



# CITB Commissioning Policy

2021

## 1. Overview

The purpose of the Commissioning Policy is to provide CITB colleagues a clear understanding of how to request a Commission that utilises CITB funding to deliver strategic outcomes to benefit Industry. This policy will apply to all commissioning activity. The principles of openness, fairness and transparency that underpin public procurement will be observed and applied through the Commissioning process to ensure compliance with all legislative requirements.

Commissioning is a robust process through which CITB allocates funding to providers to deliver tangible benefits to industry which are aligned to CITB and industry strategic priorities. Commissioning does not provide a route to purchase goods and services for CITB. If you require goods or services for CITB, please contact CITB Corporate Contracts Team ([Contracts.Commissioning@citb.co.uk](mailto:Contracts.Commissioning@citb.co.uk)) clearly stating **'Procurement'** in the subject field

All CITB commissions directly support the Strategic and Business Plans to deliver objectives and priorities identified by CITB and industry in the three specific areas of Training and Development, Careers and Standards and Qualifications.

The Commissioning team works with CITB Strategy, Evaluation, and Engagement teams to deliver strategic outcomes. Any questions that you have should first be directed to the Commissioning Team via [commissioning@citb.co.uk](mailto:commissioning@citb.co.uk).

## 2. Governance

The commissioning team allocates funding to providers to deliver benefits to industry aligned with CITB's Strategic and Business plans. This is usually achieved through a competitive process but where appropriate direct awards can also be made. This is similar to the approach adopted by the procurement team

Following the UK's exit from the EU, the UK is no longer subject to EU regulations and now follows UK domestic legislation. As of 1 January 2021, the UK were no longer subject to EU procurement regulations and therefore no longer follow rules outlined for OJEU tenders. Tenders will now be published on a new e-tendering portal, called Find a Tender Service (FTS) instead of on OJEU.

In terms of public procurement, the UK is now a member of the World Trade Organisation's (WTO) Government Procurement Agreement (GPA).

The WTO's GPA is a voluntary trade agreement that governs public procurement. Procurement in the UK post-Brexit followed rules set by OJEU; these rules will now shift to be in line with the GPA. The GPA includes both EU member states and non-EU states. It also outlines procurement principles, thresholds and rules that all those in agreement must adhere to.

As a Non-Departmental Public Body, CITB adheres closely to the three key principles that underpin Commissioning. These are:

- Openness
- Fairness
- Transparency

These are embodied in the Public Contracts Regulations 2015 (PCR 2015) which provide the legislative framework and guidance upon which our policy is based.

This commissioning policy is consistent with procurement policy and the National Procurement Policy Statement (NPPS) as set out in PPN 05/21. The priorities of the NPPS are set out below and will be achieved through effective implementation of this policy:

- Ensure transparency to support good engagement with market;
- Allow proper scrutiny of decisions; and
- Demonstrate good custodianship of public money.

CITB attaches great importance to controls over Commissioning and any employee breaching them may be liable to disciplinary action. This Policy gives guidance to CITB employees involved in the Commissioning of CITB funded requirements to ensure that any related contracts and tendering complies with PCR 2015 and Government transparency guidelines.

CITB colleagues should not depart from this policy.

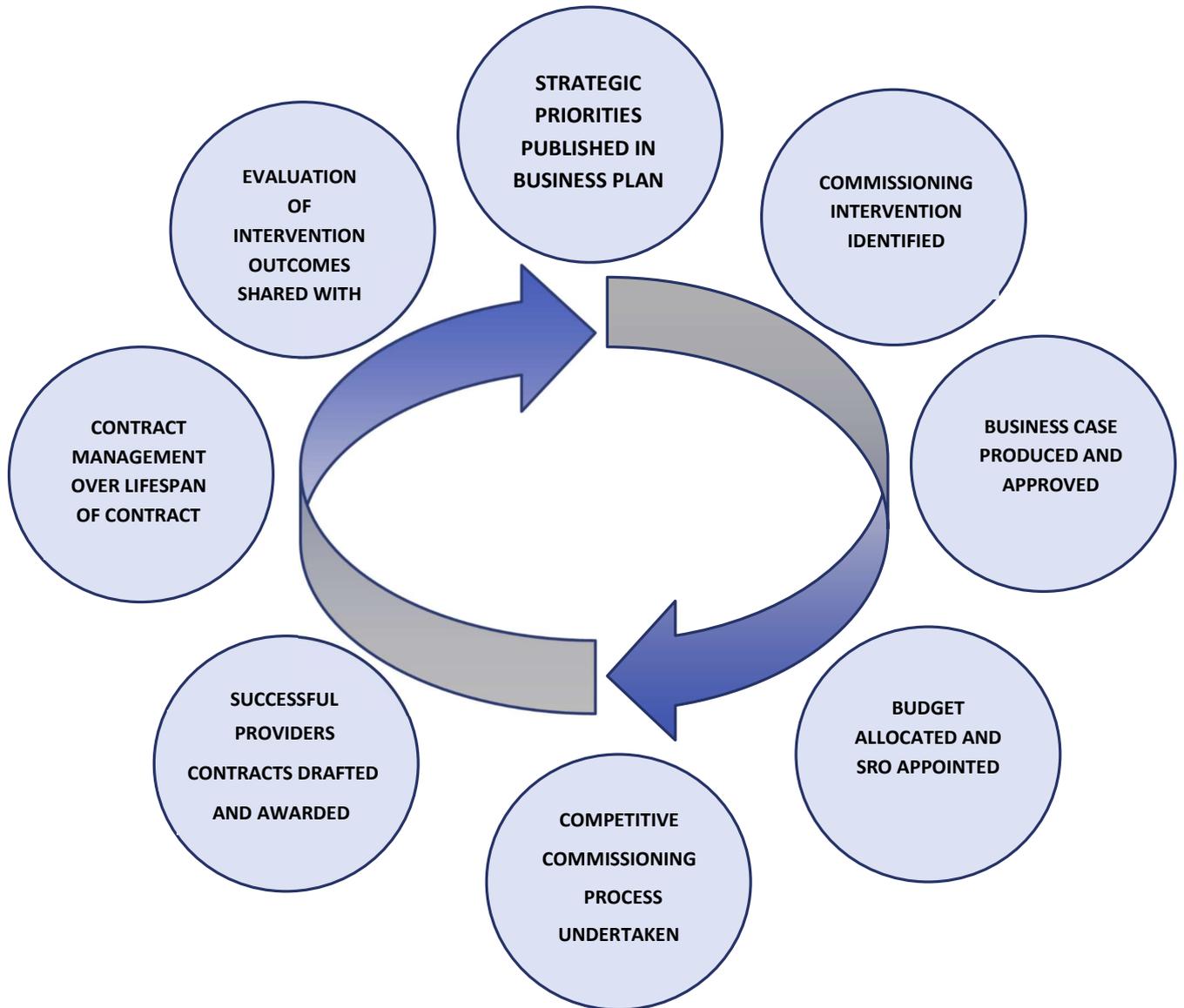
### **3. Commissioning Process**

The starting position for CITB is that all requirements should be subject to a competitive exercise and is consistent with the Government's mandate on competitive tendering. As a Non-Departmental Public Body, we are required to promote the widest possible competition and to include small and medium enterprises (SME's) where possible and appropriate.

If there is a Commissioning need it is important to initially consider the following:

- Is the requirement aligned to the CITB Business and/or Strategic Plan and priorities?
- Has a relevant business case been submitted and approved by exec?
- Has a budget been approved and agreed by Strategy and Finance?
- Has a Senior responsible Officer been appointed to the Commission?
- Is the Commission clearly identified as Careers, T&D and Standards & Qualifications?
- Are there any existing Commissions that CITB is or have funded that have the same or similar objectives (contact the Commissioning team if unsure)
- Is there any data that supports the need for a Commission?

#### 4. The Commissioning Lifecycle



## 5. Routes to Commissioning

	ROUTE 1	ROUTE 2	ROUTE 3
Value of contract	< £20k	£20k - £122,976	>£122,976
Commissioning process	<ul style="list-style-type: none"> <li>• Contact the Commissioning team as soon as requirement is identified.</li> <li>• The Commissioning team will advise on the most appropriate process to be followed.</li> </ul>	<ul style="list-style-type: none"> <li>• Contact the Commissioning team as soon as requirement is identified</li> <li>• Formal Commissioning process to be followed by CITB Commissioning team.</li> </ul>	<ul style="list-style-type: none"> <li>• Contact the Commissioning team as soon as requirement is identified</li> <li>Formal Commissioning process to be followed by CITB Commissioning team.</li> </ul>
Tender process	<ul style="list-style-type: none"> <li>• To be advised by CITB Commissioning Team</li> <li>• Contract Drafted</li> <li>• Contract signed and uploaded to Delta Contracts Register</li> <li>• New Suppliers must be created in SOP</li> <li>• A Purchase order for the full commission value must be raised.</li> </ul>	<ul style="list-style-type: none"> <li>• Business stakeholders and the Commissioning Team work together to build requirements</li> <li>• Appropriate Commissioning Process</li> <li>• Evaluation and supplier selection</li> <li>• Payment Schedule agreed with all key outputs and outcomes</li> <li>KPI's agreed for performance hub</li> <li>Contract Drafted</li> <li>• Contract signed and uploaded to Delta Contracts Register</li> <li>• New suppliers must be created in SOP</li> <li>• A Purchase Order for the full commission value raised</li> </ul>	<ul style="list-style-type: none"> <li>• Business stakeholders and the Commissioning Team work together to build requirements</li> <li>• Appropriate Commissioning Process</li> <li>• Evaluation and supplier selection</li> <li>• Payment Schedule agreed with all key outputs and outcomes</li> <li>KPI's agreed for performance hub</li> <li>Contract Drafted</li> <li>• Contract signed and uploaded to Delta Contracts Register</li> <li>• New suppliers must be created in SOP</li> <li>A Purchase Order for the full commission value raised</li> </ul>
Contract type	<ul style="list-style-type: none"> <li>• Standard Commissioning Terms and Conditions to be used.</li> </ul>	<ul style="list-style-type: none"> <li>• Standard Commissioning Terms &amp; Conditions to be used.</li> </ul>	<ul style="list-style-type: none"> <li>• Standard Commissioning Terms &amp; Conditions to be used</li> </ul>

The Commissioning team will consider various factors in determining the most appropriate Commissioning strategy. Decisions will be driven by the route which delivers the best value for money in meeting CITB's requirements and strategic outcomes, whilst ensuring compliance with relevant Public Contract Regulations. In all cases you:

- **Must not** commit to providing any funding on behalf of CITB to any provider without following the Commissioning policy and process
- **Must not** agree to a provider carrying out any work in relation to a commission without a proper signed contract being in place.
- **Must not** sign a legally binding contract - there is a strict delegated authority for contract signature

## **5.1 Route 1**

### **Contracts valued < £20,000**

Where the commission required is likely to be <£20,000 the CITB Commissioning team will determine the process that needs to be followed and what documentation will be required.

As a minimum the key stakeholder or Senior Responsible Officer (SRO) will need to work with the Commissioning Team to identify the key requirements, outputs, consider how the responses will be objectively evaluated and include estimated timescales for the requirement. They will also need to clearly identify how the commission with support the strategic and business plans and identified priority areas.

## **5.2 Route 2**

### **Competitive Commissions £20,000 - £122,976**

Competitive tendering will be used where the contract value of the commission is expected to exceed **£20,000** (However, this does **not** prohibit a competitive exercise being undertaken for Commissions below this value). There are minimum timescales and distinct processes that need to be followed for commissions in this value bracket.

In order to achieve value for money and ensure strategic outputs are achieved the CITB Commissioning team will be responsible for these tender exercises.

The following list details the standard documents which will be included as part of the Invitation to Tender (ITT) which is advertised via CITB's E-Tendering system, Delta-ETS. This links to "Contracts Finder" where competitive contract notices above £25,000 are published

- Specification of Requirement (stating the technical, quality, and operational requirements and outputs).
- Commissioning Certificate.
- Instructions to tenderers (Detailing administrative procedures relating to the tender e.g. dates and times, method of tender return, evaluation criteria and where tender clarifications should be directed).
- CITB Commissioning Standard Terms and Conditions (these can be tailored to suit each Commission by the Commissioning Team).

## **5.3 Route 3**

### **Competitive Commissions > £122,976**

Where the overall contract value is likely to exceed the current OJEU threshold<sup>1</sup> of £122,976 CITB is required to follow procedures laid down in the UK Domestic Legislation and PCR 2015. There are strict processes and timescales which must be followed for Commissions within this price bracket.

In order to achieve value for money and ensure strategic outputs are achieved the CITB Commissioning team will be responsible for these tender exercises.

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<sup>1</sup> Following Brexit, the UK is now a member of the WTO GPA, however current OJEU thresholds have been preserved until January 2022, when it is expected that UK public procurement will align with WTO thresholds.

The following list details the standard documents which will be included as part of the Invitation to Tender (ITT) which is advertised via CITB's E-Tendering system, Delta-ETS. This links to "Contracts Finder" and "Find a Tender (FTS)" where the required competitive contract notices are published

- Specification of Requirement (stating the technical, quality, and operational requirements and outputs).
- Commissioning Certificate.
- Instructions to tenderers (Detailing administrative procedures relating to the tender e.g. dates and times, method of tender return, evaluation criteria and where tender clarifications should be directed).
- CITB Commissioning Standard Terms and Conditions (these can be tailored to suit each Commission by the Commissioning Team)

## **6. Contract Change Control**

Any variations or extensions to existing contracts will be agreed collaboratively with the SRO, then implemented and managed by the Commissioning Team.

The purpose of contractual change control is to ensure that:

- There is a robust audit trail of all the changes made to the contract
- Changes and related costs are authorised by all relevant parties, prior to implementation
- The contract is fit for purpose
- Changes represent Value for Money
- Changes comply with the Public Contracts Regulations (particularly REG 72 PCR2015)

## **7. Contract Management**

Contract management is a continuous process that ensures suppliers adhere to their agreed contractual obligations along with negotiating any future changes that need to take place.

The purpose of contract management is to ensure that all parties meet their respective obligations as efficiently and effectively as possible, delivering the business and operational outputs required from the contract whilst providing value for money. All Providers will be actively managed by the Commissioning team. The nature of the contract management required, and areas of responsibility will be agreed as part of the Commissioning process and will be included within the contract.

This will include items such as:

- Supplier review/meeting type and frequency
- Milestones deliverables and outputs
- KPIs and performance management
- Reporting requirements
- Governance requirements
- Financial Management and Payment Schedule
- Contract Variations
- Risk Management – Financial, Operational, Reputational
- Remedial Action Plan (if appropriate)
- Asset Log
- Project closedown and financial reconciliation

## **8. Single Source Direct Awards**

As stated above, it is CITB's policy that value for money is best achieved through competitive tendering. There may be, in **exceptional and very limited** circumstances, times where a competitive tender process is not used or considered appropriate. If you believe you have a requirement that fits into this category contact the Commissioning Team immediately. They will advise on the process to be followed, and the approvals required.

