

UPDATE AND REVISION OF THE COUNCIL'S CONTRACT REGULATIONS

To: **Cabinet**

Date: **Monday 17th September**

From: **LGSS Director of Law & Governance**

Electoral division(s): **All**

Forward Plan ref: **2012/003** Key decision: **Yes – *Council decision***

Purpose: **To inform Cabinet of the proposal to update the Contract Regulations for Cambridgeshire County Council (CCC)**

Recommendation: **It is recommended that Cabinet:-**

- a) approve the content of the proposed Contract Regulations (attached in full as appendix 2 and as a summary table in Appendix 1).**
- b) Note the recommendations from the Resources and Performance and Overview Scrutiny Committee and agree the proposed response to their findings (attached as Appendix 3).**
- c) submit the draft Contract Regulations to Full Council on 16th October for final approval.**
- d) recommend to Full Council that it delegate authority to the Monitoring Officer, in consultation with the Chairman of the Constitution & Ethics Committee, to make all necessary and or incidental amendments to the Constitution in order to bring the new Contract Regulations into effect from Monday 29th October 2012.**

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1. BACKGROUND

- 1.1 The Council's Contract Regulations are designed to promote good purchasing practice and thereby achieve best value, provide appropriate governance, public accountability and also deter corruption.
- 1.2 As part of a periodic review of the Contract Regulations members of the Procurement and Legal Teams undertook a comparison of the Cambridgeshire County Council (CCC) regulations against other similar authorities. The Officers concluded that there were a number of potential benefits to be derived by amending the existing CCC regulations including the following:-
- i) Simplification to enhance ease of use and compliance;
 - ii) Update to take account of recent legislative changes;
 - iii) Reflect changes in approach to procurement achieving benefits for local economic and social well being;
 - iv) Enhance governance to reduce risk of abuse;
 - v) Align the CCC regulations and Northamptonshire County Council (NCC) regulations to facilitate collaborative procurement and combined best practice between the two authorities.
- 1.3 Consultation with senior service area stakeholders has also been conducted to gain their input from a service area perspective and the practicalities of their delivery. This proposal has also been to Strategic Management Team (SMT) had been discussed with Cabinet Members and was also submitted to the Overview and Scrutiny Committee. The latter decided to submit their comments and findings to Cabinet, which are attached as Appendix 3 together with the proposed response. The Chairman of the Committee, Councillor Fred Brown, will present the findings to Cabinet. This proposal was also shared with members of the Audit and Accounts Committee for their consultation and it was accepted that the report should go to Cabinet for approval.

2. MAIN ISSUES – (SUMMARY OF PROPOSED CHANGES TO THE CONTRACT REGULATIONS)

- 2.1 Proposed changes to thresholds for use of informal quotations, formal quotations and tenders that define the normal procurement approach based on balancing commercial risk, need for simplification and reducing barriers for Small, Medium Enterprises. This is explained in more detail in Appendix 1.
- 2.2 In line with the Government's agenda on localism and supporting Small, Medium Enterprises these regulations facilitate the selection of bidders from that category by recognising community benefits and ensuring procurement processes are not so complicated and burdensome as to effectively exclude small businesses from tendering.
- 2.3 The European procurement directives explicitly prohibit authorities from directly favouring local businesses, or limiting tenders to businesses based in a particular geographical area. In the UK, public authorities are also obliged to

obtain value for money in procurement and there is a specific duty on councils to make arrangements to secure "best value". The Regulations aim to achieve the above agenda without infringing on European Union (EU) or UK law by addressing specific clauses on supporting Local Small, Medium Enterprises and Voluntary Sector organisations and introducing a simpler bidder process up to £100,000 in spend. This is explained in more detail in Appendix 1.

- 2.4 Mandating the use of Council's central contract register to record contracts over £30,000 to meet our data transparency obligations and improve tender planning.
- 2.5 Clear lines of Officer, Chief Officer, Procurement Team and Legal Team responsibilities, addressing who and at what point an individual is accountable.
- 2.6 More recognition of specific types of procurement and contracting and any specific approvals these may require e.g. consultancy, leasing etc.
- 2.7 An updated exemption process detailing the circumstances under which exemptions will be considered, this is explained in more detail in Appendix 1.
- 2.8 Recognition of electronic procedures and new team structures within the Council. Recognition of the transparency agenda and EU Regulations on Remedies, reflecting how we conduct a tender process e.g. standstill periods, new rules on evaluating and communicating the results of tender processes.
- 2.9 The current Contract Regulations are a mix of specific instructions and guidance. To avoid this confusion continuing the revised Contract Regulations will concentrate on the "do's and don'ts" with a separate Procurement Best Practice Guide describing the "why and how".
- 2.10 The regulations themselves have been split into clearer sections and now include a summary table of key thresholds. A glossary of procurement terminology is also included in the interests of clarity.

3. ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING

3.1 Developing the local economy for the benefit of all

The report above sets out the implications for this priority in ref 2.1 to 2.3.

3.2 Helping people live healthy and independent lives

The report above sets out the implications for this priority in paragraph 2.

3.3 Supporting and protecting vulnerable people

The report above sets out the implications for this priority in paragraph 2.
Ways of Working

The report above sets out the implications for leadership, working locally, investing in growth in paragraph 2.

4. SIGNIFICANT IMPLICATIONS

None.

4.1 Resource and Performance Implications

Ensuring awareness and understanding of the new regulations and the accountabilities is important. The launch of the new Contract Regulations will be supported by:

- Training events for officers.
- Introduction and awareness briefings for Members.
- Continued dialogue with organisations representing local businesses.

4.2 Statutory, Risk and Legal Implications

The contract regulations review has been conducted in conjunction with the Council's legal services team and audit team and the overall direction of this document led by the Monitoring Officer to ensure mitigation against any legal and statutory implications and to mitigate risk.

Following approval by Full Council, the Financial and Contract Regulations within the Council's constitution (which reflects and summarises the current regulations) will need to be updated by the Monitoring Officer to reflect the new regulations.

4.3 Equality and Diversity Implications

The regulations do not conflict with any Equality and Diversity laws. The proposed new regulations reflect requirements under the EU Regulations which address equality, openness and fairness.

4.4 Engagement and Consultation Implications

See 1.2 and 1.3 of this document

4.5 Public Health Implications

None

SOURCE DOCUMENTS GUIDANCE

Source Documents	Location
<i>Proposed Contract Regulations</i>	Appendix 2 of this report