

Procurement Policy

Version 4.0

Classification: **Internal**

1 Documentation and approvals

Revision history

This document is subject to revision control.

Version	Revision date	Summary of changes	Author
	November 2018		Admin Team
	April 2019	Finalisation of comments	S Fletcher
4.0	March 2021	Updates to scope and alignment to other organisational policies	S Fletcher

Approvals

The document requires the following approvals:

Name	Signature	Position	Date approved	Version
Ops		OPS Management	24 April 2019	3.0
SLT		SLT	8 April 2021	4.0

Distribution

This document has been distributed to:

Distribution list	Date of issue	No. of copies
All ClientEarth staff in all offices.		

2 Scope and definitions

2.1 Scope

This policy applies to all ClientEarth employees responsible for the purchasing of goods and services.

The policy applies to all general procurement including goods, services and lease agreements, regardless of value.

Any donor requirements that ClientEarth must comply with when procuring (including relating to purchase thresholds, supplier choice or asset disposal) will override this policy.

This policy also applies to the selection of funded strategic partners (NGO's and (legal) service providers).

The policy also applies in the case of an extension or a renewal of a contract.

Please refer to the **Step-by-Step Guide to Contracting** for further guidance with regard to the process flow for selecting a partner and setting up a contract with the selected partner .

2.2 Definitions

Policy means this Procurement Policy.

Procurement means the act of obtaining goods or services.

General Purchase means the purchase of an item or service.

Lease means a contract where a supplier conveys a service for a specified time in return for a periodic payment.

Step-by-Step Guide to Contracting means the document and the processes and policies referred to within it that apply to contracts and agreements entered into by ClientEarth.

Service means the supplying of utilities or commodities.

Quote means a written example of the current price of an item or service.

Tender means a bidding process open to all qualified bidders.

2.2 Related Policies

This policy is intended to reflect the aims and values of ClientEarth, and should be used in conjunction with the Step-by-Step Guide to Contracting and the following related policies:

- Value for Money

- Data Protection
- Data Retention
- Health and Safety
- Information Security
- Safeguarding
- Anti-Bribery
- Anti Money Laundering and Counter Terrorist Financing
- Conflict of Interest
- Environmental
- Corporate Card

3 Purpose

The purpose of this document is to make ClientEarth's procurement policy clear and to provide guidance for those undertaking procurement on behalf of one or more entities of the organisation.

This policy includes information on:

- The general purchase process.
- Specific requirements for determining the number and type of quotes to be sought and the procedures to follow.

4 General Principles

The following principles should be adhered to in the procurement of goods, works and services.

4.1 Fair Competition

ClientEarth will treat all bidders with fairness and ensure that all bidders are given the same level of information when preparing quotations or tenders.

4.2 Conflicts of Interest

Situations of conflict of interest with suppliers or bidders should be declared to ClientEarth in accordance with the ClientEarth Code of Conduct and Conflict of Interest Policy & Procedure.

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4.3 Cost-Effectiveness

Quotations and tenders should be evaluated not only on competitiveness in pricing but also factors such as the quality of the products/services and track records of the bidders according to the Value for Money policy.

Value for money is defined as ‘the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user’s requirement’. This is rarely synonymous with the lowest price. Where an item / service is chosen that does not have the lowest whole life costs, then the additional value added benefits must be clear and justifiable.

4.4 Transparency and Non-Discrimination

Clientearth will ensure that all information on procurement activity with a value in excess of £100,000 will be made available to all interested parties where legally permissible.

In all purchasing activity ClientEarth will ensure that all suppliers/funded strategic partners are treated equally and without discrimination and will not act in a way that favours any one supplier/funded strategic partner over another, or otherwise narrows competition between them.

4.5 Sustainability

ClientEarth recognises its responsibilities to carry out its procurement activities in an environmentally responsible and sustainable manner. ClientEarth will therefore strive to comply with all relevant environmental legislation and to ensure that all procurement decisions comply with the principles of the ClientEarth Environmental Policy.

