

Title of meetings:	Governance and Audit and Standards Committee Council
Date of meetings:	6 November 2015 10 November 2015
Subject:	Contract Procedure Rules
Report by:	City Solicitor
Wards affected:	All
Key decision:	No
Full Council decision:	Yes

1. Purpose of report

To seek the adoption of revised Contract Procedure Rules to be implemented in place of those approved on 20th July 2010.

2. Recommendations

That the Governance & Audit & Standards Committee

- (1) Agree the proposed changes to the Contract Procedure Rules as set out as Appendix 1 to this report and**
- (2) Recommend the revised Contract Procedure Rules be adopted by Council and brought into force from 1 January 2016.**

3. Background

The current Contract Procedure Rules were adopted by the Council in 2010 and have not been updated since that date. As a result they do not reflect the most up to date legal requirements and practice.

There has also been significant case law interpreting both European and UK procurement procedures.

The effect of the case law and general developments in procurement processes has resulted in the adoption by the European Union of new directives relating to procurement. The UK government is obliged to bring these directives into UK law which it has done with the Public Contract Regulations 2015 which came into force on 26th February 2015. In these regulations the government has also implemented measures designed to make public contract opportunities more accessible to small and medium enterprises.

In addition to this the Council has introduced new procedures, for example Category Management, the Grantway process and the Strategic Management Process, which are not included in the current rules.

The opportunity has also been taken to make the Contract Procedure Rules compatible with an electronic format by including hyperlinks to guidance documents. The Contract Procedure Rules are more outcome based, and are designed to provide appropriate levels of flexibility, in conjunction with targeted oversight.

4. Reasons for recommendations

The Contract Procedure Rules followed by the Council should reflect current law and practice, and should also reflect the Council's approach to risk management. Accordingly they need to be updated to ensure that any risk to the Council caused by a failure to comply with legal requirements is kept to a minimum. The rules should also be in a form which gives as much information, as clearly as possible to those budget holders procuring contracts on behalf of the Council. The revised format of the Rules is considered to achieve that objective.

The Contract Procedure Rules divide contracts into types, depending on the sum of the contract value, and whether they are strategic, operational or transactional. These types are more fully described below:

By Value:

Low - Under £5,000

Medium - Between £5,000 and £100,000

High - Over £100,000, which includes contracts whose value exceeds the EU thresholds for Service and Works contracts of £174,000 and £3,100,000 respectively.

By Type

Strategic - contracts are over four years duration or have a lifetime value in excess of £4 million or is critical to the ongoing effective operation of the council with a supplier market of 3 or less or is annually renewable and has been in place for four years or more or has a high service or reputational risk for the Council.

Operational - contracts are over 18 months but less than four years in duration, or have a lifetime value between £400,000 and £4 million, or is a contract for major equipment requiring ongoing maintenance.

Transactional - contracts are those with a duration of less than 18 months (including extensions) or have a lifetime value under £400,000

or, are a one off supply contract for a product with no ongoing maintenance.

The management and control of risk, in terms of quality assuring tendering, checking for the necessity of a given procurement, and the risk as to the compliance of a given tender with the law on procurements, is assured by way of regular reviews of the procurement practices of budget holders by the Procurement Service through the application of Contract Procedure Rules, Gateway and Grantway processes, overview by the City Solicitor and Section 151 officer and the requirement for all procurements to comply with the Council's Financial Rules. Contract management will be overseen by the Strategic Contract Review Board and the Governance and Audit and Standards Committee.

5. Equality impact assessment

An equality impact assessment is not required as the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010

6. Legal implications

Legal comments are contained within the body of this report.

7. Director of Finance's comments

This review of the Contract Procedure Rules reflects the requirements of Financial Rules that are put in place so that the City Council can meet all of its statutory responsibilities for the proper financial stewardship and safeguarding of public funds as required by law.

These revised Contract Procedure Rules need to be read in conjunction with the Financial Rules.

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Signed by:

Appendices: Appendix 1 - Draft Contract Procedure Rules

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: