



Commercial Procurement Policy

Document authorisation

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Revision history and summary of changes

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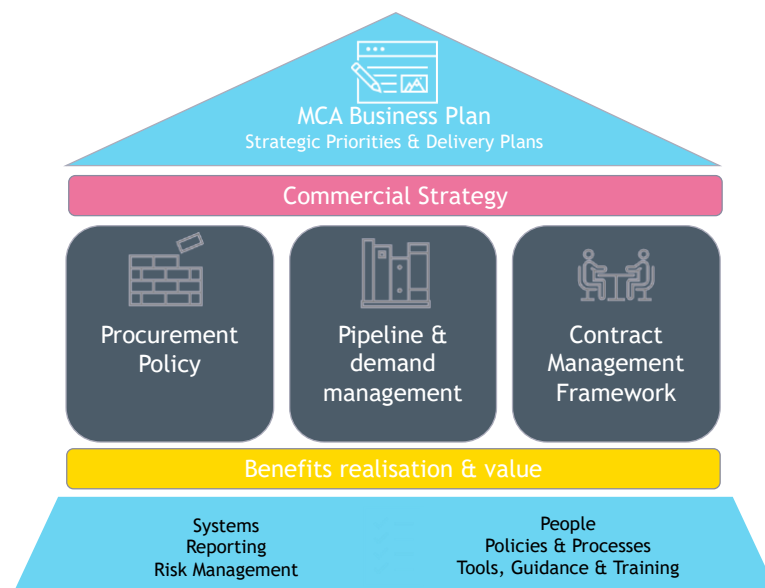
1. Executive Summary

- 1.1. West of England Mayoral Combined Authority (MCA) has a responsibility to ensure a consistent, transparent and effective approach to the procurement and contract management of goods, services and works. When undertaking procurement activities, the MCA is required to comply with legislative and internal governance rules, together with professional and ethical standards to achieve successful procurement outcomes.
- 1.2. This Policy document must be read in conjunction with the Combined Authority's Constitution.
- 1.3. This Policy is intended to support the MCA's Constitution in order to
 - Secure the best value for the MCA
 - Prevent corruption or the suspicion of it
 - Subject to the above, be fair and transparent to those seeking to contract with the MCA.
 - Comply with laws, regulations and guidance
 - Provide probity in spending public funds and promote professional and ethical conduct
 - Promote efficiency, effectiveness, environmental and socio-economic sustainability

2. Policy Statement

- 2.1. The purpose of this policy is to provide clear and effective guidance to all MCA employees and staff when undertaking procurement activities, engaging with external suppliers and committing spend. It is requirement that these processes are understood and practised across the MCA.
- 2.2. This Procurement Policy sets out how the Commercial Team will practically support the objectives of the MCA in parallel with legal and transparency compliant obligations, which achieve value and successful delivery of the MCA's programmes and initiatives.

Figure 1: The Procurement Policy within the context of the MCA Business Plan



- 2.3. To summarise, the purpose of each key commercial document and stage in the context of figure 1 above:

Table 1: Commercial Documents & purpose

Document	Purpose and overview
Commercial Strategy	The overall commercial approach to ensure that procurement and other commercial activities provide the outcomes that support the objectives of the MCA and benefits the delivery of priorities
Procurement Policy	Procurement rules, requirements, key principles and responsibilities including thresholds, routes and delivery of the sustainability agenda
Pipeline & demand management	Through the business planning process, identifying potential and planned projects to prioritise resource, activities and requirements
Contract Management Framework	To provide a clear and standardised approach to managing and administering contracts for goods and services ensuring commitments and obligations are effectively met, by delivering value for money outcomes and managing inherent risk.
Commercial tools & templates	Documents, processes and tools (including training) that supports the Commercial Team and wider MCA to ensure, a consistent and high-quality approach to activities accessible and proportionate
Benefits Realisation & Savings	The Commercial approach and methodology to capturing financial and non-financial benefits to the MCA, across the commercial lifecycle

- 2.4. Procurement procedures, templates and tools will be developed and set out as separate documents, which should be read and applied in conjunction with this policy. A summary showing the procurement routes for different expenditure thresholds is documented for additional reference, giving spend governance approvals.

3. Governance of the Policy

- 3.1. This policy is owned by the MCA Commercial Team. The Head of Commercial is responsible for reviewing and updating the policy following review and approval the MCA's CLT and the Commercial Board.
- 3.2. Further updates may be needed to incorporate any significant policy or procedural developments internally or externally, or as required by statutory or mandatory requirements.
- 3.3. This document sits alongside the West of England Combined Authority Constitution and the formal structure of how the organisation operates.

3.4. In the case of conflicts between laws, central guidance and/or internal policy, procedures, instructions and uncertainty as to which should take precedence, advice should be sought from the Commercial Team and Legal Services before proceeding.

4. Scope and Application

4.1. All expenditure on goods, services and works procurements (third party spend) are subject to this policy.

4.2. Arrangements under which the MCA collaborates with other public bodies (for example under non-legally binding memoranda of understanding) will not ordinarily constitute public contracts for the purposes of procurement law but will be subject to the internal approval processes for non-competed expenditure as set out in this policy.

5. Key Principles of Procurement

5.1. The MCA is committed to ensuring that the key concepts and procurement principles as shown in Figure 2 are adhered to where required.

