

CABINET

10 JULY 2018

UPDATE TO CONTRACT PROCEDURE RULES

ADDENDUM REPORT

Portfolio Holder: Councillor Adrian Gulvin, Resources
Report from: Perry Holmes, Chief Legal Officer
Author: Michael Kelly, Interim Head of Category Management

Summary

This addendum report updates the Cabinet on proposed changes to the Contract Procedure Rules.

1. Background

- 1.1 Paragraph 4.1.4 of the main report states that “a definition of High, Medium and Low risk procurements will be introduced (in the Contract Procedure Rules). This definition will improve the decision making process”. This is reflected in section 2.1.2 (risk decision making) of page 4.99 of the Contract Procedure Rules.
- 1.2 Since the meeting of the Audit Committee and the publication of the Cabinet Agenda, further consideration has been given to the suggested wording on page 4.99 of the revised Contract Procedure rules to remove any scope for ambiguity.
- 1.3 A revised page 4.99 is attached at Appendix 1 to the Addendum Report. These minor changes to the text provide assurance that any procurement which is caught by the statutory definition of a key decision is classified as high risk and referred to Cabinet for determination.

2. Revised recommendations

- 2.1 The Cabinet is asked to:
 - 2.1.1 Consider and note the comments made by the Audit Committee on 27 June 2018, detailed in Section 7 of the main report.
 - 2.1.2 Consider the proposed changes to the Contract Procedure Rules as set out in Appendix 1 to the main report, and the minor changes in revised page 4.99 as set out in Appendix 1 to the addendum report and recommend them to Full Council for approval.

Lead officer contact

Michael Kelly – Interim Head of Category Management

Email: Michael.kelly@medway.gov.uk Tel: 01634 332284

Appendices

Appendix 1 – Revised page 4.99

SECTION 2 PROCUREMENT PROCESS

2.1 Thresholds and risks

2.1.1 The complexity of the procurement process (Category & Level) to be followed will vary in accordance with the value and risk of the requirement as set out below.

CATEGORY A PROCUREMENTS		
Level	Value	Risk
<u>0</u>	<u>£0 up to £5k</u>	Low
1	0 <u>£5k up to £25K</u>	
2	<u>£25K up to £100K</u>	
CATEGORY B PROCUREMENTS (Subject to the Procurement Gateway Process)		
3	£100K+	Medium
4	Any project deemed 'High Risk/ a key decision ' by Procurement Board	High

2.1.2 Risk Decision Making

In determining the level at which procurement decisions are taken, regard will be had to requirements relating to key decisions as set out in Article 12 and the Leader and Cabinet rules in the Council's Constitution. Any procurement defined as a key decision will be classified as high risk and referred to Cabinet for determination.

- a) A key decision, and therefore one which would constitute high risk, is an executive decision which is likely:
- a. To result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
 - a.b. To be significant in terms of its effects on communities living or working in an area comprising two or more wards in Medway.
- ~~b) A medium risk decision, and therefore one which can be approved without escalation to Cabinet, is one with a value of £100k or more without significant effects.~~
- ~~c) A low risk decision is one which is valued at less than £100k without any significant effects.~~

2.2 Calculating contract value