


REPORT TO Audit and Risk Assurance Committee

22 February 2018

Subject:	Procurement and Contract Procedure Rules 2018/19
Director: <i>(Insert all that apply from drop down choice).</i>	Darren Carter, Executive Director: Resources
Contribution towards Vision 2030: <i>(Insert all that apply from drop down choice).</i>	
Contact Officer(s): <i>(Enter the name, position and email address for each officer).</i>	Karen Boden, Procurement Services Manager

DECISION RECOMMENDATIONS

That the Audit and Risk Assurance Committee :

1. Review and comment upon the attached proposed changes to the Procurement and Contract Procedure Rules.

1 **PURPOSE OF THE REPORT**

- 1.1 The Council as a body using public resources must set and follow the highest possible standards of financial control and stewardship. The Procurement and Contract Procedure Rules provide elected members and officers with procedures to follow that will ensure the Council's expected standards are met in managing public assets and money. In addition, officers can feel confident that in the event that they have to justify their actions to elected members, auditors, management or the public they will have no difficulties provided they have followed procedures.
- 1.2 The Section 151 Officer is responsible for ensuring that an annual review of the Procurement and Contract Procedure Rules is conducted, and for submitting any proposed amendments to the Cabinet and to Full Council for approval.

- 1.3 This report sets out the review that has taken place and the proposed amendments to the Procurement and Contract Procedure Rules for 2018/19.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 The successful delivery of Vision 2030 will depend upon strong partnership relationships and the ability of the council to adopt innovative ways of working. In some cases, this will mean a focus on co-design and co-production with other agencies, rather than a traditional procurement process, to achieve significant outcomes.
- 2.2 The changes to the Procurement and Contract Procedure Rules will enable all services across the council to achieve value for money in their purchasing and procurement activity and ensure that an options appraisal is carried out on the most appropriate route to achieving the required outcomes. Therefore, the recommendations of this report will contribute to the overall delivery of Vision 2030.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 A Lean Review of the Corporate Procurement Service identified that there was a need to reduce non-value-added processing activity, enable services to work smarter and clarify roles and responsibilities both within the Procurement Service and across the council. The Procurement and Contract Procedure Rules were updated in 2016 following this review to reflect updated regulations and provide clarity of roles and responsibilities at all levels of the Council.
- 3.2 Since the Lean Review, the council has agreed Vision 2030, the successful delivery of which will depend upon strong partnership relationships and the ability of the council to adopt innovative ways of working. In some cases, this will mean a focus on co-design and co-production with other agencies, rather than a traditional procurement process, to achieve significant outcomes. The Procurement Service will have a key role enabling the council to achieve Vision 2030 by:
 - building a collaborative approach to Social Value, engaging commercial organisations to maximise local outcomes;
 - enabling the council to fully exploit opportunities for collaborative working with partners to achieve value for money; and
 - the building of resilient, compliant, ethical and sustainable procurement practices that are fit for purpose now and in to the future.
- 3.3 Further changes to the Rules are required to enable the authority to achieve its ambitions under Vision 2030. Changes are also required to take advantage of streamlined processing and to release resources in the

Corporate Procurement Service to focus on providing high quality advice and guidance to the rest of the council, and achieving value for money from corporate contracts.

3.4 The proposed changes to the Procurement and Contract Procedure Rules are as follows:

Section Heading	Current Rules	Proposed Changes
3 Roles & Responsibilities	Cabinet Member for Core Services approves Exemptions to the Rules for Contracts below £250,000 and Minimal Quotes/Tenders	Chief Finance Officer (or Chief Executive when services fall within Chief Finance Officer remit) approves Exemptions for Contracts up to £250,000. Relevant Chief Officer to approve Minimal Quotes/Tenders up to £250,000. Included Service Manager – Procurement responsibilities
7 Procurement Cards	No specific monetary value included – cards used where Purchase Order cannot be used, e.g. online transactions or in place of petty cash. Cannot be used where a contract is in place.	Cards to be used for any requirements up to £250 where no contract is in place. Procurement Card can be used for transactions above £250 where Purchase Orders cannot be used (e.g.in place of petty cash). Cannot be used where a contract is in place.
8 Values and Advertising Thresholds – Table	No provision included for use of procurement cards.	Banding for use of Procurement Cards included.
	Responsibility for procurements above £5,000 sits with Corporate Procurement Team (other than Public Health/Social Care Contracts)	Responsibility for procurement activity below £50,000 moved to Service Areas.
	£100,000 and above 4 Tenders to be obtained.	£100,000 and above 3 Tenders to be obtained.
	Cabinet Member for Core Services would approve minimal quotes/tenders exemption.	Chief Officers to approve where two quotes/tenders received up to contracts of £250,000. Where one quote/tender received, an Exemption is required as in Section 15 below.
10 Provisions Applicable to All	Provision for Pre-market Engagement and consultation included.	Expanded to include the requirement for an options appraisal to be undertaken to