Figure 2: Procurement - Key Principles



6. Procurement Process Responsibility

6.1. The Commercial Team is responsible for supporting and delivering procurement and commercial requirements but are a facilitator to deliver the MCA business objectives, working within the wider organisational context:

Table 2: Roles & Responsibilities

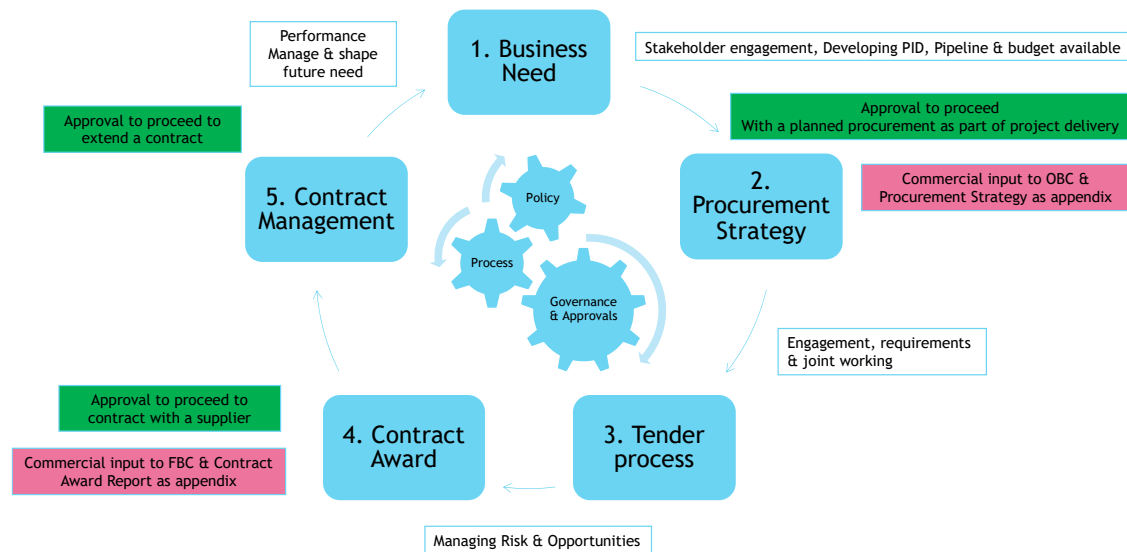
Role	Responsibilities
The Commercial Team	<p>Supporting and delivering procurement and commercial requirements, comprising of four strands:</p> <p>Pipeline planning, capturing plans, supporting commercial and procurement requirements throughout the commercial lifecycle; from procurement strategy to contract award and management</p> <p>Commercial strategy, controls and spend approvals: managing governance and assurance both internally and externally</p> <p>Procurement of corporate spend, supporting / managing key internal stakeholders with procurement activity within allocated directorate budgets</p> <p>Major project procurements impacting the operational delivery of business objectives</p>
Project Lead / Managers	Responsible for delivering the project, with authority and responsibility from wider project oversight & reporting to run the project on a day-to-day basis.

	They are responsible for planning, financial management and securing internal approvals to initiate procurement activity, working with the Commercial Team, building specifications, evaluating supplier tenders and in conjunction with the Commercial Lead, ensuring the MCA delivers value for money
Budget Holder	Operational responsibility for the delivery of major projects and programmes identified within the pipeline which adhere to the strategic objectives of MCA
SRO	Accountable for a programme or project meeting its objectives, delivering the projected outcomes, and realising the required benefits within the policies set by the MCA

7. Commercial Approval Responsibilities

- 7.1. The procurement and contract management process require approvals at key stages of the Commercial Lifecycle. Figure 3 below outlines the lifecycle. Key approvals required include spend approvals, procurement strategy, contract award and contract variation/extension.

Figure 3: Commercial Lifecycle



- 7.2. The MCA must not commit to any expenditure or enter into agreements, including variations or extensions to contracts, with any person/organisation, either by written or verbal means, prior to the appropriate approval being received.
- 7.3. All expenditure and/or contract commitments made including contract variations, whether having a financial implication or not, including but not be limited to: third party contracts, Memoranda of Understanding, Framework Agreements, Lease Agreements and Licence Agreements must be recorded, and a soft copy saved in the Commercial Team Approvals and Contracts Databases.
- 7.4. Expenditure must be calculated as the proposed whole life cost inclusive of VAT (including any option for any renewals (extensions)) as set out within the published contract. Sub-dividing procurement opportunities for the purpose of reducing the total value of the

contracts is not permitted under the procurement rules and is classed and treated as an attempt to facilitate disaggregation.

8. Pipelines and planning process

- 8.1. The Commercial Pipeline is a forward look of potential commercial activity within the MCA that provides an outlook at an organisational or at a lower level, within a specific team or budget group. By maintaining a Commercial Pipeline, the MCA will gain greater and earlier insights on the challenges and requirements of its planned activities as it engages with the respective markets.
- 8.2. Budget holders should ensure they have developed a commercial pipeline at the start of each financial year in discussion with both Finance (to review and confirm available budgets) and the Commercial Team. The Commercial Team will work proactively with budget holders to develop and maintain the pipeline of future procurement activity as a working document during the financial year, giving the maximum outlook on plans and potential expenditure. This supports best practice as identified by Government Commercial Function (Cabinet Office).
- 8.3. It will facilitate the procurement planning process, highlighting opportunities for aggregation and collaboration to achieve value for money. It will also ensure that the relevant approvals and strategic direction are planned well in advance, to meet stakeholder delivery timelines.
- 8.4. It is a statutory requirement for the MCA to give 28 days' notice of all key decisions. A key decision is one which is likely to result in the saving or expenditure of £0.5m revenue or £3m capital and/or which has a significant effect on people living or working in an area comprising two or more wards or electoral divisions within the region.
- 8.5. As part of the business planning process, the Commercial Team will work with project teams and budget holders across the organisation to identify and anticipate decisions as far into the future as reasonably possible, to ensure adherence to this requirement, thus giving a minimum of 28 days' notice as part of any external notice.
- 8.6. In advance of a project commencing, all key stakeholders should be identified in advance, including anyone impacted by the requirement. A Communications Plan should be considered for larger projects, together with establishing roles and responsibilities and the appropriate timeline and key milestones. In advance of commencing a procurement, Legal, Procurement and Financial advice should also be sought.

