barriers can be removed or reduced.

SWPPS shall also have regard to the National Procurement Policy Statement as required by section 13 of the Procurement Act 2023 when undertaking any procurement process.

## 1.4 Scope of Procurement Regulations

1.4.1 These Regulations apply to all procurements of goods, services or works undertaken by SWPPS on behalf of any of the Customers.

1.4.2 If there is any change to Legislation which affects these Regulations then that change must be observed until these Regulations can be revised. If these regulations conflict in any way with any Legislation then that Legislation takes precedence.

## 1.5 Officer Responsibilities

1.5.1 All officers in the SWPPS must comply with these Regulations, the Police and Crime Commissioner for Devon and Cornwall's Financial Regulations and all Legislation that applies to the activities of the SWPPS.

1.5.2 All officers in the SWPPS responsible for managing any contract must comply with the Police and Crime Commissioner for Devon and Cornwall's Code of Conduct and Strategy for the Prevention and Detection of Fraud and corruption and must not invite or accept any gift or reward in respect of the award or performance of any contract.

1.5.3 All officers in the SWPPS must have regard to the principles outlined in the National Procurement Strategy. They will act professionally and in accordance with the values of Devon and Cornwall Police

## 1.6 Review and Amendment of Procurement Regulations

1.6.1 Any amendments to these Regulations are to be drawn up by the Project Board of the SWPPS and approved unanimously by the Board.

# SECTION 2 – PROCEDURE BY VALUE OF REQUIREMENT

## 2.1 General Valuation Principles

2.1.1 Obtaining Value For Money is one of the primary objectives of these Regulations. The complexity of the procurement procedures that must be followed will vary depending on the value and risk of the relevant procurement.

2.1.2 The anticipated total value of a procurement must be estimated before the relevant procurement route is determined. The calculation will be made using the principles set out in the Legislation.

2.1.3 The value of a procurement must be calculated in Pounds Sterling exclusive of Value Added Tax.

2.1.4 Contracts must not be artificially under or overestimated or divided into two or more specific procurements to avoid the application of the Legislation.

2.1.5 The SWPPS should identify opportunities wherever possible for more than one Customer to be involved in any procurement it undertakes.

## 2.2 Call Off from Existing Approved Contracts

2.2.1 Where the requirement can be satisfied from an existing Approved Contract then the order can be placed under that Approved Contract.

## 2.3 Level 1 Procurements (Goods and Services)

2.3.1 Defined as procurements for goods and services valued between £50,000 and £100,000.

2.3.2 These transactions will be advertised in publications and on websites and in accordance with the Legislation which relate to the particular goods and services being procured with a view to attracting as many tenders as possible.

## 2.4 Level 2 Procurements (Goods and Services)

2.4.1 Defined as procurements for goods or services valued over £100,000.

2.4.2 A tender process set out in the Legislation will be applied.

## 2.5 Works

2.5.1 For procurements for works with a value up to £500,000 the tendering process will be exposed to competition in such a manner that is deemed appropriate and complies with the Legislation provided that the relevant tendering process provides

the opportunity for not less than five bidders to bid and will lead to an outcome that delivers Value For Money.

2.5.2 Procurements for works with a value between £500,000 and the value above which the procurement procedures in the Legislation apply will be advertised via the In-Tend e-tendering portal and Contracts Finder with a view to attracting as many bidders capable of undertaking and completing the works as possible.

2.5.3 The procurement procedures in the Legislation will apply for procurements for works at or above the value at which the Legislation applies.

# SECTION 3 – COMMON TENDERING PRINCIPLES

## 3.1 Framework Agreements

3.1.1 If the procurement of any goods, services or works through a specified framework agreement is the subject of a central government mandate the SWPPS will use the relevant framework agreement.

3.1.2 Where a participating Customer is able to utilise a pre-existing Framework agreement procured by a Centralised Procurement Authority or another public sector body, then the Customer may benefit from using the agreement without starting a separate formal tender process.

3.1.3 Framework agreements will be used only when:

(a) The approval of each participating Customer has been obtained;

(b) The framework can be lawfully used by the participating Customer;

(c) It has been reasonably demonstrated that using the framework is the best procurement route to deliver value for money;

(d) The rules of the framework agreement can be complied with;

(e) The terms and conditions of the arrangement meet the requirements of the participating Customers;

3.1.4 When procuring from (calling-off) a framework agreement the relevant officer in the SWPPS must adhere to the process set out under the existing framework agreement terms.

## 3.2 Preliminary Market Engagement

3.2.1 The SWPPS may review the market for a proposed procurement and undertake preliminary market engagement, provided that it complies with Section 16 of PA23. This regulation will apply to both above and below threshold procurements.

