

Procurement Policy



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1. Introduction

Birmingham 2022 presents a significant procurement programme for the United Kingdom and West Midlands region.

The effective sourcing of fit for purpose works, goods and services in a timely and cost-efficient manner is one of the critical factors for successful Games delivery.

The procurement programme can also support the achievement of revenue objectives through the effective integration of sponsorship opportunity within the process.

With this in mind, the Birmingham 2022 Organising Committee (the “**OC**”) has developed a Procurement Policy (the “**Policy**”), underpinned by Procurement Management procedures and Public Contracts Regulations (“**PCR15**”), to achieve the OC’s overriding objective to deliver a great Games on time and on budget. The delivery of best value will be supported by a Contract Management Policy where the responsibility will be with the Functional areas, supported by Procurement and Legal.

2. Purpose of this document

This document sets out the Policy for Procurement for the OC. This document will be supported by detailed procedures and processes captured in:

- a) Birmingham 2022 Procurement Procedures; and
- b) Birmingham 2022 Procurement Approvals Matrix.

3. Scope

The Policy applies to all procurement activities where the OC is the principle procuring/contracting authority and shall be adhered to by all OC staff, consultants, secondees and contractors that are procuring for and on behalf of the OC.

4. The Operating Framework

The following sets out the high level Procurement operating framework, identifying key external and internal policies, plans, standards and regulatory requirements that influence and impact on the procurement process for Birmingham 2022 including:

- a) Any overarching legislation and Government Policies that directly regulate the OC Procurement Activities, and that may be modified over the time of the Games, including PCR15 and applicable Cabinet Office Spend Controls and Procurement Policy Notes, along with any applicable government business related legislation;
- b) A series of OC wide policies, guidelines and frameworks which influence and/or input to procurement activities, along with this Procurement Policy, plus aligned procurement and contract management procedures. These will include specifically the Scheme of Financial Delegation, Social Values Charter and the Anti-Slavery and Human Trafficking Policy; and
- c) Any external arrangements in place with our Games Partners.

The above list is not exclusive, and it is recognised that this framework may change over time.

5. Policy Responsibilities

5.1 OC Senior Management

Any changes to the Policy must be approved by a majority decision of the OC Executive Management Team.

5.2 Chief Executive Officer

The Chief Executive Officer, as the Accounting Officer for the OC, is responsible for ensuring the OC's overall compliance with HM Treasury's 'Managing Public Money' document (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742188/Managing_Public_Money_MPM_2018.pdf) during the course of any procurement. This shall include ensuring compliance with The Public Contracts Regulations 2015 and other relevant legislation, policy and agreements.

5.2.1 Policy Exceptions

The Chief Executive Officer may approve an exception to this Policy and procurement procedures, subject to satisfactory written justification that demonstrates that there is no breach of legislation, government policy nor OC compliance obligations.

5.3 Chief Financial Officer

The Chief Financial Officer is responsible for supporting the Chief Executive Officer in ensuring compliance with this Policy. This includes providing oversight and review of the development and implementation of this Policy and all procurement planning documentation.

5.4 Chief / Director (Functional Areas)

Each Chief / Director is responsible for reviewing and endorsing any required sourcing and award strategies relating to their functional areas. The relevant Chief / Director is responsible for ensuring the compliance of its/their team members to this Policy.

5.5 Head of Procurement

The Head of Procurement is responsible for implementing this Policy and the supporting Procurement and Contract Management Procedures, assurance and reporting frameworks.

5.6 Procurement department

The procurement department is responsible for the practical implementation of this Policy through the use of the approved procedures, templates and supporting documents. The Procurement department shall ensure that the business has sufficient knowledge of this Policy and shall work in such a way as to deliver compliance to this Policy. Procurement staff shall raise any non-compliance immediately to the Head of Procurement.

5.7 Staff, contractors and consultants

All staff, contractors, secondees and consultants undertaking procurement activities are responsible for complying with this Policy. This means ensuring that the procurement approach is operated in accordance with the approved procedures and templates.

6. Procurement Management

6.1 Guiding Principles

The OC shall adopt the following guiding principles through its Procurement Management:

- Drive Value for Money* (VfM);
- OC procedures adhere to the Public Sector: Directive 2014/24/EU and the corresponding UK's enabling legislation (the Public Contracts Regulations 2015), and relevant Cabinet Office policies and controls;
- Establish and maintain a Procurement Assurance framework to ensure strong governance is delivered;
- Comply with the Treaty of Rome principles – equality of treatment, transparency, mutual recognition and proportionality;
- Appropriately manage and protect commercially sensitive and confidential information (including personal data);
- Ensure that, whilst being fully procurement compliant, local suppliers are given a full, fair and reasonable opportunity to supply goods and/or services to the OC;
- Provide opportunities to maximise sponsorship opportunities through the procurement process and ensure commitments are met and rights protected following contract award;
- Incorporate social values and sustainability requirements, to achieve our Games Mission and Objectives;
- Undertake checks to ensure that there are no conflicts of interest, including with evaluators in any procurement exercise;
- Reduce business, contractual and workplace, health and safety (H&S) risks; and
- Implement a clearly defined and regular procurement reporting regime.

Where Value for Money* means the most advantageous combination of cost, quality and social value to meet customer requirements.

In the Games context:

- cost; means consideration of the contract price, sponsorship value and whole of life costs (including contract management and any legacy impact costs);
- quality; means meeting all technical specifications, with qualified and experienced staff meeting the agreed requirements for any works and services;
- social value; means the ability of the Supplier to deliver benefits aligned to the OC's Social Values Charter.

(*Based on the HMT Green Book definition of Value for Money)

6.2 Procurement Policy and Scheme of Financial Delegation

The OC's Scheme of Financial Delegation (SoFD) defines how the OC, including the OC Board, is to exercise its authority granted by the Department of Culture, Media and Sport under the terms of the Management Agreement. It outlines the roles and responsibilities of members of staff, the Board and Committees of the OC. It details the financial limits on commitments and payments that should be applied within this Scheme, describes the associated permissions and responsibilities related to disbursing the OC's financial business, and specifies the limits and ranges of delegation given within the OC.

However, while the SoFD details financial levels, it does not define the processes to procure goods and services i.e. to determine the supplier who delivers the goods or service. This is regulated as part of this OC Procurement Policy. Additionally, the SoFD states that procurements may not be broken up into smaller lots with the intent of bringing them under a lower delegation.

For clarity this current Procurement Policy is based on the SoFD approved in November 2018 and will be reviewed and updated in line with any updates to the SoFD.

6.3 OC Procurement Methodology

Supplier Expenditure activities for the OC are delivered through two processes, which together create an end to end procurement lifecycle:

1. Procurement Process (Source to contract award); and
2. Contract Management (Contract initiation to Close Out).

6.3.1 Procurement Overview

The procurement process is a methodical set of tasks designed to identify, assess and award Supplier contracts for the requirements of the organisation. The intent is to engage the right Supplier to deliver the right goods, works and services at the right time, for the right price.

Procurement is managed by the Procurement team, with full delivery and involvement from the relevant Functional Areas (FA), supported by the Finance and Legal teams.

There are three key phases which make up the Procurement process:

1. Define business need;
2. Market engagement / tendering;
3. Award and contract recommendation.

The type of procurement exercise and detail required can generally be described in value bands and the detail of this is shown in the Birmingham 2022 Procurement Procedures. However, the table below is a simple description of the "I want to buy something" process, by these value bands.

I Want to Buy Something “What do I do?” Thresholds	
Procurement Threshold	Reason
Firstly, always check with Procurement before buying anything to see if there are any existing contracts or sponsorship agreements in place.	Current Contracts and calling off current frameworks may make the process easier and more favourable rates may be gained. Procurement will also need to check whether a Sponsorship agreement already exists for that commodity area.
For incidental and small value purchases with suppliers with infrequent one-off spends - A Procurement card is available	This allows one off, low value spend to be processed quickly and compliantly. A P-card will mean certain purchases are cheaper to process. Follow the P card policy.
Under £5k – At least 1 quote within function	Small spend requires a least a compliant quote which must be provided to Procurement through a Purchase Requisition (PR).
£5k - £50k – With procurement support	Spend over £5k requires discussion with procurement on the route, as a minimum will require 3 compliant quotes to ensure value for money. The “Approval Recommendation Form Lite” must be included with your quote/PR to outline the decision made to choose the preferred supplier.
£50 -£175k (or to OJEU level) – Formal tender process Procurement lead	Procurement will lead including any legal/contract requirement. Procurement will guide staff through the process with approach to market, documents used and selection criteria.
£175k - £1m – EU regulations apply. Formal tender process Procurement Lead	Procurement will lead so that any complex OJEU regulations are followed. Deals Group will need to approve Strategy and Award.
>£1m – EU regulations apply. Formal tender process Procurement Lead	Procurement will lead so that complex OJEU regulations are followed. Contract Approval Committee or OC Board Approval will be needed.

