Brunel University London

Procurement Code

Version: 1.1

Sign Off History

Version	Name	Title	Comment	Date of Sign Off
V 1.0	Executive Board Approval		New Version	3rd June 2019
V 1.0	Andrew Murphy	Chief Financial Officer Executive Board Owner	New Version	11th June 2019
V 1.0	Anthony Oliver	Interim Chief Procurement Officer	New Version	11th June 2019
V1.1	Iain Willcocks	Director of Procurement	Clarifications	27th June 2019

1. Introduction

1.1. Executive Summary

1.1.1. This Procurement Code sets the mandatory rules on behalf of Brunel University London (the University) including all officers of the University, and any persons or organisations that are responsible for supplier selection and awarding, managing and monitoring contracts on behalf of the University.

1.1.2. The Procurement Code shall be followed in the conduct of all procurement and contract management activity. This document is designed to ensure that the University achieves best value from procurement activities, risks are minimised and procurement complies with the University's own Financial Regulations, the Public Contracts Regulations 2015 (PCR 2015), the Concession Contracts Regulations 2016 (CCR 2016) and other relevant legislation.

1.1.3. The Procurement Code applies to concession contracts where the contractor has the right to exploit the works or services (for profit) together with some form of payment as well as taking on risks in the provision of those works or services.

1.1.4. The Procurement Code applies for externally funded or collaborative projects where the University is the contracting authority conducting the procurement and signing the contract e.g. with other Universities etc.

1.1.5. Overarching principles of the Procurement Code are that:

- Best Value (which may not necessarily be the lowest price) shall be obtained for all works, goods and services
- All procurements shall take place in an open and transparent manner
- Fairness with all potential and existing suppliers being treated equally
- All actions are compliant with UK and EU Legislation
- Responsible Procurement objectives (including where possible social, economic and environmental characteristics) are included in all strategic procurements

2. Operating Model

2.1. Responsibility & Application of the Code

2.1.1 The overarching responsibility of Procurement is with the Procurement Director, who is accountable to the Chief Finance Officer. Any interpretations of this Procurement Code will be clarified by the Procurement Director.

2.1.2 All officers involved in the procurement process shall ensure they are aware of and fully comply with all relevant legislation, corporate strategies and policy.

2.1.3 If an officer finds themselves in a situation of potential, perceived or actual conflict of interest, they must take the necessary action to disclose it formally to either the Procurement Director or appropriate Sourcing Manager for decision.

2.2. Procurement Services

2.2.1. Procurement Services support the University in procuring goods, works and services at the best possible value and compliant with relevant legislation and University policies.

2.2.2. It is recognised that effective procurement is fundamental in supporting the delivery of the University's overall financial strategy and delivery of the University's vision "Brunel 2030".

2.2.3. Procurement Services employs a strategic sourcing approach to procurement that provides leadership, commercial insight, assurance, policy and governance to the procurement activity of the University. Procurement Services has adopted a Category Management approach for managing all procurement spend and leads on all sourcing activity over £30,000 excluding VAT.

2.2.4. Procurement Services will aim to aggregate spend and contract for goods and, or services over multiple years to ensure the University can drive maximum value from the procurement and contracting activity. The contract term will therefore be determined by Procurement Services in conjunction with the College/ Directorate. See 3.4

2.2.5. Procurement Services primary role is to ensure that the University's procurement activity provides value for money (VFM) and meets the functional needs of the University. Through strong relationship management they ensure that our suppliers and partners deliver high standards of performance, as well as continuous improvement and innovation within the VFM framework.

2.3. Category Management

2.3.1. 'Category Management' is the process of managing the University's spend through segmenting expenditure into discrete groups of similar or related products and services called categories. The categories are based on the supply market and how it is influenced by procurement strategies.

2.3.2. Spend is then analysed to determine why we buy what we do, how we buy it, from whom and with what results. The categories are then managed through a continuous and systematic process to develop and implement sourcing strategies which deliver maximum value whilst managing risk.

2.3.3. The major spend categories as below are mapped to the Higher Education Procurement Classification system (HEProc).

