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Procurement Policy and Guidance

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Governance

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Changes to the latest version of this Policy:

Definition of 'business as usual'

Section 8 on business cases

Appendix 3 clarifying MHCLG's requirement for business cases

1. Purpose

1.1 This policy and guidance ensures that VTS staff have the information they need to comply with best practice when purchasing goods or services and when managing contracts so that public funds are administered in accordance with the legislative and administrative framework under which the VTS operates.

2. Scope

2.1 This policy and guidance applies to all VTS staff with budget responsibility, who are also required to familiarise themselves with the VTS Standing Financial Instructions (SFIs) and comply with them. Breach of this policy may result in disciplinary action or dismissal.

3. Statement of Policy

3.1 The VTS seeks to ensure that its arrangements for purchasing goods and services, for tendering and managing its contracts meet the needs of the organisation, ensure value for money, comply with government policy and meet legislative requirements.

3.2 We recognise the important contribution that small and medium-sized enterprises make to the economy. We treat our suppliers and contractors fairly while being consistent with achieving value for money. In turn we require the suppliers and contractors who work with us to protect our data and comply with our policies.

4. Definitions

'Consultants': People and organisations who provide objective advice and assistance relating to strategy, structure and management of operations to organisations where in house skills are not available.

'Contract': A transaction or series of transactions governed by specific documented terms and conditions relating to the procurement of goods, services or (capital) works.

'Business as usual': any activities that are essential for normal execution of operations within the VTS.

'Framework': An agreement with a supplier or range of suppliers that enables customers to buy goods or services without running lengthy full tendering exercises. Frameworks are based on large volume buying.

5. Background

5.1 The VTS makes use of the Cabinet Office's Crown Commercial Service (CCS) which holds contracts for most goods and services on behalf of government organisations. The CCS achieves value for money by buying as a single customer and has framework agreements and other arrangements (such as the Government eMarketplace) in place for everyday low-value goods and services. Government organisations therefore only need to undertake full tendering exercises for their most

unique requirements and the VTS policy is to use the CCS arrangements whenever possible.

5.2 Staff will be aware of their budgetary responsibility from the letters of delegation they receive from the Accounting Officer, who is also the Chief Executive. Budget holders are required to operate within their delegated authority and to manage all items of expenditure listed in their respective budgets. Where procurement results in a contract, a budget holder will be given responsibility for managing that contract or supplier relationship in order to ensure compliance, completion and delivery for the benefit of the VTS.

6. Cautionary Matters

6.1 Procurement often involves staff dealing with existing and potential contractors. VTS employees shall declare interests - close links, direct or indirect - with contractors and shall withdraw from any involvement in contracting and tendering processes where such interest is declared. (See VTS Standing Financial Instructions, section 15).

6.2 Staff should be mindful that an employee will be guilty of an offence under Section 1 of the Bribery Act 2010 if they are found to have offered, promised or given financial or other reward to another person for improperly performing their functions or activities. It does not matter whether the reward is for that person's benefit or someone else's or is made directly or through a third party.

6.3 Likewise an employee will be guilty of an offence under Section 2 of the Bribery Act 2010 if they are found to have requested, or agreed to receive or accept a reward for improperly performing their functions or activities. These include any activity performed on behalf of the organisation, where they are expected to be acting in good faith or impartially. It does not matter whether the reward is for their benefit or someone else's.

6.4 The Cabinet Office has strict controls over certain categories of spending, which is further informed by our sponsoring department's Spending Controls Guidance (last revised in May 2017) which must be followed on:

- Advertising, marketing and communications
- Strategic supplier management, including disputes
- Digital and technology, including ID assurance
- Consultancy and professional services
- Property, including facilities management (FM)
- Commercial models (i.e. outsourcing contracts; disposals)
- Learning and development

6.5 No contract or order shall be issued for any item to any organisation which is known to have made an offer of gifts, hospitality, reward or benefit to members of the VTS, Directors or other employees, or payment to any VTS employee above the *de minimis* level (currently £25), other than by exception.

6.6 Only certain VTS staff have the authority to sign contracts with suppliers. These are the Chief Executive, the Finance Director and the Director of Operations and Development, subject to financial delegated limits. This means that, other than for a simple purchase permitted within the delegated budget, contracts, leases, tenancy agreements and other commitments which may result in a liability must be notified to the Finance Director before any commitment is made.

6.7 Goods are not to be taken on trial or loan in circumstances that could commit the VTS to a future uncompetitive purchase.