9. Engaging the external market

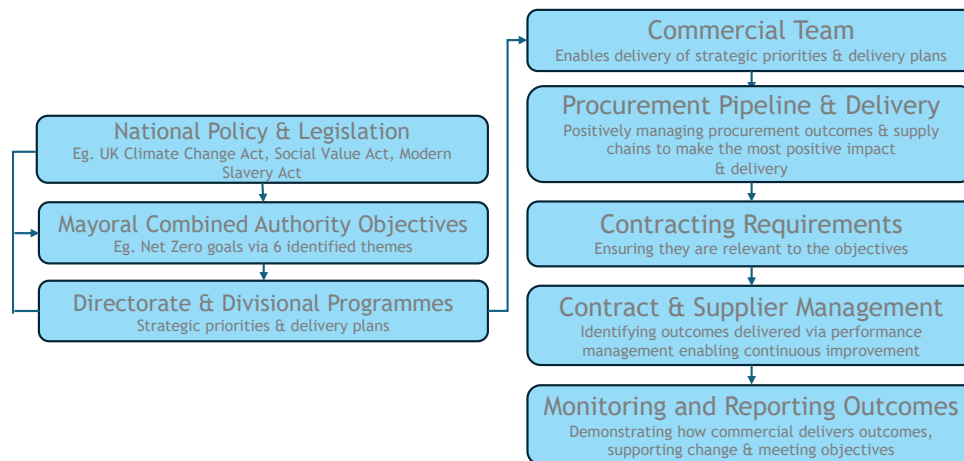
- 9.1. Good and proactive supplier engagement will assist the MCA meet its strategic objectives. Developing collaborative and mutually beneficial relationships with existing and potential supply partners delivers greater levels of innovation and competitive advantage than could be achieved through traditional, transactional purchasing arrangements.
- 9.2. Market engagement activities are a key input into the procurement strategy to ensure there is capability and appetite in the marketplace as well as providing supplier added value input to optimise the strategy and proposed contracting model.
- 9.3. Successful market engagement encompasses keeping the market informed about
 - supply opportunities
 - the procurement process

- the type of contract being procured
 - how communications will be managed
 - relevant information to the market which is central to maintaining a positive view of the MCA
 - timelines, milestones and updates on participation, including events and informal/formal feedback
- 9.4. The market engagement process can also facilitate feedback on innovation and market-based solutions. The MCA can also use this as an opportunity to share future plans and vision, as well as assisting in shaping service specifications and final requirements.
- 9.5. Early Market Engagement (EME), known as soft market testing can therefore provide suppliers with the opportunity to meet the demand and provide the MCA with gathering market intelligence as part of the preparation process for any future contract, especially where procurements are complex or of significant value.
- 9.6. Depending on the scope, complexity and scale of procurement activities, a Market Engagement Strategy (MES) can be used to document the processes, systems and communication approaches put in place to ensure the optimal benefits are realised from engaging early with suppliers and that MCA's reputation as a valuable customer is enhanced.

10. Sustainable Procurement & Social Value

- 10.1. **Delivering both Sustainable procurement and Social Value** is about achieving value for money on a whole life basis for the MCA in terms of generating benefits, not only to the region but also to wider society and the economy, whilst not causing net damage to the environment.
- 10.2. Both delivering improved Sustainability and Social Value will be a significant consideration in all types of MCA spend. The application and weighting of both will be proportionate to the size of spend to ensure we focus our attention on the biggest opportunities for the region whilst also ensuring we pick up opportunities across spend profiles.
- 10.3. Tender evaluation and weightings for both Social Value and Sustainability will vary depending upon the nature of the contract. Technical requirements within tenders will also require suppliers to demonstrate how they will contribute to delivering real impact.
- 10.4. Weightings will be applied to deliver but is likely, in most cases, to constitute a minimum of 10% for each Social Value and Sustainability of the total score.
- 10.5. MCA fully supports the sustainable development policies and expectations articulated by Government and aims to embed these in its procurement and commercial decisions.

