

9.0 Related Policies

9.1 As the functional body responsible for delivering the Mayor's Transport Strategy, TfL's policy and procedures should be aligned with policies and commitments made by the Mayor and the GLA.

9.2 Through the GLA Group Sustainable Procurement Policy TfL has received a direction and delegation in delivering several themes of sustainable procurement including "Encouraging a Diverse Base of Suppliers" which has lead directly to this policy.

9.3 The GLA Group Sustainable Procurement Policy commitments reflect the UK National Procurement Strategy for Local Government. The strategy states that the public sector should use procurement to help deliver corporate objectives, including economic, social and environmental objectives, and that sustainability should be built into procurement strategies, processes and contracts.

9.4 The Mayor's Equality Agenda is reflected in the following publications:

Older People Strategy 2006

Race Equality Scheme 2005-2008

GLA Faith Equality Scheme 2005

GLA Disability Equality Scheme 2005

GLA Gender Equality Scheme 2003

The work outlined in the appropriate Mayor's Annual Equality Report.

9.5 In addition to Mayoral policies and commitments, TfL's Policy for the Mayor's Green Procurement Code and associated **Procurement Activities** will be carried out in accordance with the relevant **TfL Policies**, and **Corporate Governance** including but not limited to:

9.5.1 The TfL Group Procurement Policy

9.5.2 The TfL Business Plan

9.5.3 TfL Procurement will ensure that Risk Management is appropriately applied at all stages of Procurement

Activities in accordance with the TfL Group Risk Management Policy.

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10.0 Approval and Amendments

10.1 Approval and Amendments

10.1.1 The approval and/or amendment of the TfL Supplier Diversity Policy will take place via the Corporate Governance guidelines and the Procurement internal review process, as appropriate.

10.1.2 Any amendments to the policy must be submitted in writing to the policy owner.

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11.0 Policy Owner and Contact Details

11.1 [REDACTED] Policy, Strategy & Best Practice Team, Group Services is the designated owner of this policy.

11.2 For further information on the Policy, please contact via email:
[REDACTED]

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12.0 Glossary of Definitions

Diverse Suppliers are fully defined in TfL Supplier Diversity Definitions. Further to this, for the purpose of this Policy, the terms highlighted in bold have the meanings set out below.

- 12.1 **Commission for Racial Equality (CRE)** information can be found at <http://www.cre.gov.uk>
- 12.2 **Corporate Governance** refers to the overall framework of TfL internal controls.
- 12.3 **Delegated Procurement Authority** refers to those **Employees** with the right to carry out procurement activities, either through their job description or their line manager permission, on behalf of TfL.
- 12.4 **Delegated Contract Authority** refers to those **Employees** or parties with the rights to carry out procurement activities, either through their contract arrangements, job description or their line manager, on behalf of TfL.
- 12.5 **Disabilities Rights Commission (DRC)** information can be found at <http://www.drc-gb.org/>
- 12.6 **Employee** refers to any person, whether on a fixed term, temporary or permanent contract, who carries out a job role, full or part-time for TfL or any of its associated legal entities on or off a TfL site.
- 12.7 **Equal Opportunities Commission (EOC)** information can be found at <http://www.eoc.org.uk/>
- 12.8 **Positive Discrimination** is a policy or a program providing advantages for people of a minority group who are seen to have traditionally been discriminated against, with the aim of creating a more egalitarian society. This consists of preferential access to education, employment, health care, or social welfare. It is unlawful under British law, whereas **Positive Action** is not.
- 12.9 **Positive Action** refers to promotion of representational, proportionality and equal terms, however no formal definition exists. It must be noted that reward of contracts must be based on equal merit. The legislation provided in Section 13 provides

a framework for recognising diversity and promoting equality of opportunity for all. Supplier Diversity aims to act as an enabler for under-represented groups, equal access to procurements and equally equipped to apply.

12.10 Procurement refers to all of the Procurement functions within TfL (including all its subsidiaries).

12.11 Procurement Activity refers to any or any combination of transactions as listed below in accordance with applicable procurement procedures:

"Any activity either orally or in writing which commits, or may be taken to commit, TfL (or a subsidiary) to any contractual relationship, including the issue of letters of intent and variations to contracts.

The settlement of any claim for additional payment not covered by an existing contract or arrangement.

The imposition of remedies for breach of a contractual commitment for example the calling of bonds and guarantees, exercising step-in or termination rights.

The sale or other disposal of surplus material and assets."

The above are as stated in the definition of transaction in Standing Order No. 2, but Procurement Activity includes in addition:

"The process of obtaining supplies, services and works including seeking formal written tenders or proposals in accordance with applicable procurement procedures.

