

REVIEW OF THE CONSTITUTION: PROCUREMENT AND CONTRACT STANDING ORDERS

Reporting Officers: Borough Solicitor / Head of Democratic Services

SUMMARY

Council is asked to agree a refreshed and single set of Standing Orders for Procurement and Contracts as part of the Constitution.

RECOMMENDATIONS: That:

- a) **the new version of Procurement and Contract Standing Orders, as set out in Appendix 1, be approved to replace the current version in Part 4 Schedule H of the Council's Constitution.**
- b) **the Code of Practice attached to the current version of Procurement and Contract Standing Orders in the Constitution cease to have effect**
- c) **authority be delegated to the Chief Executive, in consultation with the Leader of the Council and Cabinet Member for Co-ordination and Central Services to initially approve and if necessary, to subsequently amend and update a set of Procurement Standard Operating Procedures which are to read together with the new version of Procurement and Contract Standing Orders.**
- d) **the Head of Democratic Services be authorised to amend related articles and sections within Constitution to comply with the changes outlined above.**

INFORMATION

Hillingdon's decision-making process requires for the majority of contract decisions to be determined by the Cabinet or a Cabinet Member(s) to provide for important Member oversight and accountability when using public monies.

These decisions are based on the Procurement and Contract Standing Orders. They are a key part of the Council's constitution and were last reviewed in 2006 – over 5 years ago. They provide the framework within which the Council undertakes tender exercises and procures goods, works and services.

They currently exist under Schedule H of the Constitution and comprise of the following sections:

- Standing Order 1: Procurement and Contract Standing Orders
- Standing Order 2: Social Care Contracts
- Standing Order 3: Property Contract Standing Orders
- Code of Practice

The Head of Procurement, working closely with Legal Services, Democratic Services and the Cabinet Member for Co-ordination and Central Services has recently comprehensively re-worked all the Standing Orders in order to strengthen the Council's corporate approach to procurement and also seek greater compliance by Officers.

This re-work has allowed for the synchronisation of the Social Care and Property Contract Standing Orders in the Constitution into a single set of Standing Orders. In addition, it has given the opportunity to streamline the amount of wording, so that it is far clearer.

It is not proposed to change any of the primary financial thresholds for accepting tenders or related property decisions, other than to introduce a new informal written Cabinet Member approval for contract decisions valued between £10k and £50K (values, which are currently delegated to officers). However, it is proposed to bring single tender and contract extension thresholds inline with those for competitive tenders, as set out in Appendix 1. Rules on exceeding originally agreed contract values prices have also been strengthened.

The Standing Orders have also been updated to reflect changes in procurement rules nationally as introduced under the Public Contract Regulations 2006 (as further amended in December 2009).

The proposed single set of Standing Orders for Procurement and Contracts is attached as Appendix 1.

Code of Practice

An associated 'Code of Practice' accompanies the Standing Orders in the Constitution at present and provides more detailed guidance on the Standing Orders as opposed to the rules themselves.

The updated Standing Orders remove the Code of Practice from the Constitution and refer to the Procurement Standard Operating Procedures, which are currently being completed. These procedures are the internal business process to be followed by Officers in order to conduct compliant procurement activity to satisfy the requirements of the Standing Orders.

It is therefore proposed that Council gives delegated authority to the Chief Executive, in conjunction with the Leader of the Council and Cabinet Member for Co-ordination and Central Services to initially approve, and subsequently amend as required, the Procurement Standard Operating Procedures. Such a decision would give flexibility when any future changes are made to the guidance, e.g. through improved internal processes or departmental changes.

Whilst the 'Code of Practice' would therefore cease to form part of the Council's Constitution, the Standing Orders will remain an integral part of it.

Financial implications

Robust control of external expenditure committed through supplier contracts is imperative for the Council to effectively manage its financial position. The proposed changes to Standing Orders ensure that these controls are in place and that all procurement activity is conducted and approved in a compliant manner.

To ensure that such controls are embedded effectively in the organisation, the introduction of the Procurement Standard Operating Procedures will ensure that officers

are aware of and understand the business processes required for them to undertake this activity.

The Chief Finance Officer therefore supports these recommendations.

Legal Implications

The revised Procurement and Contract Standing Orders are designed to facilitate strengthening the Council's procurement processes as a whole and achieving optimum value for money at a time when the Council is facing ever increasing pressures on its budgets.

The revisions also take into account the significant recent changes to public procurement law such as the introduction of the EU Remedies Directive which has amended the Public Contract Regulations 2006 and affects all procurement contracts commencing after 20th December 2009. This recent legislation has improved access to rapid and effective review procedures for suppliers who wish to challenge the legality of public authorities' procurement processes and there is evidence that such challenges have significantly increased in recent years.

The revised Procurement and Contract Standing Orders will help the Council to resist successful challenges to its own procurement processes.

BACKGROUND PAPERS: Council Constitution