

**West Kowloon Cultural District Authority  
Internal Circular No. 2016/045-01/HRA**

**General Procurement Policy**

*This circular should be read by all staff of the West Kowloon Cultural District Authority  
and its wholly owned subsidiaries*

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# Policy

## 1. Objectives and Scope

- 1.1 This procurement policy (“Policy”) sets out the requirements for procurement by the West Kowloon Cultural District Authority and the Authority’s wholly owned subsidiaries (the “Authority” or “WKCDA”). The activities covered by the Policy include the identification and acquisition of non-capital projects related goods and services (“Non-capital Projects related Goods and Services”) other than scopes specified in Section 1.2 below. This Policy supersedes Internal Circular No. 2012/028-05/HR.
- 1.2 This Policy does not apply to procurement for:
  - (a) Capital Projects (which are specified in Internal Procedure No. IP/PDD/PRO/2012-001 “Procurement Procedures for Capital Projects” or later versions).
  - (b) Museum collections (which are governed by a separate policy approved by the Board entitled “M+ Acquisition Policy”).
  - (c) Commercial Leasing (which should be governed by a separate policy on Commercial Leasing to be developed by Commercial Department).
- 1.3 Procurement for Non-capital Projects related Goods and Services shall include primarily three main categories:-
  - (a) Category A  
Category A refers to competitive procurement of general goods and services including professional consultancy and recurring services that do not carry specific artistic or cultural values or involve any activities or contracts in regard to commercial leasing (“General Goods and Services”). Category A is governed by “Guidelines for Procurement of General Goods and Services”.
  - (b) Category B  
Category B refers to non-competitive procurement of General Goods and Services. Category B is governed by “Guidelines for Procurement of General Goods and Services by Single Sourcing”.
  - (c) Category C  
Category C refers to both competitive and non-competitive contracting and procuring activities for the engagement of Artists and Artistic Services, and Artistic Goods to fulfill the artistic goals of projects. Category C is governed

by “Guidelines for Engagement of Artists and Artistic Services, and Artistic Goods.

Different procurement methods may be used according to the significance of items to be supplied to the Authority in terms of value, complexity and risk, and the nature of the supply market.

- 1.4 This Policy covers the basic principles and procedures, and allocates levels of responsibility, for approvals and financial authority levels for the procurement of all categories in Section 1.3 above.
- 1.5 While reasonably comprehensive, this Policy is not exhaustive, when employees have enquiries about this Policy or find that an activity is not fully or properly covered by the Policy, they must raise the matter with the Central Procurement Team of WKCD for clarification.

## 2. Definitions

The following terms when used in this Policy and its related guidelines shall have the meanings ascribed to them below:

“Approved Suppliers List” Means the list of suppliers who have demonstrated the ability to satisfy rigorous quality, cost, and delivery requirements in accordance with the contracts awarded by the Authority over a sustained period. The Approved Suppliers List shall be subject to review and approval in accordance with Section 7.7 below.

“Artistic Goods” Means

- (a) Goods that directly impact an artistic objective;
- (b) Goods that are required as a result of an artistic decision;
- (c) Goods created specifically to meet the needs of artistic projects;
- (d) Goods whose creation requires specific artistic performance or exhibition related industry knowledge;
- (e) Goods whose supply requires the supplier to provide specific artistic knowledge and advice to the Authority’s artistic teams; or
- (f) Goods that are used in the production of artistic projects or may sit outside the specific project, but directly support it.

Such procurements are governed by a separate guideline (Category C) administered by the relevant user departments, which shall follow the basic principles and approval levels set out in this Policy.

