



Stephanie Leaver

Legal Commercial Services Director

BlueLight Commercial Limited

Lloyd House

Colmore Circus Queensway

Birmingham B4 6DG

By email: stephanie.leaver@bluelight.police.uk

27th October 2021

Your ref:
Our ref: MEM/

Your contact:
Mary Mundy
T
F 0113 242 2722
E mary.mundy@capsticks.com

Dear Stephanie

Advice on BlueLight Commercial Limited's status as a Central Purchasing Body as defined in the Public Contracts Regulations 2015 ("PCR")

You have instructed Capsticks Solicitors LLP to advise on whether we consider BlueLight Commercial Limited ("BLC") to be a Central Purchasing Body as defined in the PCR.

Executive Summary

We do consider BLC to be a Central Purchasing Body as defined by the PCR. This is because:

- (1) BLC itself is a contracting authority as defined by the PCR; and
- (2) we understand that BLC provides centralised purchasing activities on a permanent basis (in the form of awarding public contracts and/or concluding framework agreements for works, supplies or services intended for contracting authorities).

Detailed advice

In order for BLC to be a Central Purchasing Body as defined in the PCR, BLC would have to satisfy the following:

- (1) BLC would have to be a "contracting authority";
- (2) BLC would have to provide "centralised purchasing activities" and may also provide "ancillary purchasing activities".

Is BLC a contracting authority as defined in the PCR?

BLC is a contracting authority as defined in the PCR as it falls under the definition of a “body governed by public law” because:

- (a) It was established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character. BLC was set up by the Home Office as a Company Limited by guarantee, not for profit. Its ownership is made up of Police and Crime Commissioners and its remit is to provide national procurement and commercial functions and services for policing;
- (b) It has legal personality. As set out above, BLC is a company limited by guarantee;
- (c) It is financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law; is subject to the management supervision by those authorities or bodies and has an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law. BLC is financed, for the most part, by the Home Office through a Grant Funding Letter between the Home Office and BLC dated 30 March 2020 and Grant Funding Agreement between the Home Office and BLC dated 30 March 2021. These documents also set out BLC’s purpose. BLC’s board is made up of mainly Police and Crime Commissioners and Chief Constables.

Does BLC provide “centralised purchasing activities”?

We consider BLC to provide “centralised purchasing activities”.

Regulation 37(10) PCR defines “centralised purchasing activities” as “activities conducted on a permanent basis in one of the following forms:

- (a) *The acquisition of supplies or services, or both, intended for contracting authorities;*
- (b) *The award of public contracts or the conclusion of framework agreements for works, supplies or services intended for contracting authorities”.*

Part of BLC’s purpose (as set out in the Grant Funding Agreement between the Home Office and BLC dated 30 March 2021) is to provide national procurement and commercial functions and services for policing. We understand that in achieving this purpose, one of BLC’s main roles is to award public contracts and/or conclude framework agreements for works, supplies or services intended for police forces and other blue light contracting authorities and that BLC does this on a permanent basis. BLC therefore provides centralised purchasing activities.

The Grant Funding Agreement also sets out that the grant funding will allow BLC to:

“deliver greater efficiencies through procurement of some key categories at a national level and increase revenue generation through, for example, better cost

recovery. It will deliver strategic supplier management to maximise buying power, reduce 'contract leakage' and drive improvement across the most important suppliers throughout the commercial lifecycle and bring together cross-force data and best practice to improve local decision making".

In satisfying the above, BLC may also carry out "ancillary purchasing activities" as defined by the PCR. These are "activities consisting of the provision of support to purchasing activities, in particular in the following forms:

- (a) technical infrastructure enabling contracting authorities to award public contracts or to conclude framework agreements for works, supplies or services;*
- (b) advice on the conduct or design of public procurement procedures;*
- (c) preparation and management of procurement procedures on behalf and for the account of the contracting authority concerned."*

For the reasons set out above, we have concluded that BLC meets the requirements for a Central Purchasing Body as per the PCR.

Please do not hesitate to contact me if you would like to discuss the above advice further.

Yours sincerely

Mary Mundy

Mary Mundy
Partner
Capsticks Solicitors LLP