

Subject: Contract Procedure Rules

Status: For Publication

Report to: The Cabinet

Date: 21st February 2007

Report of: Head of Planning, Legal & Democratic Services

Portfolio

Holder: Finance and Risk Management

Key Decision:

NO (Matter for Council Approval)

Forward Plan

General Exception

Special Urgency

1. PURPOSE OF REPORT

- 1.1 To brief Members on a revision of the Council's Contract Standing Orders, and to recommend the revised Contract Procedure Rules to Council for approval.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report directly impact on the corporate priorities:

- Promoting Rossendale (Economy)
- Delivering Regeneration across the Borough (Economy)
- Delivering the District Vision

3. RISK ASSESSMENT IMPLICATIONS

- 3.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Inefficient and ineffective procurement
- Legal challenge to legality of contracts
- Loss of confidence in Members, the Council and local democracy
- Poor decision making
- Bad publicity

4. BACKGROUND AND OPTIONS

- 4.1 The efficient and effective procurement of goods, services and works has an important impact on service delivery; it is vital that procurement processes

operate within the framework of the Council's corporate procurement strategy which identifies the actions to be taken to ensure delivery of the Council's community plan and corporate objectives.

- 4.2 All aspects of the procurement process must be examined to make sure they are fit for purpose and help deliver, not hinder, services to the public.
- 4.3 The corporate procurement strategy sets out an approach for identifying opportunities for partnering and collaboration, letting authority – wide contracts and framework agreements and looking at various e.procurement initiatives. It is important that the delivery of strategies is not obstructed by the Council's Contract Procedure Rules (often referred to as Contract Standing Orders) which should encourage the adoption of best practice.
- 4.4 These Contract Procedure Rules – Appendix 1 (issued in accordance with Section 135 of the Local Government Act 1972) are intended to promote good purchasing practice and public accountability and deter corruption. Following the rules is the best defence against allegations that a decision has been made incorrectly or fraudulently.
- 4.5 Officers responsible for purchasing or disposal must comply with these contract procedure rules; Officers should:
 - follow the rules if they purchase goods or services,
 - order building work or dispose of land,
 - take all necessary legal and financial advice,
 - declare any personal financial interest in a contract (corruption is a criminal offence),
 - check whether there is an existing corporate contract they can make use of before undergoing a competitive process,
 - normally allow at least four weeks for submission of bids (not to be submitted by fax or e-mail),
 - keep bids confidential,
 - complete a council order or a written contract before any payment,
 - keep records of all dealings.
- 4.6 All purchasing and disposal procedures must:-
 - achieve Best Value for public money spent,
 - be consistent with the highest standards of integrity,
 - ensure fairness in allocating public contracts,
 - comply with all legal requirements,
 - ensure that Non-commercial Considerations do not influence any contracting decision,
 - support the Council's objectives.
- 4.7 The main differences between the revised Contract Procedure Rules and the former Contract Standing Orders include:

1. A written specification must be prepared describing the Council's requirements in sufficient detail to enable the submission of competitive offers (4.1(viii))
2. They allow for electronic tendering (4.3)
3. They Deal with Framework Agreements (5)
4. The Medium Value threshold is increased from over £6,000 and up to £30,000, to up to £50,000 (6.1)
5. The High Value threshold is increased from over £30,000 to over £50,000 (6.1)
6. They provide for wider publication of contracts (6.1.3)
7. The Legal Section must be involved in all contracts (6.5.5.)
8. Approval of Select Lists is delegated to the Executive Director of Resources, the Head of Service, the Head of Financial Services and the Head of Legal and Democratic Services (7.7.1)
9. They Provide for Joint Procurement, Collaborative and E-Procurement Arrangements (9)
10. They Deal with Central Government Contracts (10)
11. Opening of Tenders – to be opened by Officers; the Leader or Deputy Leader to be invited to attend (12.2.1)
12. They Provide for standard contract conditions regarding health and safety, indemnities, anti-corruption, human rights, equality and discrimination, freedom of information, third party rights, data protection and dispute resolution (22)
13. Sealing of documents – to be witnessed by the Executive Director of Resources or the Head of Legal and Democratic Services or any other person authorised by either of them from time to time.
14. Performance Bonds may be required if a contract exceeds £250,000 (formerly £500,000)
15. Disposal of land – by way of open market competitive tender (32.2) or by auction (33)
16. Risk Assessment and Contingency Planning for all High Value Contracts (33)
17. The use of Supplier Selection Forms (Schedule B)

5. COMMENTS OF THE HEAD OF FINANCIAL SERVICES

5.1 As in the Report.

6. COMMENTS OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

6.1 As in the Report.

7. COMMENTS OF THE HEAD OF HUMAN RESOURCES

7.1 No human resources implications.

8. CONCLUSION

8.1 That the revised Contract Procedure Rules should be approved.

9. RECOMMENDATIONS

9.1 The Council be recommended to:

- (1) adopt these Contract Procedure Rules,
- (2) delegate authority to the Executive Director of Resources to amend these Rules after consultation with the Portfolio Holder for Finance and Risk Management and the Head of Legal and Democratic Services.

10. CONSULTATION CARRIED OUT

10.1 The Constitutional Working Group

Contact Officer	
Name	Linda Fisher
Position	Head of Legal and Democratic Services
Service / Team	Legal & Democratic
Telephone	252447
Email address	lindafisher@rossendalebc.gov.uk

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Background Papers	
Document	Place of Inspection
Present Contract Standing Orders	Futures Park, Bacup