Section Heading	Current Rules	Proposed Changes
Procurement Activity		<p>ensure that full consideration is given to Vision 2030, Social Value and working with partners through co-design or co-production.</p> <p>Also, the addition of Allocation of Resources and Authority to Act.</p> <p>Specification clause expanded to include requirement to ensure that Social Value is linked to requirements.</p> <p>Reference to Corporate Procurement Annual Plan.</p> <p>Inclusion of clause to cover General Data Protection Regulation.</p>
11 Contract Award Criteria	60% Price / 40% Quality as standard, with ability to flex to meet needs of the market with approval from Procurement Services Manager	<p>60% Price/40% Quality remains as current Rules.</p> <p>However, officers to consider setting aside 5-30% of the quality score for Social Value (unless SV is included within specification). The Council's Social Value Policy is being updated to align to Vision 2030, but it is anticipated that it will reflect the West Midlands Combined Authority Social Value Policy.</p>
15 Exemptions to Procurement & Contract Procedure Rules	Currently need for approval by Cabinet Member for Core Services.	<p>Amendments to responsibilities made to fall in line with council's Scheme of Delegations.</p> <p>Chief Finance Officer (or Chief Executive when services fall within Chief Financial Officer remit) to approve exemptions for contracts up to £250,000.</p> <p>Quarterly report to Cabinet Member for Core Services</p>
20 Children/Young People Care, Adult Care and Public Health Contracts	Currently includes reference to one off and specialist providers.	Clauses removed where activity transfers to the approved Exceptions List – removes requirement for exemption for known sole providers included in the list
Appendix A	Not in current Rules	Approved Exceptions List which will be approved quarterly by Chief Finance

Section Heading	Current Rules	Proposed Changes
		Officer and Monitoring Officer then reported to Member for Core Services.

- 3.5 The proposed changes represent a change in practice for commissioning services, taking on responsibility for non-contract purchases up to £250 and quotation activity up to £50,000. In order to ensure a smooth transition to these new arrangements, a transition management plan has been established. This includes the development of clear templates, guidance and training for commissioners, as well as support offered by the Corporate Procurement Service. This will include training on the council’s e-tendering portal to ensure that advertising, evaluation and selection is carried out in compliance with the Rules.
- 3.6 A key change is the introduction of the requirement for commissioning officers to conduct an options appraisal prior to commencing procurement activity. This will ensure that officers consider all routes to achieving the desired outcomes, such as co-production or co-design. It will also ensure that appropriate levels of pre-market engagement take place to determine what and how the market can deliver – this will not only ensure that specifications are more realistic, but also that discussions can take place with providers around the delivery of added Social Value on contracts
- 3.7 The updated Rules will require commissioning officers to consider allocating between 5% and 30% of the total evaluation score to the added Social Value that the contract will bring. This increased emphasis on driving added Social Value from contracts will contribute to the achievement of the Vision 2030 ambitions. The council’s Social Value Policy is currently being reviewed to give commissioning officers and providers greater clarity on the desired outcomes to be achieved (linked to Vision 2030) and how to build this into procurement and contract management activity.

4 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 4.1 The Lean Review engaged with stakeholders on their experience as customers of the service. Their feedback informed the development of the policy changes referred to in this report. Senior management and members have been consulted with on the proposed policy changes to ensure their needs will be met and they are prepared for the changes.

5 ALTERNATIVE OPTIONS

- 5.1 This report sets out proposals to change the Rules to enable a more streamlined procurement and purchasing service. The alternative to these changes would be to continue with the existing version of the Rules. To

do this would mean retained the current inefficient practices across the council, and reduce the capacity in the Corporate Procurement Service to drive improved procurement activity across the council.

6 STRATEGIC RESOURCE IMPLICATIONS

- 6.1 There are no cost implications arising directly from the revised Procurement and Contract Procedure Rules; however, they do provide the framework to ensure that procurement activity is undertaken in compliance with Public Procurement Regulations. They apply to every Member and employee of the Council and anyone acting on its behalf.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

- 7.1 All procurement activity carried out by Sandwell Council is governed by the council's Procurement and Contract Procedure Rules, which must be read in conjunction with the Financial Regulations. These set out the procedures that members and officers must follow in order to ensure statutory requirements are met in terms of UK and EU law and the Council's financial affairs are managed prudently and properly controlled.
- 7.2 Council procurement is governed by the Public Procurement Regulations 2015 and the Public Services (Social Value) Act 2010. The updated Procurement and Contract Procedure Rules remain compliant with this legislation.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An initial Equality Impact screening was carried out on these proposals, which determined that a full Equality Impact Assessment was not required.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 The proposals in this report do not relate to changes in the management of personal data, and therefore have no impact on data protection.

10 CRIME AND DISORDER AND RISK ASSESSMENT

- 10.1 There is no specific impact on crime and disorder as a result of these proposals.

11 SUSTAINABILITY OF PROPOSALS

- 11.1 These proposals have been developed to deliver a strategically focused procurement service that will enable the council to achieve its Vision 2030 over the medium term.

12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 12.1 Social Value is currently considered as part of every procurement activity to ensure that the council seeks added benefit to the community through its relationships with suppliers. The updated Procurement & Contract Procedure Rules places greater emphasis on commissioning services conducting pre-market engagement and considering the best route to achieving desired outcomes before commencing a procurement exercise, to build Social Value into what and how we buy.

13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 13.1 This proposal does not have any impact on council managed property or land.

14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 14.1 The proposed changes to the Procurement & Contract Procedure Rules have been developed following feedback from key stakeholders, as well as redesigning the processes to focus on value added activity within the Corporate Procurement Service and across the council.
- 14.2 The introduction of a pre-procurement options appraisal as a requirement will ensure that commissioning services consider the most appropriate route to achieve the desired outcomes. This may result in co-design of services rather than traditional procurements. Combined with an increased emphasis on driving Social Value from procurement activity, these proposed changes will enable the council to maximise opportunities to achieve Vision 2030.

15 BACKGROUND PAPERS

- 15.1 None

16 APPENDICES:

1 – Procurement & Contract Procedure Rules