

Regulatory and Other Committee

Open Report on behalf of Pete Moore, Executive Director of Finance and Public Protection

Report to:	Audit Committee
Date:	25 March 2019
Subject:	Changes to the Council's Contract Regulations

Summary:

The report proposes changes to the Contract Regulations in the Council's Constitution, firstly to increase the threshold above which the Council must seek competitive quotes and secondly to amend the thresholds governing who can take decisions to approve exceptions to the Contract Regulations.

The Audit Committee, in accordance with its terms of reference, is asked to consider the proposed changes and recommend to Council meeting for adoption.

Recommendation(s):

That the Audit Committee recommends that the Council, at its meeting on 17 May 2019, approves the amendments to the Contract Regulations forming part of the Constitution, as set out in the tracked changes at Appendix A to the Report.

Background

- 1.1 The Contract Regulations are part of the Council's internal governance mechanisms adopted to deliver efficient and effective administration. Below the EU thresholds set out in paragraph 1.9, the Council can generally lawfully let a contract without prior advertisement or competition. There can be exceptions to this but they are limited. The Contract Regulations set out the contract award processes that the Council has itself adopted in cases below the EU threshold and identifies the decision makers in that process.
- 1.2 Since 2016 the Council's Contract Regulations have required officers to request three written quotations based on a Request for Quotation ("RFQ") document with appropriate contract terms and conditions for all contracts over £5,000. Prior to 2016 direct approaches were permitted to a single supplier for anything below £10,000.

- 1.3 Direct approaches to a single supplier are popular with the market. This is particularly the case for small and medium sized enterprises as the reduction in official procedures makes the Council's business more available to them. Small and medium size enterprises (SMEs) form a significant proportion of the Lincolnshire economy and therefore the establishment and growth of SMEs is an important consideration for the Council. One way in which such growth can be encouraged is to enable SMEs more easily to carry out work for the Council.
- 1.4 Although generally competition can lead to increased value for money and potential savings for the Council the level of savings on contracts below £10,000 is not significant and may well be outweighed by the officer time spent in putting together RFQ documents, seeking and evaluating quotes. It is felt that the time saved could be better utilised on higher value activity such as improved contract and supplier management or in consideration of how innovation might streamline or improve services.
- 1.5 When the threshold was reduced in 2016 there were also concerns that this additional administrative burden on the Council and schools would mean non-compliance would simply increase or that the low value would act as an incentive to break the purchase of goods/services up to reduce the value under £5,000, and then have further purchases via a purchase order rather than going through the process of gaining a number of quotes or an exception report. Whilst it is difficult to know whether in fact this has happened there is certainly potential for it.
- 1.6 A review of the thresholds operated by other authorities from their websites shows the Lincolnshire Districts have a threshold of £5,000 with the exception of South Kesteven District Council which is £10,000. South Yorkshire County Council has a threshold of £25,000 and Derby City Council £10,000.
- 1.7 On the basis of the potential to improve the participation of SMEs in carrying out work for the Council and to release officer capacity it is proposed that the Low Value Procurement Threshold set out in paragraph 3.3 of the Contract Regulations In Appendix A below which officers may make a direct approach to a single supplier without requesting competitive quotations is increased from £5,000 to £10,000.
- 1.8 It is further proposed that the Medium Value Procurement upper threshold above which purchases will require four rather than three written quotations based on a Request for Quotation ("RFQ ") document with appropriate contract terms and conditions is increased from £15,000 to £25,000. This is primarily to encourage SMEs to participate by increasing their chances of success.
- 1.9 As indicated the Council's Contract Regulations set out the contract award process that must be followed and identify the appropriate decision makers for contracts below the EU thresholds set out below:

- £181,302 for Non-Health and Social Care Services Contracts.
- £615,278 for Health and Social Care Services Contracts.
- £4,551,413 for Works Contracts.

1.10 The Contract Regulations recognise that in exceptional cases an alternative route to the usual contract award process might be appropriate. Currently approval to follow an exception route is obtained from;

- a) Chief Officers where the contract has an Estimated Total Contract Value between £10,001 and £75,000.
- b) Executive Councillors for contracts with an Estimated Total Contract Value between £75,001 and £250,000.
- c) Executive for contracts with an Estimated Total Contract Value over £250,000.

The above thresholds have been the same for many years and have not increased in line with increases in prices.

1.11 Under the proposed new Procurement Strategy which will be considered by Overview and Scrutiny Management Board and the Executive in April and May 2019 respectively, as part of the efficiency approach, there is a commitment to reduce the number of bespoke procurements by increasing the use of Framework Agreements and exploring greater use of direct awards where appropriate and lawful.

1.12 To facilitate that and to update the thresholds it is proposed that:

- a) Chief Officer approval would be required to an exception route for contracts valued at up to £250,000 subject to the Chief Officer consulting with their Executive Councillor on all exceptions where the contract value exceeds £75,000.
- b) Executive Councillor' approval would be required to an exception route for contracts valued between £250,000 and the Health and Social Care Services Contracts EU Threshold as varied from time to time (currently £615,278).
- c) Executive approval would be required to an exception route for contracts valued at over the Health and Social Care Services Contracts EU Threshold as varied from time to time (currently £615,278).

1.13 This would speed up decision making and streamline the process, releasing resource. The officer decisions in particular (i.e. those under £250,000) would not be key decisions and therefore would not be required to be entered on the forward plan. Nor would they be subject to call in. Although this may lead to less scrutiny, it would enable the Council to respond more quickly. This would be of particular value for Social Care Services Contracts where central government money can be made available on the understanding that it must be spent quickly for example to alleviate winter pressures.

1.14 These extensions are consistent with Chief Officers' general powers to undertake the day to day management and control of their Directorate/office including the power to place contracts and are commensurate with the

values they expend doing so. Member oversight would be maintained by the requirement for Chief Officers to consult with their Executive Councillor on contracts worth more than £75,000. For these reasons it is not felt that there are any increased financial or other risks to the Council should the changes be agreed.

3. Conclusion

The proposals are put forward because they will streamline the procurement process, speeding it up at the same time as saving resource. The proposals to increase the direct award threshold and to only require three quotes for purchases between £15,000 and £25,000 will benefit Lincolnshire's SMEs.

Consultation

a) Have Risks and Impact Analysis been carried out?

Yes

b) Risks and Impact Analysis

Set out in the body of the report

Appendices

These are listed below and attached at the back of the report	
Appendix A	Proposed changes to the Contract Regulations

Background Papers

Document title	Where the document can be viewed
Council's Contract Regulations in Part 4 of the Constitution	Democratic Services

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