## **9. Procurement**

CITB procurement was outsourced to SCCL in 2019, however CITB has an in-house Corporate Contracts team who work between CITB Stakeholders & the SSCL Procurement team to ensure a smooth process. Any questions that you may have relating to a potential procurement should first be directed to the Corporate Contracts team via [Contracts.Commissioning@citb.co.uk](mailto:Contracts.Commissioning@citb.co.uk) clearly stating '**Procurement**' in the subject field

## **10. Health & Safety**

CITB will only contract with providers that meet the required health and safety standards, as relevant to the commission for which they are contracted.

As part of the tender process CITB will ask providers any relevant questions in order to understand their processes and accreditations in relation to health & safety which will then be evaluated as part of their overall response. This is to ensure that CITB only selects suppliers that meet the required standards.

The purpose of this is to define the activities required to ensure that providers conform to any specified or legislative requirements.

## **11. Ethics**

CITB complies with the CIPS' Personal Ethical Code which states:

This code sets out principles of integrity, professionalism, high standards, optimum use of resources and compliance with legal and other obligations and offers guidance in relation to declarations of interest, confidentiality and accuracy of information, fair competition, business gifts and hospitality

Ethics are an important aspect of the approach of the Commissioning team. Specific considerations are set out below:

- **Declaration of interest**
  - All staff should declare any material personal interest which may affect, or be seen to affect, their impartiality, or judgment, in respect of their duties.
  - The declaration of interest may be in connection to a provider, colleague or third party, and would be deemed to impinge on their impartiality.
  - To declare an interest, all staff should complete the Declaration form and forward to the Legal team.

- **Confidentiality and accuracy of information**

- All providers should be treated fairly and equitably at all stages of the Commissioning process.
- All providers should be given the same information at the same time, so they all understand the process, procedures, timescales, expectations, requirements, and criteria for selection.
- Provider confidentiality should be safe guarded and unsuccessful suppliers should be debriefed with as much transparency about the Commissioning process as can be provided.
- Information submitted by providers in tenders is “Commercial in Confidence” unless deemed otherwise by the Freedom of Information Act.
- Non-disclosure agreements (NDA) or confidentiality agreements may be completed prior to some tenders where information is of a sensitive nature.
- Providers should never be deliberately misled, and all communications should be conducted with openness, fairness and transparency.

- **Record keeping**

- Tender records (including quality and commercial evaluations) and contracts must be retained for a period of seven years.
- Pre-tender discussions must be properly documented and available for review if required.

All records should demonstrate open, fair and transparent competition.

- **Business gifts**

- On no account should money offered by suppliers ever be accepted.
- Gifts, other than those of a promotional nature and of very small intrinsic value must not be accepted.
- Should a supplier send or leave a gift, this should either be returned to the supplier or raffled within a Department, with the proceeds going to a nominated charity.
- All offers of gifts, whether or not accepted, must be reported to the Corporate Contracts team.

- **Hospitality**

- The scale and frequency of any hospitality offered should not exceed modest proportions. The stakeholder must ensure that any hospitality accepted from the supplier cannot be perceived by the supplier or any third party as influencing the business decision.
- The Governance team will maintain a register of gifts and hospitality received where the value is in excess of £50. Members of staff in receipt of such gifts or hospitality must notify the Governance team promptly and complete the [Declaration of Gifts or Hospitality Form](#).
- The register will be maintained and used to identify companies who persistently offer inappropriate gifts or hospitality so this can be dealt with by the Corporate Contracts Team.

## **12. Sustainable Commissioning**

A process whereby organisations meet their needs for goods, services, construction works and utilities in a way that achieves value for money on a whole-life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst remaining within the carrying capacity of the environment.

CITB has identified five distinct elements that contribute to its overall approach to sustainable Commissioning; these are set out below



Each of these elements will be considered when looking at the requirements of the proposed Commissioning exercise.

As of 30 September 2021, CITB will apply the provisions of PPN 06/21 to all relevant commissioning exercises.

