



St Helena
Government

ST HELENA GOVERNMENT
PROCUREMENT REGULATIONS
V2 NOVEMBER 2024

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PROCUREMENT REGULATIONS

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PART 1

INTRODUCTION AND SCOPE OF THE REGULATIONS

1 Introduction

- 1.1 These *Procurement Regulations* are intended to ensure value for money is obtained in the purchases of all goods, services and works within a framework of good purchasing practice and public accountability that places decision making at the appropriate level.
- 1.2 All *Officers* responsible for purchasing or disposal must comply with these *Procurement Regulations* and all supporting documentation.
- 1.3 These *Procurement Regulations* are issued by the Financial Secretary, with the approval of the Governor pursuant to, and in accordance with, Section 5 of the Public Financial Ordinance.
- 1.4 These *Procurement Regulations* will be subject to a detailed review at intervals not exceeding three years to ensure that the working arrangements of SHG are conducted in accordance with relevant legislation and current best practice.

2 Interpretation

- 2.1 Words in italics are defined terms, the meaning of which can be found in Part 8 of these *Regulations*.
- 2.2 For the purposes of these *Regulations*, where there is a requirement for communication to be in writing, this shall be deemed to include, where appropriate, other electronic means (e.g. e-mail or e-tendering) as well as hard copy.
- 2.3 The *Regulations* lay down minimum requirements and a more thorough procedure may be appropriate for a particular *Contract*.
- 2.4 In implementing these *Regulations* every *Officer* shall have regard to the Public Finance Ordinance.
- 2.5 In respect of project and programme funding, any decision that would potentially or in reality cause conflict to arise with the external funding partners governance requirements, will require consultation with the external funding partner prior to approval within SHG procurement regulations. Where conflict might arise the need for consultation will be determined by the Financial Secretary.
- 2.6 Should there be any ambiguity in these *Regulations* then the interpretation of the Financial Secretary shall be final.

3 Scope

- 3.1 Any arrangement made by, or on behalf of SHG, that commits, or potentially commits, SHG to pay, or receive, more than £5,000 for the purchase of goods or services must comply with these *Regulations* regardless of how they are funded, other than:
 - a) Contracts of employment which make an individual a direct employee of SHG
 - b) Property transactions including the acquisition, disposal, or transfer of land or buildings.
 - c) Contracts that are entered into in a situation where SHG's Civil Emergency Plan has been activated for the provision of goods or services that are necessary to enable SHG to discharge its responsibilities in such a situation.

- d) Where a *Purchase Order* is being placed to call off goods, services or works under a *Contract* which has been put in place under these or any prior *Regulations*

3.2 All purchases of goods, works or services where the *Total Value* is less than £5,000 are at the discretion of the *Accounting Officer* of the area holding the budget.

4 Officer Responsibilities

4.1 *Officers* responsible for purchasing or disposal must comply with these *Procurement Regulations* and all relevant domestic and international legal requirements.

4.2 *Officers* must ensure that any *Agents*, *Consultants* and contractual partners acting on their behalf also comply.

4.3 All *Officers* are expected to: -

- a) Have regard to the guidance in the supporting *Procurement Services Training Pack*
- b) Take all necessary legal, financial and professional advice.
- c) Treat *Candidates* fairly, equally and open up contract opportunities to a wider market, generally through advertising in some form so as to generate competition.
- d) Declare any personal financial or other interest in a *Contract* via the Declaration of Interest form on the SHG website.
- e) Check whether there is an existing Corporate Contract, Framework Agreement or any other Agreement which can be accessed and provide favourable terms (e.g. Contracts set up by UK Government).
- f) Keep bids confidential.
- g) Complete a written *Contract* or *Purchase Order* before the supply of goods, services or works begin, which should be approved by a suitably authorised person in line with the *Scheme of Delegation* as defined within the *Financial Regulations*.
- h) Appoint a *Contract Manager* with responsibility for ensuring the *Contract* delivers as intended.
- i) Keep appropriate records of dealings with bidders and suppliers.
- j) Pay due regard to the Procurement Policy and Strategy.
- k) Delegation for payment certification must comply with SHG Financial Regulations with a clear log of any delegation to an individual from the *Accounting Officer*.
- l) The *Accounting Officer* must ensure segregation of duties to ensure that a single officer cannot undertake the end to end process.

4.4 The Financial Secretary must ensure that:

- a) *Officers* comply with these regulations. Failure to comply with these regulations could lead to a disciplinary at an individual level, financial loss at a portfolio level and reputational damage at a government level.
- b) Central registers are kept, within the parameters agreed by the *Procurement Board*, of:
 - All *Contracts* entered into within the scope of these regulations; and
 - All *Waivers* to these Regulations
- c) Original, signed contractual documents are kept by *Procurement Services* in a secure central location.

