
REPORT TO Cabinet
General Purposes Committee

DATE: 24 August 2005
15 September 2005

DEPARTMENT: Resources

REPORTING OFFICER: Head of Financial Management
(*Contact - Martin Helm, Audit Manager*)

SUBJECT: **CONTRACT PROCEDURE RULES**

WARDS AFFECTED: None.

FORWARD PLAN REF: N/A

1.0 PURPOSE OF REPORT

1.1 The purpose of the report is to submit the draft revised Contract Procedure Rules to Members for consultation and recommendation to full Council for approval. The draft revised Rules are placed before Cabinet for information and consultation. As the Rules form part of the Council's Constitution, the role of the General Purposes Committee is to recommend them to full Council for approval, taking into account any comments or suggested amendments from Cabinet as it so wishes.

2.0 RECOMMENDATIONS

Cabinet

2.1 That Cabinet notes the proposed revised Contract Procedure Rules attached to this report and makes any suggestions or amendments to the General Purposes Committee it so wishes.

General Purposes Committee

2.2 That the General Purposes Committee considers the draft revised Contract Procedure Rules attached to this report, taking into account any suggested amendments put forward by Cabinet.

2.3 That the revised Contract Procedure Rules attached to this report, amended as considered necessary, are recommended to Council for final approval.

3.0 BACKGROUND INFORMATION

3.1 Work began on revising the Council's Contract Procedure Rules (previously known as Standing Orders Relating to Contracts or SORC's) in 2003. It has taken a considerable amount of time to reach the current position for a variety of reasons including:

- ◆ Delays due to two successive officers from Legal Services, who provided support to this initiative, leaving the Council's employment.
- ◆ Time needed for departments to respond to consultation on successive drafts as they became available
- ◆ Awaiting the publication and enactment of the new consolidated EU Procurement Directive to see whether it would have any potential impact
- ◆ Time needed to develop the Council's approach to using the 'Constructionline' assessment of contractors so that once approved, this could be built into the new Contract Procedure Rules. (This was approved by Cabinet at its meeting on 25 May 2005.)

3.2 More recently, the Procurement Group has agreed a different approach whereby the Rules themselves should only cover the legal and constitutional requirements, and that further explanations and practical guidance should be in a re-written and updated Code of Practice. In earlier drafts, the approach was to try and make the Rules themselves more user friendly by including more narrative explanations, tables and guidance.

3.3 The latest version, as attached to this report, is therefore an update of the existing approved Rules – which includes proposed increases in the financial thresholds and changes in accepting the most economically advantageous tender (ie other than the lowest) to increase flexibility. The guidance etc included in earlier drafts is not abortive work as much of it should be transferable to the rewritten Code of Practice. The Procurement Group containing representatives from all departments has been consulted on the attached draft which has also been endorsed by the Corporate Management Team.

3.4 In his Annual Letter for 2003/04, the District Auditor concluded that the Council does have arrangements to ensure that the internal control arrangements are satisfactory. However, he did comment on the need to complete the review of the Contract Procedure Rules. Completing the review has been highlighted as a "significant internal control issue" in the Statement on Internal Control for 2004/05 which was submitted to the previous meeting of the General Purposes Committee on 28 July 2005.

4.0 MAJOR CHANGES

4.1 Members' attention is drawn to the following major changes between the currently approved Rules and the revised draft attached to this report.

- (i) Inclusion of a power for Chief Officers to approve an exemption from the Rules in situations where there is an unforeseeable emergency involving immediate risks to persons, property or serious disruption to Council services (Rule 1.6)
- (ii) Invitation of Tenders and Quotations (Rule 2). The proposed increases in the financial thresholds are:

	Current £	Proposed £
Quotations (Not compulsory)	Less than £5,000	Less than £10,000
Tenders or if not considered appropriate, Quotations (min 3)	£5,000 to £29,999	£10,000 to £49,999
Tenders must be invited	£30,000 and above	£50,000 and above

European Union Rules apply where the estimated value of contracts exceed the relevant financial thresholds (currently Services £153,376, Works £3,834,411).

- (iii) Standing Approved List: Limited Invitations to Tender (Rule 3.2). This provides for the use of 'Constructionline' for the pre-assessment of contractors in accordance with the recently agreed approach (3.2.3(i)). This also includes the requirement for the Director of Resources to obtain financial reports from a specialist finance organisation (eg Dunn and Bradstreet) where contracts are equal to or exceed £500,000 (3.2.3(ii)). This was as an outcome of the HIC Breakout Space Investigation.
- (iv) Submission of Tenders and Quotations (Rule 7). Note that this section does NOT yet provide for the electronic submission of tenders and quotations. This must be subject to determination of the Council's strategy on eProcurement and subsequently, consideration of the internal controls needed to support it (eg how to maintain confidentiality of bids until they are 'opened' at the due time). Once these have been determined, the Contract Procedure Rules can be updated accordingly.

- (v) Acceptance of Tenders and Quotations (Rule 9). A comparison of the current and proposed arrangements is set out below:

	Current	Proposed
A. Acceptance of verified lowest tender or quotation	Chief Officer	Chief Officer
B. Most economically advantageous tender or quote (ie other than the verified lowest)		
- Quotations but not compulsory	Less than £5,000 Chief Officer	Less than £10,000 Chief Officer
- Tenders, or if not appropriate, Quotations (min 3)	£5,000 to £29,999 Chief Officer (subject to conditions*)	£10,000-£49,999 Chief Officer (subject to conditions*)
- Tenders	£30,000 and over Cabinet	£50,000-£149,999 Chief Officer (subject to conditions*)
		£150,000-£499,999 Cabinet Member
		£500,000 and over Cabinet
- HIC	Up to £500,000 Director after consultation with HIC Board	Up to £500,000 Director, after consultation with HIC Board
	£500,000 and over Cabinet	£500,000 and over Cabinet

*The conditions are:

- (a) Selection of the successful tenderer is made in accordance with predetermined evaluation criteria recorded in writing
- (b) the appropriate Chief Officer consults with the Director of Resources
- (c) the reasons for accepting other than the verified lowest quotation or tender are recorded in writing

(Note that for Other Services Capital Programme schemes, under the Financial Procedure Rules, authority of the Cabinet is required if accepting the preferred tender would exceed the estimate previously reported.)

- (vi) Declaration of Interests (Rule 12). This is a new section.
- 4.2 The existing Rules include appendices on the interpretation and definition of some of the terms used, and the European Public Procurement Regime. In line with the approach now adopted by the Procurement Group, it is suggested that these will be included in the accompanying guidance and Code of Practice.

5.0

NEXT STEPS

- 5.1 During August and September, the accompanying guidance and Code of Practice will be drafted on the assumption that the General Purposes Committee and then Council will approve the revised Rules. The Code of Practice would then be available to support the launch of the new Rules throughout the Authority and the necessary training programme.

Background Papers:

OFFICER CONTACT: Please contact Martin Helm if you require any further information on the contents of this report. The officer can be contacted at Council Offices, Crescent Gardens, Harrogate HG1 2SG, by telephone on 01423 556114 or by email martin.helm@harrogate.gov.uk

SUSTAINABILITY ASSESSMENT/POLICY CONSIDERATIONS

		Implications are		
		Positive	Neutral	Negative
A	Economy		✓	
B	Environment		✓	
C	Social Equity		✓	
(i)	General		✓	
(ii)	Customer Care/People with Disabilities		✓	
(iii)	Health Implications		✓	
D	Crime and Disorder Implications		✓	

If all comments lie within the shaded areas, the proposal is sustainable.