Following the Procurement exercise any contract will need to be signed in line with the process below, which again is value band based.

Table of Contract Signatories:

Type/Value	Document	Contract Signatory
Up to £175,000	Bespoke Contract	The CLO and another EMT member (2 signatories)
>£175,000	Bespoke Contract	Two of either: <ul style="list-style-type: none"> - Chief Executive Officer - Chief Financial Officer - Chief Legal Officer
Confidentiality Agreements	Standard Contract (available from Legal)	Head of relevant Department (or level above) or the CLO (provided it has been approved by Legal)
Contract Variations/Change Requests	Bespoke Contract Variation/ Change Request Form	(i) Where there is a change in value – as per the above based on the value of the variation (ii) Where there is no change in value, two of the CLO and any other member of the EMT
MOU/Letter of Intent – any value (non legally binding)	Bespoke MOU/Letter of Intent	Chief Legal Officer or Chief Financial Officer
Any value	Deed (e.g. property documents, certain IPR, Powers of Attorney)	i. One Board Director and Company Secretary (CMcG); ii. Two Board Directors; or iii. One Board Director and a witness

The Legal department will lead this process and the hard copy original version of the contract once signed must be passed to Legal for their records.

Further details are provided in supporting documents, particularly

- Procurement Management Process documents;
- “I want to buy something what do I do” process and flow diagram; and
- Procurement Process Approvals Matrix.

6.3.2 Contract Management Overview

Contract Management is a process to ensure that all obligations from a contract are fulfilled during its lifecycle, that risk is minimised and operational and financial performance are maximised. The intent is not only to ensure the contracted service levels are achieved, but also to actively manage suppliers to deliver ongoing value for money outcomes for the OC.

Contract Management is managed by the relevant FA that holds the contract, supported by the Procurement, Finance and Legal departments.

There are three key phases which make up the Contract Management process:

1. Contract Set-Up:
2. Contract Management:
3. Contract Close-out.

6.4 Sponsorship

Sponsorship is integral to the successful commercial delivery of the Games. Sponsorship is vital in reducing the overall cost of the Games to UK taxpayers through businesses providing commercial value for the opportunity to be formally associated with the Games.

The procurement process will support the achievement of sponsorship objectives for Birmingham 2022 by ensuring that the opportunity for sponsorship related to Birmingham 2022 is integrated into every relevant procurement process. This will be achieved through a range of actions including, but not limited to, the following:

- Where relevant, providing details of the sponsorship opportunities available for each applicable procurement to all potential suppliers during the tender stages;
- Including, where relevant, the value of sponsorship offers and/or discounted offers in the evaluative criteria and the evaluation of all proposals/offers;
- Providing the sponsorship team with the opportunity to engage with potential suppliers to ensure they have a full understanding of the sponsorship opportunity and the potential value to their business. The timing and type of engagement will vary depending on the type of procurement process conducted.

In addition to the above, all participants in a procurement process will be advised of the marketing and other restrictions that will apply to suppliers providing goods, services or works that elect to not take up a sponsorship opportunity. These restrictions include a restriction on public announcements or other publicity, prohibition of branding on staff uniforms and other clean venue requirements.

6.5 Social Values

The OC's Social Values Charter focuses on the following five key areas:

- Sustainability: sustainability is an ongoing process to ensure environmental, economic and social aspects are considered in all key decisions. By balancing these aspects, we can meet the needs of our Games without compromising the needs of future generations.