Obtaining informal or low value quotations and/or information for budgeting purposes in accordance with applicable Procurement procedures."

12.12 Standing Orders refer to:
TfL's Standing Order No. 1
TfL's Standing Order No. 2

12.13 Supplier refers to any third party (for example any person, individual, firm, company, consultant or agent) providing goods, works or services with which TfL has entered into a contract or is engaged in discussions for potential business opportunities with. The extent to which Suppliers are subject to

TfL's Supplier Diversity requirements will differ according to contract specification.

- 12.14** **Transport for London (TfL)** refers to all parts of the TfL Group including all its subsidiaries (as defined in section 736 of the Companies Act 1985).

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13.0 Relevant Legislation & Acts of Parliament

- 13.1 Asylum and Immigration Act 1996**
- 13.2 Disability Discrimination Act 1995**
- 13.3 Employment Equality (Age) Regulations 2006**
- 13.4 Employment Equality (Religion or Belief) Regulations 2003**
- 13.5 Employment Equality (Sexual Orientation) Regulations 2003**
- 13.6 Employment Relations Act 1999**
- 13.7 Employment Rights Act 1996**
- 13.8 Equality Bill 2006**
- 13.9 Equal Pay Act 1970 & 1986**
- 13.10 European Race Directive (2000/43/EG)**
- 13.11 Human Rights Act 1998**
- 13.12 Part-time Workers Regulations 2000**
- 13.13 Race Relations (Amendment) Act 2000**
- 13.14 Race Relations Act 1976**
- 13.15 Sex Discrimination Act 1975 & 1986**
- 13.16 Working Time Directive 1993**
- 13.17 Working Time Regulations 1998**

The above list is appropriate at the date of publication and as a result is not exhaustive.



TfL Supplier Diversity Definitions

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1. Document Outline

The TfL Supplier Diversity Definitions ensure consistency across Supplier Diversity activities across TfL. These definitions form a basis for the TfL Supplier Diversity Policy Statement and act as a basis for alignment in the measurement of diverse suppliers.

This version the TfL Supplier Diversity Definitions, 2nd February 2007, replaces the previous versions issued on the 19th October 2005 and 8th May 2006 in order to include adaptations to EU definitions.

2. Diverse Suppliers

For the purposes of TfL's Procurement Supplier Diversity Programme, "Diverse Suppliers" comprise the following four subsets:

- 2.1** Small and Medium Enterprises (SMEs)
- 2.2** Black, Asian and Minority Ethnic (BAME) businesses
- 2.3** Suppliers from other under-represented or protected groups
- 2.4** Suppliers demonstrating a diverse workforce composition

The more detailed explanations of the four above subsets are given in the sections below.

3. Small and Medium Enterprises (SMEs)

3.1 A Small Enterprise is a business which has both the following:

- i) 0-49 Full Time Equivalent employees¹;

AND EITHER

- ii) Turnover² per annum of up to £6.9 million (up to €10 million³);
in the last financial year;

OR

- iii) Balance sheet total⁴ of up to £6.9 million (up to €10 million³).

3.2 A Medium Enterprise is a business which has both the following:

- i) 50-249 Full Time Equivalent employees¹;

AND EITHER

- ii) Turnover² per annum of up to and including £34.3 million (up to €50 million³) in the last financial year;

OR

- iii) Balance sheet total⁴ of up to and including £29.4 million (up to €43 million³).

3.3 A Large Enterprise is a business which has both the following:

- i) Over 250 Full Time Equivalent employees¹;

AND EITHER

- ii) Turnover² per annum over £34.3 million (over €50 million³) in the last financial year;

OR

- iii) Balance sheet total⁴ of over £29.4 million (over €43 million³).

¹ Full Time equivalent employees is defined in Section 7.1

² Turnover is defined in Section 7.3

³ Based on the exchange rate £1 = €1.46

⁴ Balance Sheet Total is defined in Section 7.5

Further explanation is outlined in Section 7.7

4. Black, Asian and Minority Ethnic (BAME) owned businesses

A Black, Asian and Minority Ethnic (BAME) owned business is a business which is 51% or more owned by members of one or more Black, Asian or Minority ethnic groups.

Minority ethnic groups are all people including those who have classified themselves as members of ethnic groups other than 'White British'.