## 3.3 The Invitation to Tender

3.3.1 The specification and evaluation criteria must take into account the relevant participating Customer or Customers' policies regarding Equality, Sustainable Procurement, Health and Safety, Modern Slavery, Social Value and Value For Money.

3.3.2 The specification for the procurement must be adequate and fair to allow tenders to be sought to be fit for purpose.

3.3.3 There must be an assessment of the quality of tenders by pre-determined non-discriminatory evaluation criteria and weightings, including whole life cycle cost where appropriate.

3.3.4 The risks associated with the procurement must be assessed.

3.3.5 A tender file must be maintained to record all matters associated with the tender and shall be available for inspection by the Customers and their auditors participating in the procurement.

3.3.6 The form of Contract for the procurement is subject to the approval of each of the participating Customers.

3.3.7 The invitation to tender must explain how information provided in the tender will be treated with regard to statutory requirements.

3.3.8 Tenderers responding to a tender for a Level 1 Procurement (Goods and Services) must be given adequate time to respond, consistent with the level of complexity of the requirement and except where the industry norm is otherwise, this should be a minimum of fifteen (15) working days.

3.3.9 The invitation to tender must request either:

(a) That the tender is submitted in a plain sealed envelope or package bearing a tender label marked “Tender” giving only the title tender name and opening date. The tender label must not identify the name of the tenderer, or

(b) An electronic file is delivered to a designated secure electronic tendering system.

3.3.10 Tenderers must be required to hold their tenders open for acceptance for a minimum of 90 days from the date of opening.

3.3.11 No Customer participating in a procurement is bound to accept the lowest tender or any other tender and this will be included as a statement in all invitations to tender.

3.3.12 Tenderers must be informed that tenders received after the closing date or tenders not submitted in accordance with these Regulations will be disqualified from further consideration.

3.3.13 Tenders can be submitted in paper format but in exceptional circumstances only. Any hard copy tenders will be opened in the presence of the Chief Executive / Chief Constable or an officer designated by the Chief Executive / Chief Constable for the purpose, and an officer of the SWPPS. All opened hard copy tenders must be date stamped.

## 3.4 Receipt of Tenders

3.4.1 Every reply to an invitation to tender must be addressed to a designated secure electronic tendering system as identified in the invitation to tender.

3.4.2 Electronic files received must show a date and time of receipt by the SWPPS and secured until the specified time for their opening.

## 3.5 Tender Opening

3.5.1 Tenders received electronically will be held by SWPPS in the e-sourcing tool until the time for opening. .

3.5.2 Subject to 3.6.3 and 3.6.4 below, tenders shall be opened at one and the same time and as soon as possible following the expiry of the set tender return date and time.

3.5.3 All tenders received electronically through the e-sourcing tool will be opened by the SWPPS. For tenders received electronically, the e-sourcing system will auto-generate an electronic date and time stamp.

3.5.4 A record shall be maintained showing the number of tenders received and all tenders shall be kept for a minimum of two years.

3.5.5 Any tender received after the specific date and time shall be endorsed on the envelope, package or electronic file with the date and time of receipt.

3.5.6 Late tenders received after the specific time may be opened only to ascertain the name of the tenderer and to record details of the tender.

3.5.7 No tender received after the date and time of the tender return shall be accepted.

## 3.6 Errors in Tenders

3.6.1 SWPPS may permit a tenderer to correct an error or omission that, in their opinion, is an obvious one. Any such adjudications will be recorded on the tender file.

3.6.2 Where financial error is identified in a tender for works the tenderer is required to standby or withdraw their tender in accordance with the principles of Alternative 1 of JCT Series 2 Practice Note 6 Main contract tendering or any re-enactment thereof. This is applicable for single stage tenders or quotes where the evaluation criterion is the lowest price.

## 3.7 Tender Evaluation

3.7.1 Tenders must be assessed in accordance with the pre-determined evaluation criteria and weightings which will cover price, quality and social value..

3.7.2 The results of the tender evaluation must be retained on tender file which shall be available for inspection by the participating Customers.

## 3.8 Post Tender Clarification

3.8.1 For the purposes of tender evaluation, it is acknowledged that from time to time it is necessary for SWPPS to have discussions with tenderers in order to clarify any aspect of the information provided including prices to ensure that a tenderer has constructed its bid correctly or has fully understood the procurement specification.

3.8.2 No negotiations are permitted (including post tender negotiations) which may have the effect of distorting competition (for example fundamental changes to aspects of the procurement, the procurement documentation (including the terms and conditions), or variations to the relevant Customer's requirements).