Major Spend Categories
Soft Facilities Management
Construction & Hard FM
Information, Communications & Technology
Business & Administration Services
Medical, Veterinary, Agro & Laboratory
Miscellaneous/Unclassified

2.3.4. The Strategic Sourcing team within Procurement Services includes a number of specialist Sourcing Managers who will be the commercial lead and provide expert knowledge and advice. All Sourcing Managers are aligned to the Major Spend Categories as per 2.3.3 in order to deliver all procurements with an aggregated value over £30,000.

2.4. Procurement Operations

2.4.1. The Procurement Operations team within Procurement Services provides the framework within which procurement and contract management activity is performed, including policy, process, governance, performance and systems.

2.4.2. Procurement Operations supports the procure to pay (P2P) activity of the University, working closely with Accounts Payable, advising on all aspects of the procurement cycle and the use of CHIME for requisitioning through to goods receipting.

2.4.3. Procurement Operations is accountable for Catalogue Management in CHIME.

2.4.4. Procurement Operations is accountable for the management of the University Purchasing Card Programme and Corporate Card Programme.

2.5. Brunel eSourcing

2.5.1. Brunel eSourcing is the University's 'end to end eSourcing Portal which encompasses spend analysis, strategic sourcing, evaluation, contract management and supplier performance management in an integrated portal. Brunel eSourcing can be found at www.BruneleSourcing.com

2.6. Officers

2.6.1. Individual officers within the University are responsible for sourcing activity under £30,000 and shall ensure they are aware and comply with all relevant legislation and policy.

2.6.2. Procurement Services will publish guidance for procuring below £30,000

2.6.3. Contract management responsibilities are outlined at 3.19.

2.6.4. If officers are unsure of best practice, guidance is to be sought from Procurement Services.

2.6.5. Lead Officers with accountability for the delivery of goods, services and works will engage Procurement Services to lead procurements on their behalf over £30,000. Lead Officers will retain accountability for the delivery of goods, services and works, ensuring that the procurement meets their business needs,

2.7. Codes of Conduct

2.7.1. The University expects all officers involved in procurement to behave with the highest levels of probity and integrity in accordance with the Bribery Act 2010 and the Code of Conduct detailed in the University's Financial Regulations, the Anti Bribery Policy and the Code of Conduct.

2.8. Receiving Gifts or Hospitality

2.8.1. The University expects all officers involved in procurement to comply with the overarching University policy relating to Receiving Gifts or Hospitality detailed in the University's Financial Regulations.

2.8.2. Failure to adhere to these conditions may result in disciplinary action.

2.9. Procurement Assurance Group "Gate"

2.9.1. The Procurement Assurance Group, commonly known as "Gate" is an officer group who review procurement activities at two stages (or Gates).

2.9.1.1. Gate 1 is a formal review of the Procurement Strategy once the lead Officer wishes to formally go to market, and

2.9.1.2. Gate 2 is a formal review of the Contract Award proposals once the procurement strategy has been delivered, tender proposals have been evaluated and the lead Officer wishes to award a contract.

2.9.2. The members of the Procurement Assurance Group "Gate" will recommend to the appropriate Officer, whether the Procurement Strategy or Contract Award should proceed to approval.

2.9.3. Peer Review

2.9.3.1. Peer reviews shall be led by the lead Officer in accordance with the agreed procurement timetable.

2.9.3.2. The peer review should be proportionate to the value and complexity of the procurement and should ensure that the procurement is compliant; meets the project objectives and supports the wider University objectives such as Brunel 2030. Peer reviews can include: electronic circulation; programme board; team meeting; executive meetings.

2.10. Funded project

2.10.1. Funded procurements must ensure compliance with the University's Financial Regulations, Procurement Code, the Public Contracts Regulations 2015 (PCR 2015), the Concession Contracts Regulations 2016 (CCR 2016), State Aid Rules and other relevant legislation.

2.10.2. Where the procurement requirements for a funded project conflict with 2.10.1 then advice should be sought from the Procurement Director.

3. Procurement Operations

3.1. Planning

3.1.1. Directorates and Colleges will be asked to provide a forecast every year, for the following 3 financial years, for all procurements above £30,000 to enable Procurement Services to plan and allocate resources.

3.2. Corporate Contracts

3.2.1. Procurement Services have awarded a range of Corporate Contracts for goods, services and in some cases works that are commonly required. The use of these Corporate Contracts is mandatory and compliance will be monitored and reported.