The minority ethnic classification groups used by TfL for monitoring purposes are:

<u>Ethnic group</u>	<u>Racial origin</u>
White	Irish Any other White background
Mixed	White & Black Caribbean White & Black African White & Asian Any other Mixed background
Asian or Asian British	Indian Pakistani Bangladeshi Any other Asian background
Black or Black British	Caribbean African Any other Black background
Chinese or other Ethnic Group	Chinese Any other Ethnic Group

5. Suppliers from other under-represented groups or protected groups

5.1 A Supplier from an under-represented group is one which is 51% or more owned by members of one or more of the following groups (where not covered by previous definitions):

5.1.1 Women (gender)

5.1.2 Disabled people with physical and sensory impairments, learning difficulties and mental health requirements;

5.1.3 Lesbians, Gay men, Bisexual and Transgender people (sexual orientation); and

5.1.4 Older people (aged 60 or over), young people (aged 24 or under) (age)

5.2 A Supplier from a protected group is one which is 51% or more owned by members of a group for which protection is provided by anti-discriminatory legislation and which is not already covered by the above (such as religious, faith or belief groups, or alternatively, ownership by a social enterprise or a voluntary/community organisation).

6. *Suppliers demonstrating a diverse workforce composition*

This relates to Full Time Equivalent employees in the supplier's workforce who may be from one or more minority ethnic groups, and/or under-represented groups and/or protected groups as listed in II and III above.

7. Other Definitions & Information

7.1 Full-Time Equivalent Employees

Where employee numbers are used, these refer to Full-Time Equivalents (FTEs) expressed in **Annual Work Units** (see below). Staff headcount should include full-time, part-time and seasonal staff and includes the following:

- Employees
- Persons working for the enterprise being subordinated to it and considered to be employees under national law
- Owner managers
- Partners engaged in regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Full-time workers are expressed as hours worked per week. TfL refer to standard UK hours of work as full time workers – i.e. those who work 35 hours a week and 52 weeks a year (including annual leave).

7.2 Annual Work Units

Refer to anyone who worked, over the past year, full-time within your enterprise, or on its behalf, during the entire reference year counts as one unit. You treat part-time staff, seasonal workers and those who did not work the full year as fractions of one unit.

7.3 Turnover

Turnover is in line with that defined in the Companies Act 1985:

The amounts derived from the provision of goods and services falling within the company's ordinary activities, after deduction of:

- i) trade discounts
- ii) value added tax

7.4 Financial Year

Financial Year relates to 1st April – 31st March or any other 12 month period as defined by the company.

All data must be relating to the last approved accounting period and calculated on an annual basis. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply shall be derived from a reliable estimate made in the course of the financial year.

7.5 Balance Sheet Total

The annual balance sheet total refers to the value of your company's main assets.

7.6 Ownership

Individual or those in named control holding capital or voting rights - either through private or shared ownership - of any given business entity.

7.7 Definition of Size

Where headcount and turnover and/or balance sheet conditions apply to different size definitions, headcount acts as the more predominant aspect, in defining size.

An organisation does not need to satisfy both turnover and balance sheet total, only one of the conditions and may exceed one of them without losing its status. This is illustrated by an organisation which has 30 employees, a turnover of £12 million and a balance sheet total of £10 million. The number of employees figure would class the organisation as a small organisation, however the turnover and balance sheet total define the organisation as medium. In this case, the headcount would be used to define the classification of the organisation. This organisation would be classed as a small organisation.

To illustrate this, the following scenarios have been mapped for the different characteristics of supplier diversity definitions (based on information from the DTI):

		Turnover/Balance Sheet Total		
		£6.9m(up to €10 m)/ £6.9m (up to €10m)	£34.3m(up to/incl. €43m)/ £29.4m (up to/incl. €43m)	£34.3m(over €43m)/ £29.4m (over €43m)
Employees	0-49	✓	<i>Employees more predominant</i>	<i>Employees more predominant</i>
	50-249	<i>Employees more predominant</i>	✓	<i>Employees more predominant</i>
	250+	<i>Employees more predominant</i>	<i>Employees more predominant</i>	✓

8. Document Owner & Contact Details

For further information, please contact James Edmondson, Strategy Development Manager, Policy, Strategy & Best Practice, Group Services, Transport for London via email: [REDACTED]

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Equality & Inclusion

TfL's vision is: "To sustain London's place as a premier world city, Transport for London (TfL) aims to be the world's leading transport authority, delivering safe, reliable and integrated transport to all those who live in, work in, or visit London."

To achieve this, TfL has the following Equality and Inclusion goals, which are backed by TfL's Equality and Inclusion Policy Framework:

- Promote equality of opportunity
- Promote good relations between different groups/communities
- Eliminate unlawful discrimination
- Provide accessible transport for all.