“Artists”	Means a person whose role in the artistic project is to create the art either or both physically or intellectually. Such engagements are governed by a separate guideline (Category C) administered by the relevant user departments, which shall follow the basic principles and approval levels set out in this Policy.
“Artistic Services”	Means a service where the provider’s responsibility in the project is one or more of the following: <ul style="list-style-type: none"> <li>(a) Facilitates the execution of the art;</li> <li>(b) Makes decisions that directly impact the art;</li> <li>(c) Provides expert knowledge, skills and advice related to an artistic endeavor.</li> </ul> Such engagements are governed by a separate guideline (Category C) administered by the relevant user departments, which shall follow the basic principles and approval levels set out in this Policy.
“Budget Owner”	Means the department responsible for the budgetary provision and control for a planned procurement in accordance with the relevant financial policies and guidelines. The Budget Owner is usually but not necessarily the User Department.
“Central Procurement Team” or “CPT”	Means the team in the central procurement function responsible for the management of the Procurement Policy and the Guidelines for Category A and Category B, and administrative support to the User Department for procuring goods and/or services under Category C. The roles and responsibilities of CPT are stipulated in Section 4.2 of this document.
“Debarred Suppliers List”	Means the list of suppliers who are debarred from doing business with the Authority. The Debarred Suppliers List shall be subject to rigorous review and approval in accordance with Section 7.7 below.
“Designated Employee”	Means an employee authorised by the concerned Senior Executive and approved by the Chief Executive Officer (“CEO”).
“Engaged Suppliers List”	Means the list of suppliers who have been awarded with contracts by the Authority over a recent period.
“Executive Team” or “ET”	Includes the CEO or anyone acting as the CEO and SEs. Decisions of the ET should be based on a “simple majority vote” by ET Members, with a minimum quorum of seven members including the CEO or acting CEO.
“Request for Quotation” or “RFQ”	Means the process and the document issued for inviting potential suppliers to submit a quotation or proposal for a planned procurement with estimated contract values

up to the stipulated amount in accordance with the respective guidelines for Category A and Category C stipulated in Section 1.3 above.

“Senior Executive” or “SE”	Includes the following: The Chief Operating Officer (“COO”), all Executive Directors and Directors of the Authority, the General Counsel (“GC”), the Chief Technology Officer (“CTO”), and anyone acting as a SE.
“Single Quotation” or “Single Tendering”	Means procurement (whether via a RFQ or tender) from a single supplier of either or both of goods or services who is invited to quote or tender based on pre-determined criteria approved by the relevant authority in accordance with the procedures stipulated in the respective guidelines for Category B and Category C.
“Single Sourcing” or “Single Source”	Means special circumstances when a competitive RFQ or tendering would not be an effective means of obtaining the required goods or services under Category B and Category C stipulated in Section 1.3 above and the criteria for using Single Quotation or Single Tendering stipulated in the respective guidelines for Category B and Category C apply.
“User Department”	Means the department responsible for the specification of a planned procurement and the contract management and implementation in accordance with appropriate procurement guidelines. The roles and responsibilities of User Departments are stipulated in Section 4.1 below. The User Department is usually but not necessarily the Budget Owner.
“WTO GPA”	Means the Agreement on Government Procurement of the World Trade Organization and a copy is available in the World Trade Organization website.

### **3. Principles**

3.1 The principles guiding the procurement process of all categories mentioned in Section 1.3 above are to:-

3.1.1 Be at all times in the “best overall interest” of the Authority. Best overall interest, is defined as the “lowest total cost of ownership” but focus is not merely on minimizing cost but more on maximizing interest, art excellence and aspiration which includes:

(a) A cost effective specification which meets the business need;

- (b) Purchase price, including assessment of life cycle costs such as time in service before failure, and the cost of repairs, maintenance and overhaul (including the cost of consumables and utilities);
- (c) Cost of administration;
- (d) Cost of poor quality and late delivery;
- (e) Inventory holding cost;
- (f) Cost of money, including loss of interest on early payments and net present value comparison of competing tender/ quoted purchase prices where front-end loading of payments is an option for suppliers;
- (g) The availability and desirability of export credits and other supplier subsidized finance options;
- (h) Foreign exchange rates;
- (i) Delivery, installation and commissioning costs, including insurance;
- (j) Cost of operational failure;
- (k) Residual value and/or disposal cost; and
- (l) Consequential costs due to poor supplier performance.

3.1.2 Uphold corporate reputation, ethics and sustainability;

3.1.3 Be transparent and encourage fair competition without involving personal interest or arbitrary consideration. As a general rule, no employee shall approve his own expenses; and

3.1.4 Reduce the burden on administrative resources and lead to simplified and timely transactions.

3.2 Information in relation to individual procurement exercises should be kept confidential, with restricted access on a need-to-know basis.