3.2.2. Corporate Contracts may be accessible through a range of procure to pay (P2P) solutions. These solutions may include but will not be limited to Catalogues via CHIME, Purchase Requisitions via CHIME and Supplier Portals. The P2P route to be followed will be communicated by Procurement Services.

3.2.3. Officers must seek advice from Procurement Services if unsure if a Corporate Contract is available and, or which P2P route should be followed.

3.3. Category Management Toolkit

3.3.1. The Category Management Toolkit is to be used for all strategic procurements and the principles are to be adopted for operational and low value procurements. The principles will be built into the workflow within www.BruneleSourcing.com.

3.4. Estimating the Total Contract Value

3.4.1. Officers should calculate a genuine pre-estimate of the total contract value excluding Value Added Tax. This should be for the whole of the predicted contract period which must include any provisions for extensions. If the terms of a contract are yet to be established or uncertain, then a 4 year contract should be assumed for the purposes of estimating the contract value.

3.4.2. Officers must not deliberately sub-divide or disaggregate procurements for the purpose of avoiding thresholds.

3.5. Spend Definitions

3.5.1. **Works** are defined as the construction, demolition, transformation or repair of a building or location.

3.5.2. **Goods and Services** are defined as the provision of tangible items (goods) or intangible routine actions (services) that are required to fulfil a need.

3.5.3. **Consultancy Services** are defined as the provision of objective advice relating to strategy, structure, management or operations of an organisation. Such advice will be provided outside the ‘business-as-usual’ environment when in-house skills are not available and will be time-limited. Consultancy Services may include the identification of options with recommendations, or assistance with (but not necessarily the delivery of) the implementation of solutions. Officers

must seek advice from the Professional Services Sourcing Manager within Procurement Services, prior to proceeding with the procurement of a consultancy service, regardless of the estimated total contract value. For the avoidance of doubt, Architectural services are not classed as the provision of Consultancy but will fall under the definition detailed under item 3.5.2 Goods and Services.

3.6. Standard Procurement Documents

3.6.1. Procurement Services are responsible for developing and maintaining standard procurement documents to be used when conducting tender or requests for quotations. The standard documents/templates contained within www.BruneleSourcing.com shall be used for all new strategic procurements.

3.7. Terms & Conditions of Contract

3.7.1. The University norm will be to only use and accept its own standard Terms and Conditions. The standard terms and conditions of contract can be located on www.BruneleSourcing.com and the Intranet; these are updated in consultation with Legal Services and maintained by Procurement Services. Any variation to the standard Terms and Conditions will require express authorisation and advice from Procurement Services, who will seek advice on alternative clauses from Legal Services. Exceptions to be agreed with Procurement Services would normally be Joint Contract Tribunal (JCT) terms and conditions and those associated with approved Frameworks.

3.8. Evaluation Criteria

3.8.1. The standard evaluation criteria for any procurement is weighted 60:40 to Cost: Quality respectively. Any deviation from this ratio requires the Procurement Director's approval in conjunction with the Chief Finance Officer, by submitting a waiver request. This rule to obtain a waiver request will not apply to procurements where the total contract value is below £100,000 and the price criterion is increased.

3.9. Responsible Procurement

3.9.1. For all contracts with a total contract value of £150,000 or above the University requires a minimum of 5% of the total weighting of the tender evaluation score to be allocated for Responsible Procurement. This will be derived from the Quality section of the evaluation and will include social, economic and environmental characteristics (example: Quality has 40% overall weighting Social Value will be 5% of that weighting allowing 35% for other quality evaluation criteria).

3.9.2. All procurements conducted by the University and by those contracted by the University to act on their behalf will do so following the Government Buying Standards 'Mandatory' criteria, for further information contact the relevant Sourcing Manager.

3.9.3. All appropriate University Policies and Strategies are to be considered and included in tenders either within the Scope or Evaluation of tenders.

3.10. External Frameworks (including Dynamic Purchasing Systems)

3.10.1. Prior to using an external framework (or DPS) for the first time, Procurement Services will undertake a due diligence assessment for using the framework. Any frameworks (or DPS) that are approved following a recommendation from the Procurement Assurance Group, must be added to the Framework Register which is maintained by Procurement Services. The Framework Register will be a publicly available document.