Figure 4: The 'Golden thread' delivering national and regional priorities through commercial activities



- 10.6. The MCA has 3 key ambitions to be delivered by 2030. These are:
- The region is net zero carbon
 - Wildlife and the natural environment are in recovery, with their decline halted and the abundance of wildlife increased by 30%
 - The region has built its economic, social, and natural environment resilience to the impacts of climate change
- 10.7. The specific priorities and supporting action plan are set out in the MCA Climate and Ecological Strategy and Action Plan 2023¹
- 10.8. To achieve the provision of sustainable services through procurement the MCA will ensure that:
- Environmental and socio-economic considerations (cutting emissions, lowering energy usage, biodiversity and carbon credits) are embedded within its procurement policies and templates
 - Sustainability considerations are built into the specification and tender process, as appropriate. This includes use of the Government Buying Standards for relevant contracts
 - Key supplier relationships are managed to support the delivery of sustainable outcomes, encouraging high emitting sectors to engage with opportunities
 - Process, output and outcome measures are in place to track progress with sustainable procurement implementation
- 10.9. We expect all suppliers working with MCA to apply a circular economy approach such as 'make, use, remake' as opposed to a 'make, use, dispose' linear approach. Suppliers will be encourage to ensure that in their work with MCA, nothing is wasted - resources are kept in use for as long as possible, the maximum value is extracted from them whilst in use, and then products and materials are recovered and regenerated at the end of their viable life cycle.

This can result in a range of benefits:

- The environment - reduction of waste, less use of virgin materials and lower emissions
- The economy - improving productivity, new markets, reduced costs

¹ [west of England Climate and Ecological Strategy and Action Plan 2023.pdf](#)

- Communities - jobs, skills, involvement of MSMEs and VCSEs.

It also has the potential to help address supply chain disruption - reducing reliance on new materials and products reduces supply chain risks.

- 10.10. **The Social Value Act²** applies to all public sector organisations who are “contracting authorities” for the purpose of the regulations. The Act requires “contracting authorities” to consider the economic, environmental, and social well-being of their relevant area during the pre-procurement stage of awarding any services contract.
- 10.11. The MCA Social Value Framework underpins and aligns with the MCA regional and is focussed on delivering regional benefits to the environment, business and economic growth and residents: *To meet our vision for the region we must ensure that every pound we spend, and the decisions we take, positively impact people and communities in the West of England. Our Social Value framework is there to help us do that. It will drive social value across all we do, helping make the West of England a greener, fairer and more prosperous place.*
- 10.12. The MCA Social Value Framework consists of 4 key areas:
- Creating good jobs and accessible career paths for residents
 - Reducing health inequalities and improving quality of life
 - Increasing regional economic resilience
 - Tackling the climate and ecological emergency
- 10.13. As part of the Social Value Framework for the MCA, commercial activity will primarily focus on 3 of these key areas, namely:
- Creating good jobs and accessible career paths for residents, through offering work experience, apprenticeships, improving skills and good employment opportunities.
 - Increasing regional economic resilience, providing more opportunities for SMEs, VCSEs and local companies, to also support them to reduce emission and sustainable practices through opportunities to encourage business growth and innovation
 - Tackling the climate and ecological emergency, through taking direct action to reduce emissions, participating in nature recovery projects and activities, and providing technical assistance to climate mitigation projects
- 10.14. The MCA will be applying the Social Value Model for procurements within each stage of the commercial lifecycle, and it will be embedded as part of its ongoing reporting post contract award.
- 10.15. The Commercial Team, together with assigned contract managers will track and performance manage Social Value KPI’s and their delivery throughout the life of contracts to ensure all elements are meeting their objectives.
- 10.16. In support of PPN 05/21, the MCA will also consider the national strategic priorities for public procurement as part of the tendering processes:
- Creating new business, new jobs, and new skills
 - Tackling climate change and reducing waste
 - Improving supplier diversity, innovation, and resilience

² <https://www.legislation.gov.uk/ukpga/2012/3/enacted>

- 10.17. These priorities will be at the centre of the MCA's development of commercial processes and capabilities during the procurement process and through to the ongoing contract management, post contract award

11. Supporting Employment & Skills

- 11.1. The MCA is committed to support the government's Levelling Up³ agenda and the role of local organisations, people, non-profit organisations, and communities will be at the heart of procurement activity, through proactive market engagement and organisations that the MCA will work hard to attract across the region. These activities will all contribute towards the objectives of the MCA⁴ to support businesses to thrive across the region.
- 11.2. Private sector companies participating in procurements will be encouraged and incentivised to put social and environmental benefits at the heart of their proposals. Bidders demonstrating the greatest social value envelope by supporting this agenda will score the highest.
- 11.3. It is also Government policy to create opportunities for small firms and encourage SMEs to participate in public procurement. As part the MCA's transparency obligations and strategy to drive regional employment opportunities and skills, a pipeline of opportunities will be available to encourage responses from a wide variety of organisations, differing in scale and structure.
- 11.4. Smaller contracts may be more appealing to smaller economic operators within the region which supports the Government's growth agenda. Under the Public Contracts Regulations 2015 (PCR 2015) MCA may decide to divide a contract into 'lots'. This means, the breaking up of a contract into parts which can be awarded to different suppliers. (Rationale must be included in the contract notice.)
- 11.5. PCR 2015 allows MCA to reserve the award of contracts for some services to certain types of not-for-profit organisations with a public service mission, whose management or ownership is based on employee ownership/participation. Reserved contracts are advertised as such in the call for competition. The organisations entitled to bid must meet the requirements in the regulations. The maximum duration of a reserved contract is 3 years and contracting bodies are still required to demonstrate value for money through this approach.
- 11.6. As part of the implementation of the Procurement Bill (Autumn 2024) and the change of procurement evaluation methodology to Most Advantageous Tender, the Commercial Team will implement the new legislation (and supporting guidance) during 2024 allowing the MCA greater emphasis on providing opportunities to SMEs and local suppliers, meeting both Social Value and sustainability objectives.