6.8 VTS employees must not be engaged by the VTS as consultants under any circumstances.

6.9 Budget holders are required to undertake sufficient due diligence (which may include audits and inspections) to ensure suppliers who will process personal data for the VTS implement the appropriate technical and organisational measures to comply with the General Data Protection Regulation (GDPR). Contracts with these suppliers will include all compulsory details and terms as required under the GDPR.

7. Ordering goods and services

7.1 This part of the policy and guidance applies to all purchases, whether or not the purchase follows from a business case, a framework agreement or under a contract.

7.2 No Purchase Order shall be issued that is not funded by a properly authorised budget, unless with the approval of the Finance Director or the Chief Executive. Where the order refers to an item which has been approved by the Executive Management Team and/or the Board through a business case, the Purchase Order must be cross referenced accordingly.

7.3 Official orders for goods or services must only be placed using a VTS SAP Purchase Order (PO), which is provided by the online eProcurement ordering portal. The Requisitioner completes the online process and the appropriate budget holder approves the PO requisition.

7.4 Once approved, a purchase order is created on SAP. A copy of the Purchase Order is provided to the Requisitioner and sent to the supplier on behalf of the Requisitioner, if requested as part of the online ordering process.

7.5 Once the Purchase Order has been created, the budget holder can place the order. The PO number should be quoted to the supplier for the procurement of goods and services so that the PO shows on the supplier's invoice. Suppliers will be requested to include all purchase order numbers on invoices in order to achieve prompt payment and to submit these direct to Finance Shared Service Division (FSSD).

7.6 Receipt of the goods or services, the receiver (budget holder) must complete the confirmation process (Goods Receipt) on the eProcurement portal This completes the process and the SAP finance system recognises the expenditure.

Suppliers will be asked to remit invoices straight to the FSSD and include the purchase order number on invoices. FSSD will then check the SAP purchase order. If the purchase order, goods receipt and invoice match, the invoice will be posted. If the invoice is for a greater value than the purchase order and/or goods receipt note, FSSD will refer back to the requisitioner.

7.7 Expenditure, or the commitment to incur expenditure against a project budget, can begin when a contract has been signed with the supplier. Where this is not possible but the project has gained the Chief Executive's and/or Board's endorsement, written approval should be sought from the Finance Director in advance of any expenditure being incurred or commitment given.

7.8 Orders must not be split or otherwise raised in a manner devised to avoid the financial or delegated budget thresholds.

7.9 The process flowchart at **Appendix 1** may be helpful.

8. Governance and approvals

8.1 The process flowchart at **Appendix 2** should be helpful as a guide.

8.2 An external business case is not required for any expenditure that is classed as 'business as usual'. However, the VTS must satisfy itself that any expenditure is appropriate, offers value for money, and is affordable. The decision (including the reason for the categorisation of business as usual) should be documented to show that relevant issues have been considered. There is no requirement to seek approval from the sponsoring department (see Appendix 3).

8.3 Business cases with options appraisals must be prepared for all proposed business critical purchases/changes, or novel or contentious expenditure, regardless of whole-life costs. With the assent of the Chief Executive, these must be presented to the Executive Management Team (EMT) and Board for initial approval. The MHCLG template for preparing a business case for the VTS's purposes is acceptable for the Board's initial purposes¹ and is available from Programme Management Support or the Finance Director.

8.4 Where an urgent Board decision is required, 'Chairman's action' can be taken as set out in the Standing Orders.

8.5 A Board-approved business case must then be submitted to MHCLG for any expenditure relating to any purchase which is to be capitalised, or in excess of £10,000

¹ Capital and Business Critical Business Cases 2020

that is not defined as 'business as usual', or where any novel or contentious spend is being contemplated, or where additional funds are being sought.

8.6 Version control is essential during any approvals process. Every approved business case or exemption form must be sent to Programme Management Support for retention, along with the reference to its approval.

8.7 **Only after approval of the business case(s) should contract or tender documentation be prepared, especially if the outcome from the business case is dependent on a third party agreement.** Sufficient time should be allowed to ensure the business case is given thorough consideration. If the business case is dependent on highlighting indicative costs, a 'without prejudice' contact can be made with a supplier(s).

8.8 Further, full business cases may be required by the Board for its scrutiny and MHCLG approval following procurement, when more details on solutions and costs are known.