4.6 Protection of Data

All data will be held in accordance with ClientEarth’s Security and Data Protection Policies. Electronically stored documents are held in accordance with ClientEarth’s data retention policy.

5 Thresholds

5.1 Number of Quotes Required

The table below shows the number of quotes required when submitting a purchase request for goods, work, services or lease.¹

Value of Contract	Number of Quotes Required

¹ These thresholds are aligned to the thresholds set out by a number of funders.

Value of Contract	Number of Quotes Required
Up to GBP 3,000	Single Quote
GBP 3,000 to GBP 100,000	Three Quotes
Above GBP 100,000	Open Tender

It is not permissible to raise two or more lower value Purchase Orders in order to circumvent threshold or authorisation levels.

5.2 Delegated authorities

Approval limits are outlined in the table below. For more detailed information refer to the Delegated Authority Guidelines.

Position	Approval Limit
Head of Department of Programme	Up to GBP 5,000
Director of Department or Programme	Up to GBP 50,000
Deputy CEO or CFO	Up to GBP 150,000
CEO	Up to GBP 250,000

6 Types of Procurement

For any contract related aspect, you should follow the Step-by-Step Guide to Contracting.

6.1 General Purchase up to £100,000

All general purchase requests should be submitted to the appropriate approver indicated in the delegated authority guidelines. Any request submitted to the incorrect approver will be returned and needs to be re-submitted.

Single Quotation Purchases

For purchases below £3,000, only a single quote need be sought. The quote must be in writing.

Triple quotation purchases

For general purchases above £3,000 but below £100,000, written quotations should be sought from three (3) suppliers. The request should be submitted following the internal processes using a Purchase Order attaching the three quotes.

The requester should indicate which quote represents the best value for money and if this is not the lowest cost quote, indicate why.

Purchases made by credit card (paid upfront)

ClientEarth issues Credit Cards to specific responsible individuals (in both EUR, GBP or any other local currencies) for general purchasing. Procurement by Credit Card is subject to the same procedures and thresholds as any other general purchase.

Purchases made by invoice

ClientEarth holds accounts with various suppliers, allowing us to make purchases up to a specified amount which are paid retrospectively by invoice. Purchases made by invoice with these suppliers will be subject to the same procedures and thresholds as any other general purchase.

6.2 Open Tender - procurement above £100,000

The tendering process is generally utilised for procurements or contracts involving substantial amounts of money above £100,000 and should be advertised.

Tenders need to be evaluated using the criteria mentioned in the Tendering Documentation(which can be the price or the most economically advantageous tender).

Funder requirements should be checked with the Finance and Development team or Partners & Risk Compliance lawyer before advertising the tender, as there may be specific requirements for procurement outside of the scope of this policy.

The tendering process and documentation will be completed in conjunction with the Admin team and an Evaluation Committee encompassing relevant individuals from ClientEarth will need to be formed.

Tendering Documentation

The Admin team and Evaluation Committee will set out the process for conducting procurement over £100,000. The tendering documentation may among other things encompass the following:

- NDA or Confidentiality agreement
- The specification
- The contract terms and conditions
- The instructions to tenderers

- Request for Information form (RFI)
- Request for Proposal Form (RFP)

Once both parties are in full agreement, the process is complete and a contract needs to be signed.

7 Declaration of Conflict of Interest

When carrying out procurement all staff involved in the process must declare any personal interests. This includes any external consultants who are assisting in the procurement process. The declaration of conflict of interest must be provided in writing in accordance with the processes described in the ClientEarth Conflict of Interest Policy and Procedure.

8 Single Action Waiver

Where the purchaser is unable, or where it is inappropriate, to obtain the relevant number of quotes or follow the relevant selection process in accordance with this policy, an exemption may be sought.

To this end, a Single Action Waiver request will need to be made. The request needs to include robust justification why this is not possible or not appropriate, and should be approved by the responsible person indicated in the Delegated Authority Guidelines and the Director of Operations.