12. Apprenticeships and skills

- 12.1. It is Government policy that public procurement of contracts with a full life value of £10 million and above and total duration of 12 months and above should be used to support local skills development.
- 12.2. For contracts within this scope, MCA will consider whether apprenticeships and skills development are sufficiently linked with the subject matter and embed appropriate requirements in the procurement process and contract delivery.

³ [Levelling Up White Paper 2022](#)

⁴ [MCA Employment & Skills Plan 2023](#)

- 12.3. These considerations and any specific requirements will therefore be covered within the detailed procurement documentation sent to suppliers to confirm how this will be supported/addressed within their responses.

13. Procurement Rules

- 13.1. PCR 2015 requires that public contracts for goods, services and works above £10,000 should also be widely advertised and contracts opportunities notified via [Contracts Finder](#).
- 13.2. Failure to publicise procurement opportunities appropriately could amount to a breach of the procurement rules and may put the MCA at risk of legal challenge. The process to be followed to select the preferred provider following the advertisement depends on the type of service being procured.
- 13.3. Services defined under Schedule 3 of the PCR 2015 that are under the threshold are procured using the 'light touch regime' (LTR). The LTR generally covers social and healthcare services but also applies to some legal, education or cultural services. The CA may choose to advertise sub-threshold Schedule 3 LTR opportunities in order to drive competition and ensure best value for money.
- 13.4. The full list of Schedule 3 covered services, including Common Procurement Vocabulary (CPV) Codes should always be verified on <http://simap.ted.europa.eu/cpv>.

Table 3: PCR 2015 thresholds inclusive of VAT effective from January 2024

PCR 2015		Thresholds
Supplies and Services		£214,904
Works		£5,372,609
Small lots	Supplies and services	£70,778
	Works	£884,720
PCR 2015		Advertisement threshold
All procurements		£10,000

14. Overview of Procurement Procedures

- 14.1. A range of procurement procedures exist under PCR 2015 for expenditure where no framework exists. The procedure to be followed in each case will largely depend on the type of goods or services being procured and the complexity of the procurement. Once determined and published the process should be adhered to and only departed from where the conditions in the PCR 2015 are met.
- 14.2. There are generally five main types of procurement procedures set out in table 3 below:

Table 4: Procurement Routes

Procedure	Overview
Open	This is a single stage process use where any supplier which expresses interest in the advertised opportunity is invited to submit a tender without any pre-qualification. Tenders can be clarified following receipt by the contracting authority. Changes to the tender and any negotiation with the tenderer are not permitted.
Restricted	Interested parties are shortlisted using the authority's shortlisting criteria. A limited number of responders to the advertised opportunity are invited

Procedure	Overview
	to submit a tender. Limitations must be transparent. As with the open procedure, whilst clarification of a tender is permissible, changes and negotiation with the tenderer are not.
Competitive Dialogue	Following shortlisting, a limited number of responders to the advertised opportunity are invited to enter into a dialogue with the MCA to develop suitable solutions. After initial bids the number is further reduced to three to five bidders who will be invited, after further negotiation, to confirm their final offer. Contracting authorities may carry out further negotiations with the highest scoring bidder to confirm financial commitments or other terms contained in the tender by finalising the terms of the contract.
Competitive Procedure with Negotiation	A limited number of responders to the advertised opportunity are invited to submit an initial tender for the contract. The MCA may then open negotiations with the tenderers to seek improved offers. There is no limit to the number of tender stages, and negotiation may continue until the contracting authority decides to conclude those negotiations. No clarification or negotiation of the final tenders is permissible. Competitive procedure with Negotiation should only be used in the specific circumstances under the PCR 2015 and with the agreement of the Commercial Team.
Innovation Partnership	A selection of responders to the advertised opportunity is invited, via a negotiated approach, to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market.

NB: Further information regarding EU thresholds and timescales are within Appendix 1

15. Publication of Notices

- 15.1. The MCA is required to ensure that any new procurement opportunities above the relevant thresholds are submitted electronically via Contracts Finder (and Find a Tender (FTS) where appropriate) in accordance with the PCR 2015 and within the timescales set out in the relevant regulations.
- 15.2. A summary of the types of notices is provided below:

Table 5: Publication of Notices

Type of Notice	Brief description
Prior Information Notice (PIN)	<ul style="list-style-type: none"> PIN (regulation 48 (1) PCR 2015) <p>CA may make known their intentions of planned procurements through the publication of a prior information notice.</p>
	<ul style="list-style-type: none"> PIN (regulation 75 PCR 2015) <p>CA may publish a prior information notice (or a contract notice) as a call for competition for Schedule 3 services. An advertisement must also be placed in Contracts Finder (below threshold) and Find a Tender (FTS) if the procurement is above threshold.</p>
Contract Notice	Where required by the PCR 2015 shall make a call for competition by publishing a contract notice.

Type of Notice	Brief description
	The contract opportunity should be advertised on Contracts Finder and Find a Tender (FTS) if the procurement is above threshold.
Contract Award Notice (CAN)	MCA is required to send a Contract Award Notice (CAN) for publication on Contracts Finder within a reasonable time. For the CA, this must be within 90 calendar days following contract award. The 90 days commence from the date of the contract signature. For Schedule 3 services under LTR and dynamic purchasing systems there is an opportunity to group CANs on a quarterly basis. If commissioners have grouped the CANs on a quarterly basis, the grouped notices need to be sent to Contracts Finder within 30 calendar days of the end of each quarter.
Modification to an existing contract	Under certain circumstances modification to an existing contract will require a contract notice to be published in Contracts Finder.