9. Seeking quotations and tenders (prior to contract)

9.1 The process flow chart in **Appendix 2** should be helpful as a guide.

9.2 VTS policy is to use Crown Commercial Service frameworks wherever possible and/or to seek to contract with a CCS-named supplier. Before seeking quotations and tenders, a check should be made with the CCS as to whether an existing framework can be used. For lower value office supplies and communications quotations, the Government Marketplaces should be used. These are online catalogues and directories of suppliers for the purchase of office supplies and low value communication services across the public sector.

9.3 Contracts for goods and services must be subject to competitive tenders or quotations and in some instances (see above) to the preparation of a business case. **Contract values (VAT inclusive) are the total anticipated expenditure over the full whole life term of the contract not just the initial or period.**

9.4 With the exception of goods and services ordered against pre-existing contracts signed by the VTS or known to be from an accredited/preferred supplier, the following are the thresholds for quotations and tendering:

- Potential contracts valued at less than **£5,000** (VAT inclusive) require a minimum of two written quotations². The exception to this limit is where the proposed contract is for a business critical service, as determined by the Chief Executive, in which case a formal tender process must be carried out.

² Letter from DCLG dated 18 March 2014 uplifting the *de minimis* level from £3,000 in the Framework Document.

- Above **£5,000**, a formal tender is necessary with at least three suppliers targeted for quotations. There is no upper limit by which a quote is not required.
- Contracts for **£25,000** if advertised at all must be advertised promptly on the government's "Contracts Finder" portal; and details about the contract award must also be sent to Contracts Finder.
- At the discretion of the Accounting Officer a procurement panel would normally be formed where the cost of supply of goods or services is estimated above **£25,000** (VAT inclusive).
- If the estimated value of the whole life contract for all supplies and service contracts (for specific R & D services and certain telecoms and computer services and supplies) is likely to be greater than **£217,562³**. (total value, inclusive of VAT). It must comply with government policy⁴, meet legislative requirements and approved by the Board. The Department should be provided with a copy of the contract.
- Any contracts in excess of **£300,000** (VAT inclusive) over three years, must also be approved by the Board.

9.5 **Tenders.** An Invitation to Tender must be drawn up and issued electronically to the appropriate number of suppliers. Usually this will be a minimum of three, including at least two from the CSS framework list). However, if the Digital Marketplace is used for G-Cloud procurement and only one supplier is returned as meeting the requirements, in accordance with the provisions of the Digital Marketplace services award contract and government guidelines, the contract may be directly awarded to that supplier. The invitation should include –

- contact details
- the deadline for responses
- background information about the VTS
- the product/service required including obligations for data security, health and safety, equality and diversity
- any quality standards and time limits for delivery
- supplier references
- the criteria for the award of the contract and percentage for each criterion
- the budget limit (if relevant).

9.6 If further information is sought by any supplier, that information should also be provided to all others invited to tender.

9.7 Where the electronic return of tenders is not possible, sealed tender bids should be opened by the budget holder/project manager or other designated VTS person in the presence of a witness and reviewed at the specified time and date. The bids

³. **Note** these limits apply from 1 Jan 2018 but are subject to change.

⁴ As set out in the Public Contracts Regulations 2015

should be evaluated according to the criteria set out in the invitation document and the result signed off by the manager and witness.

9.8 Procurement panels. Where these are required they should comprise three staff members including usually the Finance Director or Director of Operations and Development and the project manager, together with a member of staff from the relevant department. In some cases, the inclusion of a Board member may be appropriate. Based on the requirements drawn up for the service/ product, the panel should decide on the line of questioning each member will take and the evaluation criteria (weighted if appropriate). Tender invitations should ensure that the suppliers are aware of the process and what form their presentation should take, including any timings.

9.9 Budget holders must keep records of all proposals received and the evaluation process on tender bids and/or presentations to panels. Copies of these records should ideally be kept with the contracts, or alternatively with the originator.

9.10 All bidders should be informed of the outcome as soon as possible, with feedback where appropriate.

9.11 Documentation relating to the tender exercise must be retained by the relevant budget holder department, as required in the Records Retention and Disposal Policy.

9.12 The procurement of service by way of tendering arrangements may result in a contract value exceeding the staff member's delegated authority to approve. In such cases the decision to proceed to contract rests with the Chief Executive.

9.13 Waivers and requests for single tender action. In addition to the Digital Marketplace exception (see 9.5 above), exceptionally, single tender contracts can be agreed by the Chief Executive up to **£25,000**, VAT inclusive, where there is no known reasonable alternative, or in cases of extreme emergency. Advice on this procedure can be obtained from the Finance Director. Once approved, the Audit & Risk Assurance Committee has to be informed of such an arrangement. Requests for single tender contracts must set out clearly in writing the reasons for the request. There is an MHCLG template for single tender approvals, held by the Corporate Services Manager and/or Finance Director.