- Health and Wellbeing: we want to maximise the opportunities presented by the Games to improve levels of physical activity and wellbeing of communities.
- Inclusivity: we want the Games to be accessible to all and to promote a culture that reflects the diversity of the local communities.
- Human Rights: we want to ensure that in our delivery of the Games we always have the UN Guiding Principles on Business and Human Rights in mind, and we respect, support and promote those rights and freedoms guaranteed to all individuals under law.
- Local Benefit: we want to use the Games to contribute to the local economy, improve our local communities, and provide opportunities for our local people. community cohesion and civic pride;

For all relevant procurement activities, the OC will include Social Values as an evaluated criterion. Suppliers will be required to detail in their tender responses how they will meet or exceed our requirements and commitments in their responses.

To ensure successful outcomes are achieved, the OC will include any bid commitment made by Supplier in the final contract, with the OC tracking the Suppliers progress by requiring regular reporting.

6.6 Sustainability

In line with the OC's Sustainability policy, the OC has a commitment to delivering a Games that minimises its impact on the environment, whilst promoting socially responsible and sustainable business practices.

To achieve these commitments, the OC will apply sustainable sourcing practices to its procurement activities.

This will include:

- Placing an appropriate weighting on sustainability for relevant contracts i.e. to promote sustainable products, practices and supply chains;
- Reducing/eliminating the packaging requirements on equipment and products;
- Seeking alternative products, goods or services that deliver a reduced environmental impact;
- Support a Circular Economy approach for the product or materials to be used and identify innovative ways to prolong the life of the product or materials after its service to the OC;
- Passing these requirements on, down the supply chain.

The OC will develop a series of commitments to influence and advance sustainability. These commitments will be made available through the tender documentation and OC communication platforms.

For all relevant procurement activities, the OC will include sustainability within an evaluated criterion. In this case suppliers will be required to detail in their tender responses how they will meet or exceed the OC's commitments in responses.

To ensure successful outcomes are achieved, the OC will include any commitment to sustainability made in their tender by the Supplier in the final contract, with the OC tracking the Supplier's progress by requiring regular reporting.

6.7 Modern Slavery Statement/Policy

The OC has a zero-tolerance approach to modern slavery as set out in its Anti-Slavery and Human Trafficking Policy. In order to support its zero tolerance approach to modern slavery, the OC takes active steps to ensure that its suppliers, consultants and contractors, throughout the supply chain, are not engaging in any form of modern slavery or human trafficking.

To ensure the organisation fulfils its responsibility it will:-

- Pre-procurement & Specification: identify the risk of modern slavery to the contract to establish if modern slavery can be factored into the specification.
- Selection Stage: as required by Government procurement policy, all tenders will include the Standard Selection Questionnaire ("SQ") which includes a mandatory exclusion question regarding compliance with annual reporting requirements contained within the Modern Slavery Act 2015.
- Selection Stage: support the "tiscreport.org" which is a global database (Transparency in Supply Chains (TISC)) which monitors Modern Slavery compliance and maintains real time data on organisations which have a compliant Modern Slavery statement. For those organisations which legally need a statement, it is the intention to only work with organisations who are registered on the database with a compliant statement.
- Contract Conditions: supply contracts and standard terms of business will include express terms requiring our counterparties to comply with all applicable laws relating to anti-slavery and human trafficking, to include similar requirements in their own contracts, and to notify us if they become aware of any slavery or human trafficking in their own supply chains.
- Selection Stage and Contract Conditions: include an additional question in the SQ and in Contract Conditions which requires suppliers to comply with the Government's "[Supplier Code of Conduct](#)". This requires suppliers to comply with all applicable human rights and employment laws in the jurisdictions in which they work. This includes complying with the provisions of the Modern Slavery Act 2015. In addition, suppliers must have robust means of ensuring that the subcontractors in their supply chain also comply.
- Award Stage: apply tender response questions relating to modern slavery where they link to the specification, taking a proportionate approach.
- Award Stage and Existing Contracts: require suppliers, where relevant, to complete the Modern slavery assessment tool available on "The Supplier Registration Service for Government". This tool asks suppliers questions about the processes they have in place for managing modern slavery risks and provides automated recommendations on how to improve their anti-modern slavery processes.
- Contract Management: Following contract award, continually work in collaboration with suppliers to address modern slavery risks and monitor progress.