3.11. Access Agreements (including Dynamic Purchasing Systems)

3.11.1. Where use of a framework (or DPS) requires the University to sign an Access Agreement (or similar) with an external contracting authority, the agreement must be reviewed by Procurement Services and authorised by the Procurement Director.

3.11.2. Mini competitions or call-offs, from frameworks (or DPS), over £30,000 should be administered through Procurement Services and conducted using www.BruneleSourcing.com.

3.12. Procurement Strategy Thresholds and Approval

3.12.1. The Procurement Strategy thresholds determine the approach to be applied to all procurement activity and set the type and levels of approvals before engaging the market via a tender process. Where procurements are considered to be high risk, the appropriate Sourcing Manager must be consulted. A Procurement Strategy may include a programme of works/projects, including the use of a Dynamic Purchasing System, over a defined period of time. Any deviation from an approved Procurement Strategy will require officers to seek approval again.

Estimated Total Contract Value	Key Points and Requirements	Sourcing Approach	Approval Required By
Low Value under £10,000	Obtain a minimum of 1* quote	Email. Record of requirements and service levels to be issued in writing. Evidence of requesting and retention of quotes received to be retained for audit purposes.	Appropriate Head of Department.
Operational – Less than £30,000	Request for Quote (RFQ) – invite a minimum of three (3) suppliers to quote.		
Strategic - £30,000 and above	Procurement Services must lead in all projects and use the Category Management Process.	Mandatory use of www.BruneleSourcing.com for all procurements over £30k including both tendering and contracts management.	The appropriate member University Leadership Team [1]

[1] Vice-Provosts, Deans of College, Directors of Institutes, Directors of College Operations, Department Directors/Head (non Academic)

3.13. Waivers

3.13.1. In exceptional circumstance a waiver to the requirements of the Procurement Code may be sought.

3.13.2. All waivers must be reviewed by the appropriate Sourcing Manager prior to issue for approval.

Estimated Total Contract Value	**Approval Required By**
Less than £1.0m	Procurement Director
£1.0m +	Chief Finance Officer in conjunction with the Procurement Director

3.13.3. If the Waiver is approved, the award of contract must still be approved in accordance with the total contract value (see item 3.16)

3.13.4. All Waivers are reported to the Audit Committee as part of the Annual Contracts Review.

3.13.5. The statutory provisions of the Public Contracts Regulations 2015 (EU Procurement Regulations) will be applied to all procurements by the University and cannot legally be waived.

3.14. Procurement Exemptions

3.14.1. In limited instances it is not necessary to seek a competitive tender or quotations; the list of approved exemptions to procurement is included in **Appendix 1.**

3.15. Non-Compliance

3.15.1. Waivers will not be granted retrospectively. Requests for retrospective waivers, where a commitment has been made to a provider of works/goods/services without appropriate approval, will be reported to the Audit Committee as non-compliant and will also be reported to the Executive Board as part of the quarterly contract review and to the Audit Committee as part of the Annual Contract Review.

3.15.2. Proceeding with a non-compliant procurement without the appropriate approvals will be the responsibility of the officer involved and the relevant member of the University Leadership Team. Non-compliance identified by Procurement Services or Internal Audit, will be reported to the Executive Board as part of the quarterly contract review and to the Audit Committee as part of the Annual Contract Review.

3.16. Contract Award Thresholds and Approval

3.16.1. The contract threshold sets out the level of approval required by officers prior to proceeding with the award of a contract and the authorised officer able to execute a contract. When seeking approval for a contract award, officers must clearly state the contract term (which must include any provisions to extend).

Total Contract Value	Contract Approval	Contract Execution
Less than £30k	The appropriate member of the University Leadership Team.	The appropriate member of the University Leadership Team [2]
Strategic £30,000 +	The appropriate member of the University Leadership Team.	The Procurement Director on approval by the relevant University Leadership Team.
Strategic £150,000 +	The appropriate member of the University Leadership Team following recommendation to approve from the Procurement Assurance Group (Gate 2).	The Procurement Director on approval by the relevant University Leadership Team member following recommendation to approve from the Procurement Assurance Group (Gate 2)
Strategic £1 million +	Chief Finance Officer following recommendation to approve from the Procurement Assurance Group (Gate 2).	The Procurement Director on approval by the relevant University Leadership Team following recommendation to approve from the Procurement Assurance Group (Gate 2)
Strategic £3 million +	Vice Chancellor following recommendation to approve from the Procurement Assurance Group (Gate 2).	The Procurement Director on approval by the Vice Chancellor following recommendation to approve from the Procurement Assurance Group (Gate 2)

3.16.2. The model contract documents/templates contained within the www.BruneleSourcing.com shall be used for all new contracts. Where modifications are required, Procurement must approve the amended document and work with Legal Services as appropriate.

3.16.3. Information relating to Contracts may be commercially sensitive and officers must not communicate it directly or indirectly to other external suppliers.

3.16.4. The University does not enter into Memorandums of Understanding or issue Letters of Intent for procurement exercises.

3.16.5. The University does not issue or operate under Voluntary Ex-Ante Transparency (VEAT) notices.

3.16.6. No goods will be delivered, nor works or services commence without a proper contractual commitment in place.

[2] Vice-Provosts, Deans of College, Directors of Institutes, Directors of College Operations, Department Directors/Head (non Academic)

3.16.7. All contracts shall have a defined duration and provision(s) for extensions and termination. Contracts shall not have provision for automatic roll over or be allowed to exist in perpetuity.

3.16.8. Prior to entering into contracts with a total value over £30k, the supplier's financial information will be reviewed using the University's preferred credit check agency.

3.16.9. Prior to entering into contracts where the University is committing funds in advance of goods, works or services being delivered, the supplier's financial information will be reviewed using the University's preferred credit check agency.

3.16.10. The Executive Board will be sent a quarterly briefing note advising them of all contract awards where a contract is more than £30,000 in value.

3.17. Revenue earning contracts

3.17.1. Where the University wishes to enter into a revenue earning contract, the Officer shall advise:

3.17.1.1. The University Leadership Team member, when revenue generated will be less than £50,000 per annum.

3.17.1.2. The Chief Finance Officer, when revenue generated will be more than £50,000 per annum.

3.18. Contract Extensions and Variations

3.18.1. Officers must consult Procurement Services, on all contract extensions or variations to ensure compliance with the PCR 2015. It should be noted that the extent of permitted variations is limited by law and require specific conditions to be fulfilled.

3.18.2. Exercising an option to extend or varying the terms of a contract may require the same approvals as the contract award, see item 3.16 appropriate to the total contract value over the life of the contract. This will depend on the specific factors and assessment of any potential risks concerning the proposed extension or variation.

- Minor variations which are not substantial and are permitted under the PCR 2015 may not require the same approval process as contract award; however officers must notify Procurement Services and seek approval from the appropriate University Leadership Team member as a minimum.
- Variations, extensions of contract or contract overspends that will account for an additional cost of 10% or more of the original contract value will require the same approvals as the contract award.
- Officers will be responsible for ensuring that all extensions or variations are formally documented

3.19. Contract Management

3.19.1. Contract Management is the responsibility of the College/Directorate which includes ensuring a Contract Manager is identified and assigned for all contracts and for maintaining information within www.BruneleSourcing.com.

3.19.2. All Contract Managers are required to have attended the University's training course Managing Successful Contracts within the past 24 months and are required to follow the principles of the

Contract Management Framework within 6 months of commencing a role where the officer is managing a contract.

3.19.3. All reporting and performance information is to be submitted to Procurement Services on request. There are to be periodic reviews of contract performance by Procurement Services.

3.19.4. Contract Managers will be responsible for monitoring contract performance and total contract spend over the full term of the contract, as well as ensuring that any variations are compliant with the PCR 2015 and item 3.18 above.

3.20. Changes in identity of Suppliers

3.20.1. Procurement Services must be consulted on any requests for the assignment or novation of contracts to ensure compliance with the PCR 2015.

3.20.2. For contracts valued at £30,000 or more any new legal documentation such as a Deed of Novation or Parent Company Guarantee must be placed in the Records Centre with the original contract.

3.20.3. If the remaining contract value falls within the thresholds detailed within item 3.16, the same approval process must be followed.

3.20.4. The supplier shall cover all costs arising from assignment/novation where this has been at the request of the supplier.