As part of assessing a supplier's technical and professional ability, CITB will include, as a selection criterion, a requirement for bidding suppliers to provide a Carbon Reduction Plan (using the template at Annex A in PPN 06/21) confirming the supplier's commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place and which will be in effect and utilised during the performance of the contract.

Carbon Reduction Plans must meet the required standard as set out by the supporting guidance to PPN 06/21. Please see link below for further information

[Microsoft Word - PPN 0621 Taking account of Carbon Reduction Plans.docx \(publishing.service.gov.uk\)](#)

### **13. Social Value**

For the purpose of this policy we have used the definition of social value as created by The Sustainable Procurement Task Force and widely used in Scotland, Wales and England. They define it as:

a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits to society and the economy, whilst minimising damage to the environment.

In June 2021 a Procurement Policy Note (PPN) was published PPN 05/21 which sets out information and guidance for contracting authorities on the National Procurement Policy Statement (NPPS) which requires contracting authorities to have regard to national strategic priorities for public procurement. Please see link below for more information.

[PPN\\_05\\_21- National Procurement Policy Statement.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94444/ppn-05-21-national-procurement-policy-statement.pdf)

To ensure compliance with PPN 05/21 CITB will consider the following social value outcomes alongside any additional local priorities:

- Creating new businesses, new jobs, and new skills in the UK
- Improving supplier diversity, innovation, and resilience
- Tackling climate change and reducing waste.

To support the national priority outcomes, commissioning tenders will, (where it is relevant to the subject matter of the contract and it is proportionate to do so) include opportunities such as:

- Creating skills and training opportunities (e.g. apprenticeships or on the job training);
- Creating employment opportunities for the long-term unemployed or NEETs (those not in education, employment, or training).
- Offering work placements to school children and young adults.
- Providing career advice and information for young people on specific careers, such as construction, architecture, or engineering.
- Offering curriculum support to schools, with contractors sharing knowledge and expertise about their discipline.
- Providing additional opportunities for individuals or groups facing greater social or economic barriers.
- Creating supply chain opportunities for SMEs and social enterprises.
- Creating opportunities to develop third sector organisations.
  - Improving market diversity.
  - *Encouraging community engagement.*
- Supporting initiatives like targeting hard to reach groups.
- Making facilities (such as school libraries, leisure facilities or computers) available to targeted groups that otherwise would struggle to access such facilities; and
- Encouraging ethical and fair-trade purchasing

## **14. Fairness, Inclusion and Respect (Diversity)**

CITB will strive to exceed the requirements of the Equality Act 2010 and meet the General and Specific Public Sector Equality Duties, not only where we have a legal responsibility to do so, but in all aspects of our work. We will pay 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Where possible CITB will:

- be clear about the reasons for incorporating diversity considerations into a contract and look at the relevance of diversity to each contract in its own right. This ensures contracts focus on delivering more meaningful outcomes for commission beneficiaries. develop outcome-based contracts that give providers scope and flexibility to propose innovative ways of promoting equality and diversity through the delivery of public services.
- Actively seek new thinking from providers, to encourage them to apply their experience and expertise to suggest new delivery methods. establish the desired outcomes early in the Commissioning process and communicate these outcomes clearly to potential providers. This helps ensure providers understand the requirements of the contract and can determine their capacity to meet these before they commit their resources to prepare a bid.
- be prepared to invest to achieve better outcomes on diversity and equality. Good commissioning delivery and achieving value for money is about more than just lowest cost. communicate regularly with providers, to develop a genuine partnership approach to commission delivery that encourages honest exchange and promotes continuous improvement.
- include a system of review and evaluation in contracts which enables diversity targets to be changed over time in response to changing demographics

## **15. Modern Slavery Act 2015**

CITB provides an annual report in accordance with the requirements of the Modern Slavery Act 2015 setting out how it is implementing the requirements of the Act as required by Section 54 of the Act.

The Commissioning team ensures that all suppliers are asked to confirm that they are aware and comply with the Act and in turn that they ensure their supply chain are compliant.