16. MCA Thresholds, Approvals and Procurement routes

- 16.1. For new procurement project, the approval process requires that a completed and signed Procurement Request Form and procurement strategy (based on expenditure levels) are approved by The Commercial Board (and other relevant approval meetings depending on spend thresholds).
- 16.2. The table below defines the procurement process run by the procurer, dependent on the Contract value
- 16.3. If you are purchasing IT Hardware or Software, this must be conducted in accordance with the IT Policy.

Table 6: Approval Requirements

Value of Procurement	Approvals & Documentation Req	Procurement Route
<£500		Purchasing Card where available
£501 - £25,000	Approval by Budget Holder Add to Contracts Register	3 written quotes Advertise via Contracts Finder >£10,000
£25,001 - £100,000	Engage with Senior Commercial Lead Subject to Budget Holder, Head of Commercial & Head of Finance Approval	3 written quotes or applicable framework Advertise via Contracts Finder >£10,000
£100-001+	Engage with Senior Commercial Lead	Advertise via Find a Tender (FTS)

Value of Procurement	Approvals & Documentation Req	Procurement Route
	Subject to Commercial Board Approval Prepare Procurement Strategy & MCA Report Complete Procurement Request Form Complete Contract Award Report (post procurement) Add to Contracts Register Add to Contracts Finder (final contract & award)	Framework or applicable route

17. Expenditure Approvals

- 17.1. Approval from the relevant spend approvals meeting is required at the key points through the Commercial Lifecycle i.e. Approval to spend, Procurement Strategy (where relevant) and Contract Award (prior to commitment/contracts being signed).
- 17.2. The Commercial Team will be able to advise what documentation for approval should be sought, dependent on project value.

18. Spending powers & compliance with policies

- 18.1. Whenever the MCA is spending money, it first needs to consider if the expenditure is consistent with
- its functions as a public body and internal governance (such as any existing financial authority)
 - any applicable external legislation
 - budget available to undertake the activity
 - whether the planned project or activity delivers the objectives as set out within the MCA Business Plan priorities
 - confirming this is the best use of public funds and value for money can be delivered
- 18.2. Anyone procuring goods, services and works on behalf of MCA should comply with the legislation and policy that governs the award of contracts by public bodies including:
- [Public Contracts Regulations 2015](#) ,
 - [The Public Services \(Social Value\) Act 2012](#),
 - [The Equality Act 2010](#),
 - [Modern Slavery Act 2015](#)
 - [HM Treasury 'Managing Public Money'](#),

- 18.3. Whichever compliant procurement process is followed it needs to be fair, open and transparent. The MCA should be aware of the minimum timescales under the PCR 2015 and need to ensure that all suppliers are given sufficient time to respond that is proportionate to the complexity of the requirement.

19. Award of contracts without advertising (Exemptions or Single Tender Action (STA))

- 19.1. PCR 2015 include circumstances in which a contract may be awarded without advertisement (i.e. an exemption).
- 19.2. Decisions to use an exemption must be robust, evidenced and with a clear audit trail. An unlawful use of an exemption may increase the risk of successful challenge against the CA under the PCR 2015.
- 19.3. Use of any exemption must only be undertaken with support from the Commercial Team and Legal Services so that they can ensure that the proposed arrangements fall within the exemptions and are reflected in the contractual arrangements.
- 19.4. It is expected that STAs will be used in very limited circumstances and by exception. Prior discussion and advice must be sought from the Commercial Team if it is intended to use a Single Tender Action.
- 19.5. Should there be a need for approval for a STA, a Procurement Request Form with robust supporting justification must be reviewed, recorded and reported to the Commercial Board. This could result in the request being rejected and an alternative competitive process and / or market benchmarking undertaken.
- 19.6. Any retrospective Purchases and Actions such as Retrospective Supplier Setups would be deemed non-compliant in circumstances where a contractual obligation with a supplier has been entered into either before spending approvals have been sought, a suitably authorised contract has been signed or before a PO has been issued.
- 19.7. All cases of non-compliance will be reported to the Commercial Board and then reported quarterly to CLT.
- 19.8. Full records of STAs must be maintained to support the annual audit of the Commercial Team.
- 19.9. Documents related to a procurement project are also subject to the Freedom of Information (FOI) Act and may be disclosable to a third party if requested. This includes all emails, notes (formal and informal) and correspondence.

20. Use of Framework Agreements and Dynamic Purchasing Systems

- 20.1. Use of framework agreements or existing Dynamic Purchasing Systems (DPS) may offer a value for money sourcing option as they are quick and easy to use.
- 20.2. If an appropriate and legally compliant framework has been set up, MCA should consider and use this framework in the first instance for the procurement of its goods, supplies and services. Should this not be suitable for the services required, or greater value can be achieved from an MCA competition, then this is permissible.

- 20.3. A framework agreement is legally defined as an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Where available, mini competitions should be run to ensure maximum value for money.
- 20.4. A DPS is operated as a completely electronic process and is used for commonly used purchases the characteristics of which, as generally available on the market, meet purchaser requirements.
- 20.5. Purchases under framework agreements or DPSs can be used for procurements both below and above the OJEU thresholds and may shorten procurement timescales considerably while remaining compliant with the PCR 2015.