10. Contracts

10.1 The Finance Director must be notified of the intention to enter into a contract or funding agreement or arrangement with an estimate of cost and reference to the budgetary provision.

10.2 How the agreement is recorded will depend on the cost of the work and whether it is business critical.

- above £25,000, the agreement should, in most cases, be encapsulated in a CCS model, to be signed by both parties

- above £5,000 and below £25,000, the full version of the VTS's "Standard Terms and Conditions" must be used and signed by both parties
- below £5,000, where the work is not business critical, the short form of the VTS Terms and Conditions can be used.

10.3 Once signed, a copy of the relevant agreement should be passed to each supplier/provider/contractor on engagement.

10.4 The two versions of the VTS documents can be found on the intranet under Corporate/Governance. For single purchase orders not part of a larger contract, a link is provided to the short-form Terms and Conditions on the copy of the purchase order sent to the supplier for reference. These are held on the VTS website.

10.5 **Personal data.** Where personal data will be processed by the supplier for the VTS, any form of agreement (as described above) **must** set out details of the nature, scope and duration of the processing and the guarantees needed by the VTS about how the data is handled. It will also explain the responsibilities and liabilities of the data processor (supplier). These matters should be detailed in a Schedule to the agreement.

10.6 Orders can only be placed within the budget holders delegated limits. Budget holders must give prior notification of material changes in contract(s) to their suppliers and seek written approval from the Finance Director if any change within the contract is expected to result in an overspend.

10.7 Where a contract has explicit terms and conditions defined by the supplier, these must be reviewed before acceptance, and be no less onerous than those which the supplier would be requested to adopt if the VTS conditions were adopted. Terms and conditions must reflect the obligations of The Late Payment of Commercial Debts Regulations 2013, the Equality Act 2010, the Public Sector Equality Duty in public procurement and those of the GDPR in relation to processors of personal data.

10.8 No order or instruction will be issued relating to contractual works or services until the contract has been formally accepted and signed by all parties.

10.9 On signing a contract, or agreeing terms and conditions, the budget holder **must** inform the Finance Director so that this information can be entered into the Contracts Register and published on Contract Finder (if a contract above £25,000). When signed, the original copy **must** be passed to the Finance Director who is the guardian of all contracts and responsible for maintaining the Register. It will be reviewed quarterly.

- All material contracts, those normally above **£20,000** (VAT inclusive), must be signed by the Chief Executive. Where the contract value exceeds **£300,000** the contract must be referred to the Board who will provide the necessary approval for signature of the contract by the VTS Chairman.

- In any circumstances where contracts have exceeded delegated authority and where competitive tendering was **not** engaged, the Finance Director, on behalf of the Accounting Officer, will submit a report to the sponsoring department and the VTS Audit & Risk Assurance Committee.
- Contract management, specifically the review of contractor performance requirements agreed within a contract, is to be undertaken by the contract manager/budget holder on a regular basis, preferably quarterly. Such meetings are to be documented with action plans agreed where necessary.
- The Contract manager/budget holder should be aware of the expiry dates for contracts/agreements and ensure that a valid document remains in place for ongoing relationships. When contracts are renewed, or new terms agreed, the contract manager/budget holder must inform the Finance Director and send him the updated documentation.

11. Help and feedback

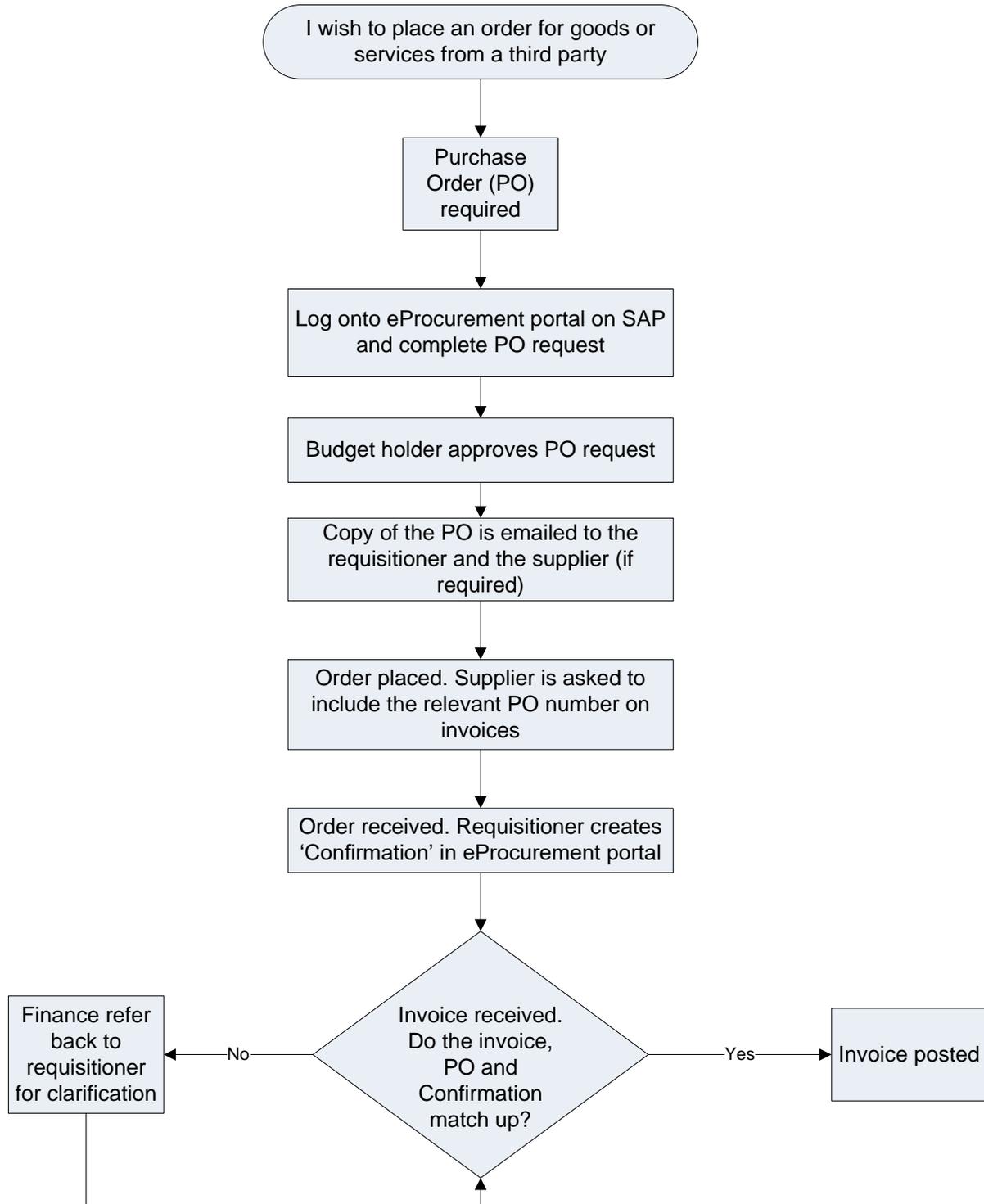
11.1 Further clarification should be sought from the Finance Director to whom any feedback on this policy should be sent.