## 3.9 Award of Contracts

3.9.1 A Contract may only be awarded with the approval of the relevant participating Customer or Customers.

3.9.2 All Contracts awarded must be recorded on an electronic contracts database and published on the Central Digital (where applicable) by the SWPPS.

3.9.3 When required by Section 98 of PA23 SWPPS and each Customer participating in a procurement shall prepare a report on that procurement in accordance with Section 98.

## 3.10 Notification to Unsuccessful Tenderers

3.10.1 The SWPPS will undertake all debriefings.

# SECTION 4 – CONTRACT AND OTHER FORMALITIES

## 4.1 Contract Documents

4.1.1 All Contracts and variations to Contracts (including change controls and extensions of contract periods) for goods, services or works procured on behalf of any of the Customers must be approved and signed by the appropriate signatory of the relevant Customer as notified to SWPPS.

4.1.2 The Police and Crime Commissioner for Devon and Cornwall, Chief Constable of Devon and Cornwall Police, and the SWPPS have no power to sign a Contract and variations to Contracts (including change controls and extensions of contract periods) for goods, services and works on behalf of another Customer.

## 4.2 Bribery Act 2010

4.2.1 Any officer in the SWPPS who is convicted of an offence under the Bribery Act 2010 will be removed from the SWPPS. If there are reasonable grounds for suspecting that an officer of SWPPS has committed such an offence he / she will be suspended from their procurement role.

4.2.2 All Contracts must contain an appropriate clause that provides protection and the right to terminate the contract in the event of a Supplier or any member of the Supplier's staff being convicted of an offence under the Bribery Act 2010.

## 4.3 Declaration of Interests

4.3.1 If it comes to the knowledge of an officer of the SWPPS that a Contract, in which he or she has a pecuniary interest, has been or is proposed to be entered into by a participating Customer, he or she shall immediately give written notice to the Director of the SWPPS and record it on the relevant procurement file which shall be made available for inspection by any member or officer of the relevant Customer.

4.3.2 Officers should refer to Sections 94 to 98 and Section 117 of the Local Government Act 1972 for further clarification of the rules.

# SECTION 5 – CONTRACT MANAGEMENT

## 5.1 Managing Contracts

5.1.1 Technical issues arising with Suppliers can be resolved by Customers without involving the SWPPS.

5.1.2 Subject to regulation 4.1, the SWPPS will manage Contract reviews, termination options and variations to Contracts.

# SECTION 6 – DEFINITIONS

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| Approved Contract | A contract that has been created in accordance with these procurement regulations for call off or use by a Customer. A list of contracts can be found on the In-Tend Database via the SWPPS |
| Centralised Procurement Authority | A contracting authority that is in the business of carrying out procurement for or on behalf of, or for the purpose of the supply of goods, services or works to, other contracting authorities. |
| Chief Executive | Chief Executive of the Office of the Police and Crime Commissioner for Devon and Cornwall. |
| Code of Conduct | The Chief Constable of Devon and Cornwall's code regulating the conduct of officers and staff. |
| Contract | Means any contract resulting from a procurement conducted by SWPPS |
| Customer | Means any of the Police and Crime Commissioners and the Chief Constables for the force areas of Devon and Cornwall, Dorset, Avon and Somerset, Gloucestershire and Wiltshire and 'Customers' shall be construed accordingly |
| Financial Regulations | The Financial Regulations adopted by the Police and Crime Commissioner for Devon and Cornwall. |
| Framework Agreement | A contract between a contracting authority and one or more suppliers, that provides for the future award of contracts by a contracting authority to the supplier or suppliers.. |
| Legislation | means any applicable law, statute, by-law, regulation, delegated or subordinate legislation, order, regulatory policy, mandatory guidance or code of practice legislating for the conduct of public procurement which includes the Procurement Act 2023 and the Procurement Regulations 2024. |
| Officer | Any police officer, police staff employee or Supplier who may at any time be fulfilling a function on behalf of a Customer. |
| PA23 | Means the Procurement Act 2023 |
| Regulations | Means these regulations |
| Supplier | Any person or public entity or groups of such persons and or bodies providing or seeking to provide supplies, services or works to a Customer. |

| | |
|---|---|
| Tender | A written response to an Invitation to Tender. |
| Tenderers | Organisations that have been invited to submit a tender on behalf of the Customers. |
| Total Value | The whole of the value or estimated value (in money or equivalent value) for a group of similar goods services or works. |
| Value For Money | means optimising the use of public funds by balancing effectiveness, efficiency and economy over the life-cycle of a product, service or works to achieve the intended outcomes of the procurement. |