PART 2

OBTAINING QUOTATIONS AND TENDERS

5 Total Value of a Contract

- 5.1 The *Regulations* that need to be followed for each *Contract* depends, in part, on the estimated *Total Value* of the *Contract* (as determined by the relevant *Accounting Officer*) to be let over its entire term including any possible *Extensions*.
- 5.2 For *Contracts* which are on a time and materials basis and it is not possible to make a reasonable estimate of the time or the materials that will be used then for the purpose of these *Regulations* the *Total Value* shall be deemed to be in excess of £75,000.
- 5.3 An *Officer* must not enter into separate *Contracts*, artificially disaggregate or select a method of calculating the *Total Value* in order to avoid or minimise the application of these *Regulations*.

6 Rolling Procurement Plan

- 6.1 For all *Contracts with a Total Value* over £30,000 the relevant *Accounting Officer(s)* shall submit to the Head of Procurement Services, on a quarterly basis and in a format agreed by the *Procurement Board*, a rolling programme of *Contracts* that need tendering or reviewing to take up an *Extension* offer over the next 12 - 18 months.
- 6.2 Additions to the rolling programme of *Contracts* for all procurements of £75,000 and above must:
- a) if project or programme funded through external sources, be agreed through the relevant Project Board or Programme Board. Otherwise;
 - b) be agreed through the relevant Portfolio Advisory Board and the Minister responsible for the service area.
- 6.3 The Head of Procurement Services will review each request for inclusion on the *Rolling Procurement Plan*; and determine the *Procurement Complexity Classification* as either low complexity, medium complexity, high complexity or high complexity with National Importance and place the goods/service/works on the *Rolling Procurement Plan*.
- 6.4 The *Procurement Complexity Classification* is determined by a combination of the answers to the questions asked on the Rolling Procurement Registration Form and the professional skill and judgement of the Head of Procurement Services. The Head of Procurement Services from time to time may consult with the Procurement Board in determining the Classification should he/she feel it beneficial.
- 6.5 Should the Head of Procurement Services consider that any request for inclusion on the *Rolling Procurement Plan* possesses any unusual features, or
- a) raises questions of principle or financial policy; or
 - b) might arouse particular public interest or publicity; or
 - c) concerns a matter of particular importance or sensitivity; or
 - d) it concerns proposals for outsourcing/divestment of existing SHG activity

then they shall proactively inform members of the *Procurement Board* in *Writing* of the matter prior to the determination of the *Procurement Complexity Classification* and placement on the *Rolling Procurement Plan*.

- 6.6 Members of the *Procurement Board* should advise the Head of Procurement within 72 hours should matter give them causes for concern, conflict with other matters which may not be immediately visible to others.
- 6.7 The Head of Procurement Services may revise the *Procurement Complexity Classification* at any time should new information become available.
- 6.8 The *Rolling Procurement Plan* shall be sent in hard copy or by email by Procurement Services to Members of the Procurement Board and other key stakeholders every month.
- 6.9 Members of the *Procurement Board* and other key stakeholders should review the *Rolling Procurement Plan* and advise the Head of Procurement at the earliest opportunity should any of the Procurements listed on the Rolling Procurement Plan either give them causes for concern, conflict with other matters which may not be immediately visible to others or should they disagree with the *Procurement Complexity Classification*.
- 6.10 The *Rolling Procurement Plan*, in a format suitable for publication to the general public, shall be published on the SHG website by Procurement Services and updated monthly unless there are no changes required.

7 Specifications

- 7.1 The *Accounting Officer* must prepare an appropriate *Specification* statement, terms of reference or scope of works which sets out a clear and comprehensive description of the requirements with regard to the goods, services or works to be supplied.
- 7.2 When appropriate, all works, goods and services must be specified by reference to internationally recognised standards with the words "or equivalent" added.
- 7.3 Named products or manufacturers must not be specified unless;
- a) There is a genuine requirement to be compatible with a named product or there is a compelling reason to do so; and
 - b) Procurement Board has given written approval, which may either be a one off approval or a rolling approval that is time bound not exceeding 2 years.
- 7.4 The *Specification* should be measurable and as far as possible incorporate objective quality and performance criteria to enable those evaluating the *Quotation* or *Tender* to ascertain whether the requirements are being met.
- 7.5 The *Accounting Officer* must obtain appropriate professional and technical advice and assistance in the preparation of the *Specification* to ensure that it is a comprehensive document that expresses SHG's requirements and protects its interests. For items with procurement complexity which is either medium, high or high with national importance this must include Procurement Services.
- 7.6 Any third party who assists in the preparation of a *Specification* must not;
- a) be invited to *Tender* for the *Contract*; or
 - b) assist or otherwise collude with any Candidate.
 - c) Circumstances that are deemed to contravene the above must be submitted for review by Procurement Services and if deemed appropriate be approved by the Procurement Board.
- 7.7 Where appropriate, service *Specifications* must incorporate requirements in respect of:
- a) Professional or Industry accreditations to be held by the *Candidates*

- b) Responsibility for the management, safeguarding and ownership of any data to be held and/or used as part of the *Contract*.
- c) Consultation with service users.
- d) Reporting to SHG on key service metrics e.g., complaints, response times.