3.20.5. Where it is established that no assignment or novation has taken place but only a rebranding exercise following a company merger or acquisition, then a copy of the Change of Name Certificate must be provided to Procurement Services and recorded against the relevant contract on www.BruneleSourcing.com.

3.21. Document Retention

3.21.1. Original signed or sealed contracts must be placed in the Records Centre once the documentation has been completed, and a soft copy uploaded onto www.BruneleSourcing.com by the lead officer or Contract Manager (where appropriate).

3.21.2. Procurement Services is responsible for maintaining a register of tenders and will keep records for all Strategic purchases for 6 years.

3.21.3. Contracts awarded under seal must be retained in the Records Centre for 12 years from the date of final delivery or completion of the contract.

3.22. Procure2Pay

3.22.1. The Director of Procurement is responsible for Procure2Pay Policies in conjunction with the Director of Finance.

3.23. Purchase Orders

3.23.1. All purchases require a valid purchase order to be raised within the CHIME Finance system.

3.24. No PO No Pay

3.24.1. The University operates a No PO No Pay policy, as such in order for any invoice to be paid a valid Purchase Order must be on the CHIME Finance system and appropriately receipted.

3.25. Prompt Payment Code

3.25.1. In accordance with the Prompt Payment Code, the University aims to pay undisputed invoices that quote a valid purchase order number, within the terms agreed at the outset of the contract.

3.26. Purchasing Cards

3.26.1. The University has a Purchasing Card Programme for managing the acquisition of low value goods and services. As part of the Programme, the University provides Purchasing Cards to approved employees. Purchasing cards are to be used and administered in accordance with the Purchasing Card Policy and any user guide.

3.27. Lodge Cards

3.27.1. As part of the Purchasing Card Programme detailed in 3.26 the University may use a payment card described as a “Lodge Card” to pay for services from a single supplier. Lodge Cards will be used and administered in accordance with the Purchasing Card Policy.

3.28. Corporate “Expense” Cards

3.28.1. The University provides Corporate “expense” Cards for “frequent travellers”. Corporate Cards are to be used and administered in accordance with the Corporate Card Policy and any user guide.

3.29. Payment Services

3.29.1. The University uses additional Card Payment Services in addition to Purchasing Cards and Corporate “expense” Cards. Further details of these additional Card Payment Services can be obtained from Procurement Services.

4. APPENDIX 1

4.1. University Procurement Exemptions

There are instances where conducting a procurement under the Procurement Code would not represent Best Value, these circumstance are set out in the table below and may be exempt from the full application of the requirements of the Procurement Code. Please note that if there is an identified Exemption, you do not need to seek a waiver of the Procurement Code.

A Sourcing Manager shall still be engaged for Strategic expenditure - £30,000 and above as per 3.12.1.

Note that the examples listed below are not necessarily exhaustive. Any use of these exemptions must be approved by Procurement Service and so officers must seek the advice of a Sourcing Manager to ensure that the correct process is followed.

Exemption Number	Circumstance	Example
E1	The University has no influence over the supplier selection	• The procurement activity is grant funded (or the University is match funding) and the supplier is named as a condition of that funding. • Where it can be robustly demonstrated that there is only one supplier capable of providing the requirements of the University e.g.: Where software is being procured which must be compatible with an existing IS system thereby limiting the potential providers to the current software provider ONLY. • A subscription is to be paid for a particular service e.g. annual subscription to London University's.

E2	The University are buying goods on behalf of another organisation and those goods will remain on their asset register.	Where purchases are made on behalf of the NHS?
E3	Where services need to be procured as a matter of extreme urgency and timescales do not allow for the prescribed procurement route set out in the Procurement Code to be fully followed. This would normally be within 7 day of the incident occurring.	Where an incident occurs which has brought about the events that could not be foreseen by the University, such as a fire.
E4	The acquisition, disposal, or rental, by whatever financial means, of land, existing buildings or other immovable property.	Sale of University land to public or private organisation.
E5	Loans	Secured lending to fund the development of a new building.
E6	Banking Services	Banking services including the provision of current and deposit accounts and related financial services.
E7	Payment Card Services	Including but not exclusively Purchasing Cards, Corporate Cards and Lodge Cards.
E8	International Recruitment	Overseas (non EU) providers of international recruitment who are paid based on number of students accessing BUL graduate/post graduate courses.