21. Pilots

- 21.1. All pilots must be undertaken in accordance with this policy.
- 21.2. It may be that a pilot for the supply of goods and services is preferred as a proof of concept. Pilot are considered in the same way as any other procurement and, as such, before being undertaken, consideration and appropriate planning should be given to:
- The value of the pilot
 - Its purpose
 - The anticipated outcomes
 - Success and evaluation criteria, reporting outcomes and pilot deliverables
 - The full expenditure and commercial impact/plans that will be incurred if MCA proceeds to roll out the product/service after its conclusion.
- 21.3. The pilot should be conducted in a manner that allows and encourages the identification of a range of acceptable solutions or options so that should the decision be taken to roll out the product/service after the pilot concludes, a new tender may be undertaken through an appropriate procurement route.
- 21.4. Care should be taken to avoid the development of relationships with a particular party or parties which could hinder a fair and open process or limit competition. It cannot be assumed that the incumbent supplier will undertake any extension of a pilot, and this should be made clear at the start of any procurement. The contract must include termination provisions to allow the CA to exit from the pilot contract before costs escalate above the threshold where tendering should have occurred.
- 21.5. Where the value of a pilot contract is below the threshold to undertake formal tendering, and is therefore awarded after receiving quotes rather than formal tenders,
- 21.6. If after a full evaluation, it is decided that the pilot has been a success and will be extended, a new procurement strategy and spend approvals, appropriate to the anticipated contract value, must be submitted, and following appropriate approvals a new procurement undertaken.

22. Most Economically Advantageous Tender

- 22.1. PCR 2015 Regulation 67 provides that contracting authorities shall base the award of public contracts on the most economically advantageous tender assessed from the point of view of the contracting authority. This can be identified by, amongst other elements:
- price or cost (using life-cycle costing)
 - the best price-quality ratio (taking into account qualitative, environmental and/or social aspects linked to the subject matter of the Contract), including:

- quality: technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions
- organisation, qualification and experience of staff assigned to performing the Contract (where this can have a significant impact on the level of the performance of the Contract)
- after-sales service and technical assistance, delivery conditions such as delivery date, process and period, or period of completion

23. Conflicts of Interest

- 23.1. Conflicts of Interests may arise at any stage of the Commercial Lifecycle. In the MCA context, identifying and managing conflicts of interests is pivotal to ensure the integrity of the procurement process and the requirements of procurement law.
- 23.2. All employees, staff (including interim workers) and consultants involved in any procurement on behalf of the MCA must ensure that they are aware of and comply with this policy in terms of identifying, declaring, recording and managing conflicts of interest and policy breaches.
- 23.3. Conflicts of Interest Declarations should be completed (managed by the Commercial Team) at the start of each project and during key milestones (i.e. when bids are received). All participants in the procurement and contracting processes must comply with this requirement regardless of the value of the procurement.
- 23.4. The Commercial Team is responsible for ensuring that the Budget Holder and the spend approvals requestor have completed declarations for non-competed (i.e. Exemptions / Single Tender Actions) and retrospective expenditure.
- 23.5. For non-competed expenditure, submission of this form, inclusive of any interests and any mitigation(s) is a precondition to the review of the spend approval.
- 23.6. For competed expenditure, submission of the Conflicts of Interest Declarations, inclusive of any interests and any mitigation(s) is a precondition to the review of contract award approval.

24. Intellectual Property (IP) Management in Procurement

- 24.1. Identification, management and exploitation of IP in procurement projects shall be considered and reviewed with Legal advice where relevant.
- 24.2. All commercial opportunities to generate revenue streams should be considered and the cost benefit analysis undertaken with support from the Commercial team.

25. Contract Award & Implementation

- 25.1. Above the EU Thresholds there are strict rules on how to debrief suppliers including a Mandatory 10-day Standstill Period prior to confirming Contract award.
- 25.2. The MCA may only enter into contracts within the scheme of delegation and must comply with:
- MCA internal and external financial approvals process; and
 - Procurement rules and other Statutory Provisions

- 25.3. Post contract award, agreed contract management controls and measures must be in place. As part of robust contract management, it is vital the contract achieves its objectives and future benefits.
- 25.4. It is critical to the success of the organisation, that contracts are managed in a structured and planned way. The MCA has the responsibility to manage contracts and drive collaboration and integration across the supply chain to ensure all projects and programmes are delivered on time and within budget. It is critical that proportionate and effective contract management is applied which follows the guidance as set out with the MCA's Contract management Framework.
- 25.5. Contracts will be tiered according to the assessment made from the pipeline through to the procurement outset, based on three criteria: value, complexity and level of risk, which in turn will determine the level of contract management applied to each contract.
- 25.6. This approach follows Government Commercial Function best practice and guidance⁵. The tiering is as follows:
- Gold Contracts: Critical to the MCA in delivering strategic objectives, service obligations and normally high value and / or risk
 - Silver Contracts: Less strategically important contracts, however they remain critical to manage well due to the services provided due to considerations of value, risk or complexity
 - Bronze Contracts: Commodity or transactional contracts, that carry lower levels of risk and complexity but can still be high in value
- 25.7. As part of any contract management plan (for Gold contracts), there must also be both formal and informal communications to manage the relationship, as appropriate, together with a method of capturing the views of the service users/interested stakeholders including feedback to them on the service performance. Contracts will be performance managed as defined by the contract tiering, Key Performance Indicators will be developed and tracked as part of the contract management plan, ensuring service is delivered in line with the contract obligations through:
- Performance management framework is in place which allows the supplier to meet and exceed performance measures
 - Service levels are defined and agreed, linked to the contract purpose (need) and are fully understood by the supplier and tracked by MCA
 - Supplier performance is set up to be assessed by clear and understood metrics
- 25.8. The contract management plan will include, but not be limited to:
- Defining the roles & responsibilities of the contract management team:
 - establishing the risk and issues log as part of the contract management risk approach
 - Contingency options
 - Establishing an exit / transition plan
 - Ensuring the processes and tools to support the effective contract administration are in place, to monitor and manage the contract performance

⁵ https://assets.publishing.service.gov.uk/media/5d35940240f0b604d21a892a/Contract_Management_Professional_Standards_v2.pdf

- Set out a high-level plan for re-procurement or contract extension where this may be applicable

25.9. Roles & Responsibilities for managing contracts within MCA should be clearly defined, agreed then allocated in advance of the contract commencing, following these high-level principles:

Table 7: Contract Roles & Responsibilities

Role	Responsibilities
Contract Business Manager	Day to day operational responsibility for performance managing the contract on behalf of MCA in line with the contract management framework principles They are responsible for contract management plan development & implementation, risk management, supplier performance measures, day to day supplier engagement, reviews, record management, contract changes
Contract Business Owner	Accountable for the delivery of the contract on behalf of MCA with authority and responsibility from wider project oversight & reporting They are accountable for implementing contract management plan, oversight of risk management, supplier performance measures, supplier engagement, reviews, governance, and controls, approving contract changes
SRO	Accountable for a contract delivery and meeting its objectives, ensuring the contract and the projected outcomes meet and / or exceed the required benefits as set by the MCA in order to deliver strategic programme targets and objectives

26. Contract Variations or Modifications

- 26.1. The rules on variations or modifications of contracts apply to all contracts to which the PCR 2015 applies.
- 26.2. Regulation 72 of the PCR 2015 contains a list of variations or modifications that may be made without a new procurement procedure. MCA employees and staff seeking to make any contract variations or modifications should always seek advice regarding what can be classed as permissible from the Commercial and Legal Teams
- 26.3. For an existing contract to be extended or rolled forward without advertising, the option for that extension must be:
- clearly stated in the contract
 - the possibility of extension must have been notified to the market as part of the process to award the original contract.
- 26.4. For more guidance on variations or modifications to existing contracts, please refer to the Crown Commercial Services Guidance at: [Guidance on Amendments to Contracts during their Term.](#)

27. Policy Non-Compliance

- 27.1. The MCA officers must comply with this policy and the associated procedures at all times together with delegation of authority and financial budget responsibilities. Failure to comply may result in disciplinary action in accordance with the MCA disciplinary procedure.
- 27.2. MCA employees and staff are encouraged to be proactive in relation to the policy compliance and to raise compliance issues in early stages of the procurement process to prevent policy and legal non-compliance.

28. Policy management

- 28.1. This document will be made available to all MCA employees and staff via the MCA SharePoint site. A notice will be sent to all MCA employees and staff notifying them of the release of this document, with supporting group sessions to assist communication and understanding.

Appendix 1. EU Procurement Thresholds & Timescales From 1 January 2022

TYPE OF CONTRACT	THRESHOLD (£)
Works	£5,336,937
Supplies and/or (most) Services (for Local Government)	£213,447
Social and other specific Services (Light Touch regime applies)	£663,540

	SELECTION STAGE	TENDER STAGE	IF ELECTRONIC TENDER ACCEPTED	TENDER FOLLOWING PIN	TENDER BY AGREEMENT	URGENCY
Open Procedure	n/a	35 days	30 days	15 days	n/a	15 days
Restricted Procedure (only for contracts above £165k)	30 days	30 days	25 days	10 days	At least 10 days	15/10 days
Competitive Procedure with Negotiation	30 days	30 days	25 days	10 days	At least 10 days	15/10 days
Competitive Dialogue	30 days	n/a	n/a	n/a	n/a	n/a
Innovation Partnership	30 days	n/a	n/a	n/a	n/a	n/a

The timeframes above are MINIMUM number of days from date the notice is sent. It is recommended you allow 3 extra days to allow for notice publication.

Appendix 2. Financial obligations & Purchase Orders

1. Senior Managers must ensure that requests for quotations and invitations to contract with the Mayoral Combined Authority comply with the MCA's Contract Standing Orders.
2. The RO for each contract shall ensure that all instructions have been appropriately authorised and issued before the goods are ordered, services requested, or works are undertaken.
3. The RO must obtain appropriate VAT advice in relation to all contracts to provide services to the public to ensure the appropriate VAT treatment is applied.
4. All instructions to suppliers and payment arrangements must be in a form agreed by the Chief Finance Officer or his/her delegated Officer.
5. The Chief Finance Officer must agree arrangements for the financial vetting of prospective contractors.
6. A completed and approved procurement business case is required for any procurement above £50k prior to commencing the next stage. If the procurement is below £50k, evidence should be provided of authorisation by the budget holder.
7. All purchases and contracts must be supported by a purchase order unless an exemption applies. Prior to raising a purchase order, a requisition is raised against either:
 - a catalogue item; or
 - a contract;
8. The requisition is approved to commit expenditure by a budget holder after all procurement processes and approvals appropriate to the whole life value have been undertaken and received. The official purchase order is generated based upon the requisition and must include:
9. A description of the goods, services or works;
10. Quantity and individual price/cost; and
11. A schedule of payment if relevant.
12. Official purchase orders are placed on MCA Standard terms and conditions. Any deviations from the application of the MCA Standard Terms and conditions may only be done with the approval of the MCA Legal and the Head of Commercial.