12. Impacts of the policy

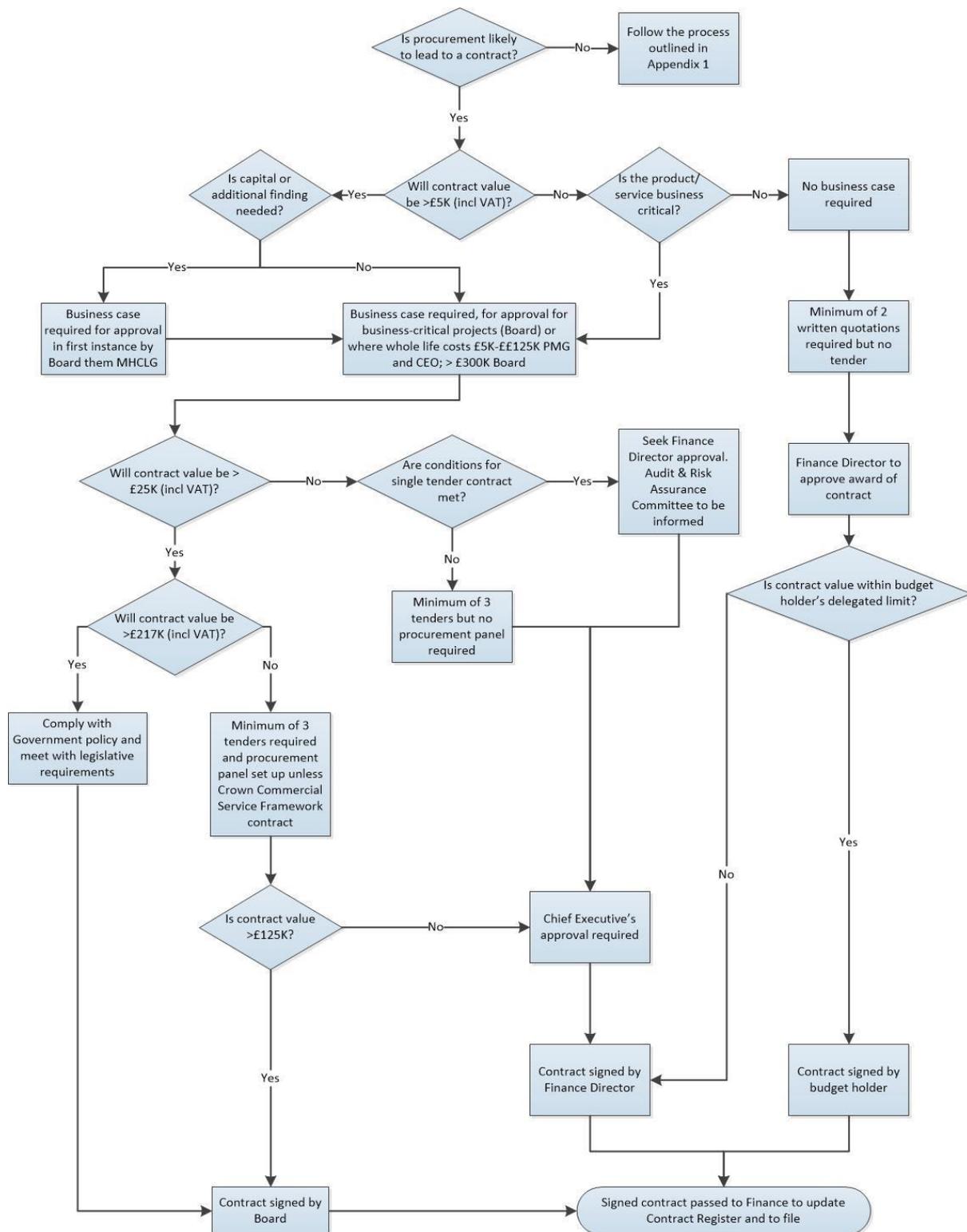
12.1 This policy is aimed at maintaining the standards that VTS staff must adhere to when purchasing goods and services and ensuring the highest standards of probity and propriety. The impacts of implementing the policy are -

- maintaining the reputation of the VTS with its stakeholders;
- achieving optimum efficiency in the use of resources;
- maintaining awareness of Government policy on choosing suppliers; and
- obtaining the best value for money for the delivery of goods or services
- compliance with regulatory requirements including the General Data Protection Regulation.

Appendix 1 Purchase order process steps



Appendix 2: Tender and Contracts Process Flowchart



Appendix 3

MHCLG has provided its position via email on 14 February 2020 on business cases:

Where expenditure is considered “Business as Usual”, no business case is formally needed. Obviously, the ALB will be required to satisfy itself that any expenditure is appropriate, offers value for money, and is affordable. They may want to produce a business case to satisfy themselves of those types of issues (particularly where the costs are at the higher end), but there is no requirement to do so, and certainly no requirement to seek approval from the Department.

Where expenditure is over £10,000 and is not considered to be “Business as Usual”, then the ALB is required to prepare a Business Case. Under the current delegation between the Department and the VTS, this business case should also be subject to approval from the Department.

Where expenditure is under £10,000 but is considered novel or contentious, then that should also be subject to a business case and approval sought from the Department. Managing Public Money says:

2.3.4 There is an important category of expenditure commitments for which the Treasury cannot delegate responsibility. It is transactions which set precedents, are novel, contentious or could cause repercussions elsewhere in the public sector. Box 2.3 gives examples. Treasury consent to such transactions should always be obtained before proceeding, even if the amounts in question lie within the delegated limits.

Box 2.3: examples of transactions requiring explicit Treasury consent

- extra statutory payments similar to but outside statutory schemes
- ephemeral ex gratia payment schemes, e.g. payments to compensate for official errors
- special severance payments, e.g. compromise agreements in excess of contractual commitments
- non-standard payments in kind
- unusual financial transactions, e.g. imposing lasting commitments or using tax avoidance
- unusual schemes or policies using novel techniques.