- Require suppliers who are procured under a framework agreement or outside a formal tendering process, including smaller organisations, as part of the new supplier set-up process, to make a positive written affirmation that (i) they do not; and (ii) their direct supply chain does not endorse enable or facilitate human trafficking or slavery within their business.

Failure by a supplier to comply with the processes described above will lead to an investigation and may result in the supplier's contract being terminated.

6.8 Publishing Contract Opportunities

The OC will use a number of OJEU procurement approaches including Open, Restricted, Competitive Procedure with Negotiation or Competitive Dialogue. The OC will also look to leverage current and relevant Framework Agreements and/or contracts held by our games partners or other public sector bodies where appropriate to ensure effective and efficient delivery.

Where an advertised tender process is used rather than a Framework, Dynamic Purchasing System (DPS) or an existing contract, the OC will, where possible, publish details of forthcoming opportunities in advance on the Birmingham 2022 Business Portal (held on the 'Find it in Birmingham' platform), and/or through Prior Information Notices published in the Official Journal of the European Union (OJEU) and/or Early Engagement Notices published on Contracts Finder.

The Public Contracts Regulations 2015 require the OC to ensure when advertising a new procurement opportunity above £25k, that the advert is also placed on Contracts Finder. Where a procurement opportunity is over the relevant OJEU threshold, the opportunity will also be published in the OJEU.

In addition, the OC will encourage its large suppliers to proactively use Contracts Finder and/or Find it in Birmingham to provide greater visibility of supply chain opportunities on a voluntary basis. Where the contract value exceeds £5m per annum, the OC is required to include contract clauses requiring the prime supplier to advertise subcontract opportunities above the £25k threshold on Contracts Finder and separately report on their spend on subcontracting and with SME or VCSE organisations in delivery of the contract.

<https://commonwealthgames.finditinbirmingham.com>

www.contractsfinder.service.gov.uk

<https://ted.europa.eu>

6.9 Publishing Tender and Contract documents

In line with Central Government transparency requirements, the OC is required to publish tender and contract documents with the Contract Notice at the relevant stage of the procurement. These will either be attached to the Contract Notice on Contracts Finder or a permanent link provided to the location where the documents are hosted on-line. The OC will establish at the start of a procurement or a contract award what information can be published, taking into account any exemptions under the Freedom of Information Act, for example on national security or commercial confidentiality grounds.

7. Relevant Legislation

The following list identifies the primary relevant legislation. It is not exhaustive and is correct at the time this policy was approved.

- The Public Contracts Regulations 2015
- Public Sector: Directive 2014/24/EU
- World Trade Organisation Agreement on Government Procurement
- Bribery Act 2010
- Data Protection Act 2018
- EU General Data Protection Regulation
- Freedom of Information Act 2000
- The Public Services (Social Value) Act 2012
- Small Business Enterprise and Employment (SBEE) Act 2015
- The Late Payment of Commercial Debts (Amendment) Regulations 2018
- Equality Act 2010 (including the Public Sector Equality Duty)
- Modern Slavery Act 2015
- Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

8. Monitoring

The Head of Procurement will monitor the implementation of this policy and any subsequent revisions. This will include monitoring:

- Percentage of non-pay expenditure through framework agreements and/or OC contracts. This is to ensure availability of contract opportunities for non-framework suppliers as well as ensuring procurements are designed to suit the needs of the OC.
- Percentage of non-pay expenditure captured electronically through purchase to pay systems. This is to ensure compliance with financial rules, provide assurance against budgets and a clear audit trail.
- Percentage of recognised procurement staff with an appropriate formal procurement qualification, to ensure that the OC has sufficient qualified and experienced procurement staff to meet its needs.

9. Review

This Policy will be subject to review annually after its date of approval. Earlier review may be required if any of the following occur:

- The adoption of this Policy highlights any errors or omissions in its content;
- Following monitoring of complaints on this Policy made by individuals requiring any changes; and
- Where relevant changes in legislation or national guidance impact upon the content of this Policy.