3.3 No order, contract or agreement should be sub-divided merely to avoid the financial authority limits.

#### **4. Roles and Responsibilities**

4.1 **User Department** – Usually the Budget Owner of the intended procurement and is responsible for:-

4.1.1 Initiation of a Purchase Requisition (“PR”) with justification(s), definition of the scope and user requirements of the purchase and obtaining the relevant approvals in accordance with the delegation level for such purchase specified in the “Delegation of Authority Manual”;

4.1.2 Selection of potential suppliers to invite for quotations or tenders;

4.1.3 Confirmation of the procurement methods and approving the contract strategy, tender/quotation documents and assessment criteria in accordance with the delegation level for such purchase specified in the “Delegation of Authority Manual”;

4.1.4 Chairmanship of the assessment panel and concluding a recommendation for the appropriate authority’s approval to award the Purchase Order (“PO”)/contract; and

4.1.5 Management of supplier(s) and conducting performance reviews of suppliers.

4.2 **Central Procurement Team (“CPT”)** is responsible for:-

4.2.1 Providing procurement services and advice to User Departments and facilitating the procurement process based on the Authority’s business needs and the required specifications in accordance with the Policy;

4.2.2 Adopting best professional procurement practices;

4.2.3 Collecting market intelligence to conduct quotations’/tenders’ analysis;

4.2.4 Maintaining suppliers lists and suppliers’ performance records when available; and

4.2.5 Providing guidance to User Departments on the compliance with the Authority’s procurement policies and guidelines.

4.3 **Finance Department** is responsible for the relevant Finance policies/procedures for procurement and for:-

4.3.1 Conducting fund checking and payment process;

- 4.3.2 Monitoring the compliance of User Departments with the Authority's payment policies and guidelines and advising User Departments when non-conformities are detected.; and
- 4.3.3 Supporting the development of an Approved Suppliers List by conducting financial capability assessment.
- 4.4 **Legal and Secretarial Department** is responsible for:-
  - 4.4.1 The provision of legal advice on the terms and conditions ("T&C's") of procurement contracts, including the drafting of standard forms and all proposed departures from the wording of standard forms; and
  - 4.4.2 Supporting contract negotiations as and when necessary.

## **5. Approval**

The approval of any procurement is subject to the availability of funds either within an approved budget or as may be otherwise provided or approved, in accordance with the delegation levels specified in the "Delegation of Authority Manual".

## **6. Application of WTO GPA**

Although the Authority has not yet been made subject to WTO GPA, the Authority's policy is to follow the requirements of WTO GPA so as to maintain open and fair competition in procuring General Goods or Services. Any procurement covered by WTO GPA with value at or exceeding the WTO's prevailing published Special Drawing Rights (SDR) under GPA should be handled as GPA tender. The WTO GPA is available in the World Trade Organization's website at <https://www.wto.org>. Employees should always refer to the latest version as published by the WTO and consult the Legal and Secretarial Department if there are any queries about the requirements.

## **7. Supplier Management and Performance Review**

- 7.1 Supplier registration is a process, through which suppliers can provide information about their company/business to the Authority. Companies/businesses can be added to a suppliers list which will be used by User Departments when considering obtaining quotations or tendering for goods and services.
- 7.2 An effective supplier registration system (either manual or on-line when available) shall be maintained for suppliers who wish to be considered for business opportunities with the Authority. Through the system, suppliers

- will be able to maintain their name, contact persons, banking and product/service information for use by the Authority.
- 7.3 To maximize the number of choices for User Departments to invite for quotations/tenders, registration is not a pre-requisite for potential suppliers for RFQ or tendering but it is mandatory before orders, contracts or agreements are awarded. Suppliers for RFQ or Restricted/Single Tendering may be selected by User Departments or recommended by the main contractors of the Authority in consultation of the CPT.
  - 7.4 As a basic principle when selecting suppliers for RFQ or tendering, all qualified suppliers from the available sources shall be considered and should not be replaced without proper justification.
  - 7.5 Delivery of prescribed goods and services should be inspected and recorded properly for management review and audit inspection. Supplier performance should be monitored and recorded by User Departments as a reference for future procurements.
  - 7.6 User Departments should conduct periodic performance appraisals of suppliers appointed on term or recurring contracts or agreements and should ensure that any contract renewals are supported by good performance records. Any adverse performance comments of suppliers should be reported to the CPT for record.
  - 7.7 Based on the supplier performance reviews conducted by User Departments, suppliers lists for frequently purchased items shall be maintained on a supplier registration system to include information about all suppliers with business statuses ranging from “engaged”, “approved” to “debarred”. Both the Approved Suppliers List and the Debarred Suppliers List should be reviewed by a designated panel as appointed by the CEO on a regular basis and approved by the CEO or his delegate.

## **West Kowloon Cultural District Authority**