7.8 For all procurements with a *Total Value* below £30,000 the *Specifications* shall be agreed, prior to publication, by the *Accounting Officer*.

7.9 For all procurements with a *Total Value* equal to or above £30,000 the *Specifications* shall be agreed, prior to publication, in accordance with the table below.

Complexity Classification	Specification agreed by
Low	Accounting Officer
Medium	Portfolio Advisory Board or Project/Programme Board
High	Portfolio Advisory Board or Project/Programme Board
High (with National Importance)	Portfolio Advisory Board or Project/Programme Board in Consultation with Exco

8 Commencement of Procurement

8.1 No procurements with a *Total Value* below £30,000 may commence or *Contract* be awarded that has not been reviewed and approved by the *Accounting Officer*.

8.2 No procurement with a *Total Value* equal to or over £30,000 may commence or *Contract* be awarded that has not been reviewed by the Head of Procurement Services, and a *Procurement complexity Classification* given.

8.3 For any procurement with a *Total Value* equal to or over £30,000 approval, in the format agreed by the *Procurement Board*, must be sought before the commencement of any procurement or purchase activity in accordance with the table below.

Complexity Classification	Approval Required By
Low	Accounting Officer
Medium	Procurement Services
High	Procurement Board
High (with National Importance)	Procurement Board In Consultation with Exco

- 8.4 In considering whether to approve an item or not the *Accounting Officer, Procurement Services* or *Procurement Board* shall address:
- a) Whether the matter fits with agreed, published corporate strategy / national goals.
 - b) Whether the matter fits the stated business requirement.
 - c) Whether there are any other potential consequences arising from the proposed procurement (impact assessment)
 - d) Whether the specification or Terms of Reference for the matter being procured is fit for purpose. (i.e. robust without buying the “Rolls Royce”)
 - e) Whether a robust procurement process will be followed
 - f) Whether the funding has been appropriately approved.
 - g) Whether the potential savings opportunity is suitably ambitious
 - h) Whether any risk associated with the matter fits within an acceptable risk profile
 - i) Whether any legal considerations are appropriately identified and mitigated
 - j) Any Social, Economic, Ethical or Environmental considerations
- 8.5 For Procurements with a low *Procurement Complexity Classification* the *Accounting Officer* shall use their discretion with regards to which Procurement route is appropriate.
- 8.6 For Procurements with a Medium, High or High (with National Importance) *Procurement complexity Classification* the Head of *Procurement Services* shall determine which procurement process is to be followed based on the type and *Specification* of the proposed *Contract* in accordance with one of the following procurement routes:
- a) Quotations
 - b) Open Tendering
 - c) Via a Standing List
 - d) Single Tenders
 - e) Framework Agreement

9 Managing the Procurement

- 9.1 For all procurements with a *Total Value* below £30,000 the procurement shall be managed and carried out by suitably qualified / experienced *Officers* under the direction and control of the *Accounting Officer*.
- 9.2 For all procurements with a *Total Value* equal to or above £30,000 the procurement shall be managed and carried out by suitably qualified / experienced *Officers* in accordance with the table below.

Complexity Classification	Procurement managed / carried out by
Low	Accounting Officer
Medium	Procurement Services
High	Procurement Services

High (with National Importance)	Procurement Services
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9.3 All procurements should have a clearly defined end to end timeframe for the completion of the procurement. For Procurements with a Medium, High or High (with National Importance) *Procurement Complexity Classification* the end to end timeframe for the completion of the procurement will be evaluated on a case by case basis and will be subject to whether an international procurement is required as well as logistics analysis. For low complexity procurements the default timeline, for planning purposes, should be set at 3 months unless it can be clearly stated why a longer period is necessary. Due to the variable nature of more complex Procurements, timeframes should be determined and agreed with key stakeholders and project teams.

10 Advertising Requirements

10.1 Where the procurement route is an Invitation to Tender, as per Regulation 11, the opportunity shall be published on the e-tendering portal, to ensure that;

- a) Public notice of the opportunity is given.
- b) All those registered on the e-tendering portal receive an automated email alerting them to appropriate opportunities as soon as the opportunity is published.
- c) Any member of the public can see the opportunity via the e-tendering portal without the need to create an account or log into the system.
- d) The opportunity is open for sufficient time, depending on the complexity of the anticipated response, to ensure *Candidates* have time to produce a high quality response. The minimum time being as follows.

