

AUDIT COMMITTEE

27 JUNE 2018

UPDATE TO CONTRACT PROCEDURE RULES

Report from: Perry Holmes, Chief Legal Officer

Author: Michael Kelly, Interim Head of Category Management

Summary

The report details proposed changes to the Contract Procedure Rules (CPRs). The proposed changes will provide greater efficiencies on procurement activities within the authority by establishing a uniform means to award lower value (under £25,000) contracts. There is also a definition of High, Medium and Low risk procurements and there is clarification on the requirement to use internal resources first.

1. Budget and Policy Framework

1.1 The Contract Procedure Rules form part of the Council's Constitution, therefore, final approval of these Rules is a matter for Full Council. In addition, the Audit Committee's terms of reference require it to consider any proposals for changes to the Contract Procedure Rules. This report will also be submitted to Cabinet on 10 July and Council on 19 July 2018.

2. Background

2.1 The Council's Contract Procedure Rules define the rules and processes to follow when spending Council budgets. The last review was approved in 2015 when the legislation, which governs public sector procurement (The Public Contracts Regulations 2015), was updated.

2.2 It is best practice to keep the Contract Procedure Rules under periodic review. Within the most recent review, an opportunity was seen to clarify High, Medium and Low risk procurements, revise the procurement process for projects valued between £5,000 and £24,999 and clearly outline how internal resources should be engaged first before engaging any external consultancy support. The proposed changes to the Rules are set out in Appendix 1.

3. Options

3.1 It is important that the Council implements and continuously reviews effective procurement practices. The options relating to this report are as follows:

- Do nothing – the option of doing nothing would result in the same set of Contract Procedure Rules being used. The risk of this is the Contract Procedure Rules would not allow the efficiencies identified and would not be as clear as the new proposed wording.
- Implement changes – the changes proposed will allow the Category Management team to proactively manage and resource higher value and risk based procurements. Officers will be clear when they should use internal resources.

4. Advice and analysis

4.1 The three main changes are outlined below.

4.1.1 A new procurement level will be introduced. At present expenditure in excess of £5,000 is made through the Category Management Team and anything below this figure remains a responsibility of the service area. The new level will see this figure rise to £25,000. This increase will enable the Category Management team to proactively manage and resource higher value (i.e. over £25,000) and higher risk procurements.

4.1.2 It should be noted that £25k has been chosen as the new threshold since any expenditure over this value must be published on Contracts Finder (an advertising website for all public sector contracts) and also brings our procurement processes in line with other local authorities.

4.1.3 Whilst increasing the threshold for devolved procurement activity, it should be noted that the Category Management team will retain an oversight of all procurement activity. This includes the introduction of a “low value quotation form” which will be available on the Kent Business Portal (the Council’s chosen e-procurement website).

4.2 A definition of High, Medium and Low risk procurements will be introduced. This definition will improve the decision making process.

4.3 A requirement to use internal resources first such as Property & Capital Projects and the Category Management team before approaching the open market will be made clear.

4.4 To successfully implement these changes, training sessions will be held to ensure corporate understanding and compliance. Based on the above analysis, the advice is to adopt the changes proposed.

5. Risk management

5.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. The table this section considers any significant risks arising from the report.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Not adopting proposed changes	Medway Council's Procurement Rules are neither updated nor reflective in required working practices.	Proposed changes are reviewed and agreed.	C2
Lack of training	There is a risk that the changes are implemented but officer working practices are not.	Category Management proposes that a corporate analysis of effected spend is undertaken and service managers approached who in turn undertaken relevant training.	D3
Lack of corporate awareness	There is a risk that a lack of understanding of the new rule will lead to inconsistencies in approach to procurement.	Log-in notification ensuring officers approve they have read and will comply with rules.	D2

6. Consultation

- 6.1 As this is an internal set of rules, no external consultation has been undertaken although the changes have been produced in conjunction with awareness of external legislation.

7. Financial implications

- 7.1 The proposed changes should provide efficiencies in the procurement processes undertaken across the Council and supported by the Category Management team. It will also lead to the quicker appointment of contractors. Further work will be needed to measures these efficiencies.
- 7.2 The practice of recovering internal fees for professional support for example on capital projects has a positive impact on the revenue budget.

8. Legal implications

- 8.1 Medway Council's Category Management team is responsible for ensuring the way in which public funds are spent is done in a legally compliant manner. By implementing the recommended changes, the Council will better control low value spend and have greater transparency in these areas whilst using uniform Terms and Conditions as drafted by the Legal Services team.

9. Recommendation

- 9.1 The Committee is asked to consider the proposed changes to the Contract Procedure rules and recommend them to Council for approval.

Lead officer contact

Michael Kelly – Interim Head of Category Management
Michael.kelly@medway.gov.uk 01634 332284

Appendices

Appendix 1 - Updated Contract Procedure Rules May 2018

Background papers

Medway Council's Contract Procedure Rules
The Public Contracts Regulations 2015
Medway Council's Constitution