For example, the process for obtaining three quotes based on contract value, or for following an open tender process, may not always be appropriate for the selection of funded strategic partners. This may be the case when ClientEarth is renewing a contract with an existing strategic partner who will continue to collaborate with ClientEarth on a current programme. In some cases, strategic partners (sub-grantees or sub-contractors) are named in a proposal to a funder and the funder has confirmed its acceptance of the proposal including those partners. These may be valid reasons for obtaining a Single Action Waiver.

Another example where following the selection processes in this policy may not be possible or appropriate is when specific local expertise is required in a specific geography to help ClientEarth meet programmatic objectives. In some cases, there may be very few possible partners, or even only a single one, who meets these requirements.

9 Selection of Funded Strategic Partners

Regardless whether any of the above selection processes is being followed (1 quote, 3 quotes, Open Tender) or whether a Single Action Waiver is approved, funded strategic partners will need to be selected on the basis that they have sufficient technical and organisational capacity to support ClientEarth in delivering programmatic objectives.

The following steps should be used to help ensure value for money while assessing technical and organisational capacity of strategic partners:

1. Soliciting proposals. This can be either an open and public process or through closed solicitation among a few possible partners. Consideration should be given to the format for applications – these may vary from concept papers to detailed application forms.
2. Developing eligibility and evaluation criteria
 - a. Eligibility criteria might include: registration as a non-profit; certain number of years experience; experience in a specific programmatic area;
 - b. Evaluation criteria might include: approach for undertaking the specific project; institutional capacity; costs
3. Selecting funded strategic partners. The selection must be carried out in a transparent way to avoid charges of favouritism and corruption.

10. Consultancy Contracts with Individuals or Freelancers

When undertaking procurement to select a service provider who is an individual/self-employed/freelancer consultant, staff must consider carefully whether this is a 'true' consultancy arrangement and not an employment agreement 'in disguise'. Further guidance to help you make this assessment is available in the Step-by-Step Guide to Contracting.

You must complete the Checklist Consultancy vs Employment² and have the completed checklist signed off by the Head of Programme/Function/Geography. Depending on the outcome you will either need to follow the processes described in the Step-by-Step Guide to Contracting (for a 'true' consultancy arrangement) or the recruitment process managed by HR (for an employment agreement).

In case of doubt, HR and the Partners, Risk & Compliance Lawyer must be consulted before the procurement is undertaken.

11 Leasing, hiring and renting

Generally, ClientEarth prefers not to enter into leases as they rarely offer better value than purchasing outright.

If contemplating entering into a lease, the responsible person must submit a supporting business case for a decision/consideration according to the Delegated Authority guidelines. The case must compare and demonstrate the financial merits of hiring, renting or leasing as opposed to straight purchase.

Thresholds for leases indicated in the table above (section 5) are calculated based upon the cost over total lifespan of the lease.

² Checklist Consultancy v Employment is being prepared and will be available on the Policies library when finalised.

12 Roles

12.1 General responsibility

The requester will submit its purchase request to the relevant Budget Holder according to the Delegated Authority guidelines. It is the responsibility of all relevant teams involved in the purchase process, at every level, to ensure the compliance with this Policy.

12.2 Authority to purchase

ClientEarth has a system of delegated authority under which heads of department are responsible for the planning and decision making process within the management of their financial resources. This authority may be further delegated to budget holders.

No employee can approve expenditure if they have not been given delegated authority to do so.

No employee is authorised to commit ClientEarth without first ensuring that sufficient funds are available to meet the commitment.

Failure to comply with these requirements may result in disciplinary action.

13 Procurement Policy Training

Training on the Procurement Policy will be provided to all employees who are responsible for the purchase of goods and services on behalf of ClientEarth.

14 Disposal of Redundant Equipment

Wherever possible where equipment is no longer required by ClientEarth, alternative uses should be sought. Where this is not possible it is permissible to dispose of equipment by sale, or external disposal.

Disposal must be carried out with the approval of the Head of Operations, and must be in accordance with ClientEarth's Fixed Asset and inventory and data protection policies.

Any disposal must comply with the current Waste Electrical and Electronic Equipment (WEEE) Regulations, and with funder policy if the equipment was purchased with money from a specific grant.

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