

Appendix 3 to Minute Number 66

Proposed Amendments (**shown in bold**) to the Code of Procurement Practice

NB: For paragraphs of the Code of Procurement Practice that are not referenced in this, no changes are proposed.

PART 1

5. Responsibilities

5.2 Senior Management Team must in relation to their Service

- Declare any potential conflict of interest to the Head of Finance
- Be responsible for all procurement undertaken
- Ensure all Officers comply with this Code
- Ensure that any Officer delegated to undertake procurement is sufficiently skilled and competent and completes any required learning and development;
- Ensure that all procurement and delegated decision making is within approved budgetary limits and that there are effective systems in place to manage budgets on an on-going basis
- **Ensure the procurement process and contract management aligns with Council policy, including Climate Emergency and Corporate Social Responsibility policies**
- Ensure there are appropriate contract management arrangements in place for all contracts let
- Provide any information requested by the Head of Finance regarding their procurement and contracts.
- Ensure there is a comprehensive documentary record of all Quotation/Tender exercises which will include correspondence/documentation supporting the final award decision.
- Agree contract variations for their Service in consultation with the Procurement Service where required,
- Ensure that in any procurement process involving the transfer of staff into or out of the Council that all applicable statutory obligations regarding TUPE are complied with.
- Where a contract involves the transfer of staff between existing and new providers, for overseeing the TUPE process and supporting outgoing and incoming providers to ensure a smooth transition
- Ensure that all procurement and delegated decision making is within the Council's Scheme of Delegation.
- Consult with the Corporate Management Team as appropriate where any one of the following apply:
 - An innovative approach to procurement is proposed which is significantly different to current practice;
 - A proposed procurement is likely to have a significant impact on the Council's workforce;
 - A proposed contract exceeds the approved budget by £10,000 or more, exceeds the time for completion or is incurring significant risks not initially identified

- Maintain the master 'Contracts Register' on behalf of their Service which includes all live contracts with an aggregate value of £5,000 or above.
- When requested, provide the Head of Finance with details of all proposed contracts with an anticipated aggregate value of £25,000 or above

Part 2

1. Steps Prior to Purchase

- 1.1 Before commencing any procurement, Officers must
- Assess the need for the expenditure
 - Define the objectives of the procurement
 - Calculate the estimated Total Value of the contract
 - Ensure that appropriate approval is in place to commence any procurement process
 - Ensure there is sufficient budget available which covers the whole-life financial commitment being made (including any consultant's or other external charges or fees);
 - Ensure the Council's requirements for IT system security and data security (GDPR) are satisfied where appropriate
 - Ensure any necessary legal, procurement, finance, HR, ICT, risk management, technical support etc. is identified and engaged;
 - Ensure resources with the necessary skills and capacity to manage the contract once it has been let;
- 1.2 For all contracts above the applicable EU threshold for Goods and Services (this includes any projects for 'Works' or projects covered by the 'Light Touch Regime') Officers must in addition to Section 2 point 1.1: -
- Comply with any legal requirements in the Public Contract Regulations or any replacement Regulations approved by the UK Government
 - Comply with the Council's Procurement Gateway Procedure
 - Consider any contract management information and lessons learned from the previous contract where this exists
 - Consult with stakeholders, users and the supply market (in accordance with Section 2 point 5 of this Code) where appropriate
 - When procuring 'Services', consider whether and how through the procurement, improvements to the economic, social and environmental wellbeing of the area might be achieved **and how the procurement can address the declared climate emergency** (Social Value)
 - Carry out an options appraisal to decide the best way to achieve the Council's objectives, including internal or external sourcing, partnering, collaborative procurement with another public body, recycling, reuse etc.
 - Produce a business case and have this approved by a member of the Senior Management Team
 - Assess the potential risks and how to manage them
 - Submit a fully completed PID for approval by the Head of Finance

- Agree the form of contract to be used and the terms and conditions that are to apply to the proposed contract
- Consider the need for a performance bond and/or parent company guarantee.

10. Inviting Quotations and Tenders (Contract Types 2 - 5)

10.1 All Invitations to Quote/Tender shall, as a minimum:

- Be conducted electronically using the Council's approved E-Procurement system or another E-Procurement system approved by the Procurement Service unless agreed otherwise by the Head of Finance
- Be advertised in accordance with the requirements of this Code
- Be issued to at least 3 potential suppliers unless: -
 - There are not 3 suppliers in the market or
 - Where required by the Public Contract Regulations to invite more than 3 suppliers
- Include clear instructions on how and where quotations/tenders are to be returned
- Include the date, time and process for the return
- Include appropriate terms and conditions
- Include a clear specification which describes the Council's requirements and expected levels of **quality including setting out how any social value can be achieved in line with the Council's policies, such as addressing climate change impacts, sustainability issues or other Corporate Social Responsibilities associated with the contract.**
- Specify the time limit (if any) for delivery;
- Describe the criteria and process that will be used to evaluate the bids including any question weightings and sub-criteria that apply **ensuring that the Council's preference towards 'quality' criteria always has a combined weighting higher than that of financial or 'price' criteria**
- **Include Corporate Social Responsibility (CSR) Criteria (including addressing Climate Change) at a combined weighting of 5-15% within the 'quality' criteria, for all contracts over £50,000**
- **Where relevant, consider whether an assessment of the foreseeable element of 'embedded carbon' contained within any tendered offer should be sought.**
- Include a robust and proportionate framework for managing the performance of the contract **to ensure contractors are** capable of evidencing that the contract is delivering the required business benefits/outcomes, **including performance in relation to carbon emissions.**
- Include any supplementary information required by potential bidders to enable them to submit clear and concise bids,
- Require the completion and return of a Form of Tender and certificates relating to canvassing and non-collusion.
- When establishing a framework agreement, a clearly defined process shall be included outlining how call off contracts are to be awarded see Section 2 Point 8 of this Code.