TfL operates with the following four guiding principles:

- Provide Best Possible Value
- Are conducted in a fair, objective transparent manner
- Are compliant with the regulatory framework of all relevant legislation, Standing Orders, Scheme of Delegation and other regulated policies.

Procurement and Supplier Diversity

TfL's above mentioned Equality and Inclusion goals are enshrined in its Procurement Policy and consequently its supply chains. This underpins TfL's Supplier Diversity Programme with its current and future suppliers, from which it procures Goods, Works and Services.

As part of your response to this Invitation to Tender bidders are to prepare and submit the following;

1.1 Equality Policy

Bidders are to prepare an equality and diversity policy (or provide their existing policy) for their organisation's participation in this initiative. The policy should state the bidder's equality and diversity objectives and the means by which the objectives will be achieved over the duration of the Contract.

Bidders should reflect in their policies the steps they would take to ensure their subcontractors implement equality and diversity policies similar to that of the bidder. The equality and diversity policy should also set out the methods by which the bidder proposes to monitor and report on the implementation of the policy and its effectiveness.

A comprehensive policy document will reassure the evaluation team that the following areas have been addressed:

- The bidder should formulate and adopt a comprehensive equality policy that covers race, gender, disability, age, faith and sexual orientation. The policy should be in line with current legislation (i.e. RRA, SDA, DDA, EPA) and codes of practice of the three equality commissions, CRE, EOC and DRC. In

respect of bidders who are based in countries other than the UK, their equivalent local legislation and codes of practice will be acceptable.

- Recruitment policies and procedures will need to be implemented such that they do not adopt practices that are discriminatory, create unfair conditions of employment or create unequal rates of pay particularly between men and women. This will need to be confirmed by conducting reviews on a regular basis.
- Bidders will need to demonstrate that they are both actively engaging and securing long term relationships with local employment agencies and unemployment programmes so that, as vacancies arise in respect of the contracted workforce, local people are targeted and made aware of these opportunities. This is to ensure that the "Project" workforce becomes increasingly reflective of the diverse community to be served in the identified area.
- The policy will need to ensure that any publicity for vacancies will encourage applicants from equality target groups. Recruitment processes will need to be reviewed on a regular basis to ensure that all potential barriers to recruitment particularly with regard to equality target groups have been removed.
- Those organisations involved in the Contract will need to have well defined procedures to deal with harassment and grievances, staff assigned to deal with issues of this nature and a robust mechanism for implementation. Additionally it would be prudent to include equality objectives into management appraisal mechanisms.
- The policy should clearly identify what is trying to be achieved and what actions will be incorporated to ensure progress remains on schedule. It would also be prudent to identify how the policy will continue to be shaped by key stakeholders such as TfL, staff and trade unions.
- Adequate numbers of suitably qualified personnel together with resources and allocation of time will need to be made available to deliver this critical activity.

1.2 Diversity Training Plan

Bidders are to prepare a diversity training plan that explains the bidders' strategy for ensuring that its employees and contractors are trained in and understand the equality and diversity issues which may arise in the workplace and, in particular, when delivering the Contract including specifically an understanding of TfL's Code of Conduct

Note:

Bidders are referred to the Contract Conditions which set out the proposed contractual obligations relating to equality and supplier diversity. As part of their response to this Invitation to Tender, bidders will be asked to confirm their acceptance, without qualification, of all of the Contract Conditions.

Bidders will be evaluated on the contents of their submitted Equality Policy and Diversity Training Plan. Evaluation of these documents will be on a "pass/fail" basis.

Contract Conditions

1.1 If the Supplier commits a Diversity Infraction, TfL shall be entitled (but not obliged) to serve written notice upon the Supplier identifying in reasonable detail the nature of the Diversity Infraction, and the Supplier shall cease committing such infraction and remedy, at its own cost, the Diversity Infraction, within 30 days of receipt of such notice (or such longer period as may be specified in the notice).

1.1.1 It shall be a fundamental term and condition of the Agreement that the Supplier complies with its obligations under **Clause 23.5**. Where, following receipt of a notice given pursuant to **Clause 23.5**, the Supplier fails to remedy a Diversity Infraction to the reasonable satisfaction of TfL, the Supplier will be in breach of this Agreement and TfL shall be entitled (but not obliged) to terminate this Agreement, without further notice to the Supplier, in accordance with the rights of TfL elsewhere in the Agreement.

For the purposes of this **Clause 23**, "Diversity Infraction" means any breach by the Supplier of its obligations specified in **Clauses 17.6.4, 17.6.5, 17.6.6, 17.7, 17.8, 17.10, 17.11 and 17.12** provided, for the avoidance of doubt, that such breach arises in the course of the provision of the Services by the Supplier.