Complexity Classification	Minimum advertising time
Low	10 working days
Medium	20 working days
High	30 working days
High (with National Importance)	30 working days

- e) The notice expresses the nature and purpose of the opportunity;
- f) It is clear as to where further details may be obtained;
- g) The last date and time when expressions of interest or Tenders should be received is clear,
- h) It is clear how Candidates should submit their response.

10.2 Opportunities may also be highlighted in local media, on a case by case basis, if the Accounting Officer or Head of Procurement Services believe it is advantageous to do so.

11 Competition Requirements

- 11.1 Regardless of Procurement Complexity Classification, where the procurement route requires competition, the competition requirements outlined below shall be followed as a minimum.

Total Value	Minimum Competition Requirement
Up to £5,000	At least 1 <i>Written Quotation</i> (Officers should however ensure the market is regularly tested)
£5,000 to £75,000	At least 3 <i>Written Quotations</i>
Over £75,000	Invitation to <i>Tender</i> with at least 3 responses

- 11.2 *Quotations* obtained via the internet are acceptable so long as the appropriate carriage, insurance, freight and customs duty are fully considered.
- 11.3 Should it not be possible to comply with the above competition requirements due to an insufficient number of suitably qualified *Candidates* being identified then, regardless of the *Procurement Complexity Classification*, the Head of Procurement Services shall review the procurement and may, at his/her discretion, approve a reduced competition requirement.
- 11.4 All Procurements that have not met the competition requirement shall proceed and be reported for information to the *Procurement Board*, by the Head of Procurement Services, at the next available meeting.

12 Preparation and Sending of Documents

- 12.1 All Invitation to *Tender* and requests for *Quotation* documentation shall include a clear specification of requirements, minimum standards, timescales, evaluation criteria and minimum mandatory pre-qualification criteria.
- 12.2 The *Award Criteria* and calculation methodology must be included within the *Invitation to Tender* or *Request for Quotation* documents.
- 12.3 A full set of *Quotation* or *Tender* documents must be available to download electronically or be sent in *Writing where necessary*, to all those *Candidates* who have responded to the invitation.
- 12.4 All *Candidates* invited to submit a *Tender* or *Quotation* must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 12.5 If an amendment to the *Quotation* or *Tender* documents is required during the tender period the amendment must be provided to each recipient of the original *Quotation* or *Tender* documents with a request that the *Officer* conducting the procurement be notified of the receipt of the amendment.

13 Clarification Questions – Pre Tender Return

- 13.1 Prior to the submission of a *Tender* or *Quotation*, interested parties may request clarification about any point in the documentation.
- a) All such requests must be in *Writing*

- b) Any clarification provided must be in *Writing* and copied to all *Candidates* at the same time.

13.2 A *Written* record must be kept of clarification requests and responses provided.

14 Receipt of Quotations and Tenders

14.1 *Quotations* and *Tenders* shall comply and be submitted in accordance with the rules and instructions set out in the request for *Quotation* or *Invitation to Tender*. Those that do not comply shall be deemed non-compliant and rejected without any form of evaluation.

14.2 Prior to the *Closing Date* for the receipt of *Quotations* or *Tenders* the names of *Candidates* must not be disclosed to any other person.

14.3 Only in exceptional circumstances will a *Tender* or *Quotation* be considered that has not been received by the *Closing Date* stipulated. Approval to accept a late *Tender* or *Quotation* must be obtained, in *Writing*, from the Head of Procurement Services. The *Procurement Board* must be notified, at the next available meeting, of all circumstances a late *Tender* or *Quotation* has been accepted giving the reasons for acceptance.

Submission via the e-Tendering Portal

14.4 All *Quotations* and *Tenders* that are advertised overseas, or receive responses from overseas *Candidates*, shall be via the e-Tendering portal.

14.5 The electronic tender box shall be locked so that no one is able to see the identity of any of the *Candidates* submitting a response, or the content of any response, prior to the *Closing Date* of the *Quotation/Tender*.

14.6 After the *Closing Date* Procurement Services shall open the electronic tender box, download the responses and make them available to Officers responsible for the evaluation.

14.7 The e-Tendering portal shall act as proof as to the date and time the *Quotations* or *Tenders* was received and the details of the *Candidates* submission.

Submission in hard copy

14.8 Hard-copy *Quotations* or *Tenders* shall be returned before the *Closing Date* as per the table below in a sealed envelope marked tender for the *services/works*.

Complexity Classification	Returned to
Low	Accounting Officer
Medium	Procurement Services
High	Procurement Services
High (with National Importance)	Procurement Services

14.9 The *Accounting Officer* or *Procurement Services*, depending on who receives the bids, shall be responsible for the safekeeping of *Quotations* and *Tenders* until the appointed time of opening.

14.10 *Quotations* or *Tenders* returned shall: