

CABINET – 18th March 2009

Report of the Director of Governance & Procurement

ITEM 10 CONTRACT PROCEDURE RULES – UPDATE TO PROCUREMENT THRESHOLDS

Purpose of this Report

This report seeks approval to make amendments to the Contract Procedure Rules that were agreed by Cabinet on 15 January 2004 in order to align procurement thresholds with current procurement good practice and ensure that the Council has a consistent approach to dealing with quotations and tenders.

Recommendations

I. That Council be recommended to approve the following changes to the Contract Procedure Rules and to amend the Constitution accordingly:

(i) that paragraph (1) of Rule 3 be amended to:

“Before commencing any proposed procurement process with an estimated value of £25,000 or more, the appropriate Head of Service must consult the persons mentioned below:-

(Context note: Persons mentioned are the Contract Compliance Officer, relevant Cabinet Lead Member and Head of Financial services)

(ii) that paragraph (3) of Rule 3 be amended to:

“At the beginning of each financial year the Contract Compliance Officer will submit an Annual Procurement Plan to Cabinet for approval, containing details of the contracts above £25,000 to be let in that financial year. In approving the report, the Cabinet will agree for each contract the form of tender evaluation arrangements, whether the tender specification needs to be approved by Cabinet and whether authority is delegated to the Contract Compliance Officer to agree exceptions and open negotiation procedures. Any contracts not in the annual plan must have their specification and arrangements agreed by Cabinet before procurement begins”.

(iii) that paragraph (1) of Rule 4 be amended to:

This Procedure rule applies to all contracts above £75,000 where Cabinet has approved a Head of Service’s request to compile a list of the firms to be invited to tender/quote for specific contracts.

(Context note: Rule 4 relates to selective tendering procedures)

- (iv) that paragraph (1) of Rule 5 be amended to:

This Procedure rule applies to contracts with an estimated value of £75,000 or more, and where no list has been approved under Procedure rule 4, or if the Contract Compliance Officer considers that Procedure rule 4 is inappropriate.

(Context note: Rule 5 relates to restrictive tendering procedures)

- (v) that paragraph (2) of Rule 5 be amended to:

Public Notice must be given in Source Leicestershire and on the Council's Web Site if the estimated value of the contract exceeds £25,000. The notice must set out details of the proposed contract, and invite firms interested to apply within such period as may be specified, (being not less than ten days), for permission to tender. Clear instructions shall be given regarding the arrangements for the delivery and receipt of applications with particular reference to a deadline for receipt. The rule for the receipt of applications will be the same as that for tenders as set out in Procedure rule 14. (4)

- (vi) that paragraph (1) of Rule 6 be amended to:

This Procedure rule applies to contracts with an estimated value of £75,000 or more, if no appropriate Approved List exists or if the Contract Compliance Officer considers Procedure rules 4 and 5 are inappropriate.

(Context note: Rule 6 relates to open tendering procedures)

- (vii) that paragraph (2) of Rule 6 be amended to:

In any such case at least ten days public notice must be given in Source Leicestershire and on the Council's Web-Site if the estimated value of the contract exceeds £25,000, setting out details of the proposed contract, inviting tenders and stating the last date on which tenders will be received.

- (viii) that paragraph (1) of Rule 7 be amended to:

This Procedure rule applies to contracts with an estimated value of £75,000 or more, if the Contract Compliance Officer considers that Procedure rules 4, 5, and 6 are inappropriate.

(Context note: Rule 7 relates to negotiated tendering procedures)

- (ix) that The heading of Rule 8 be amended to:

**COMPETITION REQUIREMENTS FOR CONTRACTS
BELOW £75,000**

- (x) that paragraph (2) of Rule 8 be amended to:

“The appropriate Head of Service must invite at least three written quotations for a proposed contract with an estimated value of over £5,000 and up to £75,000. For contracts valued between £25,000 and £75,000 the written quotations shall be returned to the Contract Compliance Officer for opening. If three quotations cannot be obtained due to lack of suitable firms prepared to quote, then the Contract Compliance Officer must keep a record of the reasons for this.

- (xi) that paragraph (3) sub paragraph (e) of Rule 18 be amended to:

Notwithstanding the above, the appropriate Head of Service must, prior to the Borough Council entering into any contract, ensure that the Head of Financial Services has approved the financial standing of the firm to whom it is proposed to award the contract, in accordance with Financial Procedure Rules, and where the contract value exceeds £75,000, the Head of Financial Services has carried out a detailed financial appraisal of the proposed contractor.

(Context note: Rule 18 relates to acceptance of tenders / quotations and award of contracts)

Reasons

- I. (i) – (iv), (vi),(viii), (ix) and (xi) - To increase existing thresholds to levels which are proportionate in respect of the financial scale of the Council, risk management considerations and the bureaucracy required of differing procurement methods

- (v), (vii) and (x) - To ensure consistency in dealing with quotations and tenders.

Policy Context

This project supports the Corporate Plan objective to deliver ‘better services’ with a view to delivering better value for money, greater efficiency and higher service quality. In delivering this objective the Council has a responsibility to its customers and council tax payers to reduce the cost of services by minimising bureaucracy while still maintaining appropriate levels of control and management of risk.

Background

Procurement thresholds

The Contract Procedure Rules were presented to Cabinet and approved on 15 January 2004, and subsequently considered by Council on 26 January 2004. Comparing the procurement thresholds set out within these rules to our neighbouring Authorities suggests that the Council's thresholds are below good practice levels. The implication of this is that the resources involved in procurement compliance are excessive in the context of the value of the procurement.

The table below compares the Council's existing procurement thresholds with those of neighbouring North West Leicestershire District Council (NWLDC) and Hinckley & Bosworth Borough Council (H&BBC). Given that both NWLDC and H&BBC are significantly smaller organisations than Charnwood a pro rata calculation is also presented which shows what NWLDC and H&BBC thresholds would be based on comparative budgets.

<i>Procurement threshold (amount up to)</i>	<i>CBC Current</i>	<i>NWLDC</i>	<i>H&BBC</i>	<i>Pro rata calculation</i>		<i>Proposal</i>
				<i>Based on NWLDC</i>	<i>Based on H&BBC</i>	
Two verbal Quotations	5,000	5,000	5,000	7,500	6,650	5,000
Three Written Quotations	15,000	20,000	20,000	30,000	26,600	25,000
RFQ to Contract Compliance	50,000	50,000	50,000	75,000	66,500	75,000
Full Tender Process	159,000	£159,000 is the statutory limit over which OJEU procedures must be invoked				159,000
OJEU process	over 159,000					over 159,000

Note: 'RFQ [Request for Quotation] to contract compliance' refers to contracts where the Council seeks to influence contract terms and conditions.

Note: 'Full Tender Process' refers to contracts where the Council seeks to impose contract terms and conditions.

Based on the comparison this report recommends adoption of new procurement limits as set out in the right hand column of the table above.

Consistency in procurement procedures

The recommendations in this report are also designed to achieve consistency in the Council's procedures. In particular they align the proposed procurement thresholds with the requirement to give notice of contracts in Source Leicestershire and ensure that the involvement of the Contract Compliance Officer is consistent with the new thresholds.

Financial Implications

There are no direct financial implications arising from this report.

Risk Management

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

<i>Risk Identified</i>	<i>Likelihood</i>	<i>Impact</i>	<i>Risk Management Actions Planned</i>
Adoption of revised thresholds could result in sub-optimal procurement decisions being made	Low	Low	None – the impact of this risk is assessed as less significant than the impact of the risk arising from failure to adopt the recommendations of this report
Failure to adopt revised thresholds could result in excessive bureaucracy	Medium	Medium	Adoption of the recommendations of this report

Key Decision: No

Background Papers: Contract Procedure Rules dated 15 January 2004

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