

SURREY COUNTY COUNCIL**CABINET****DATE: 27 OCTOBER 2015****REPORT OF: MS DENISE LE GAL, CABINET MEMBER FOR BUSINESS SERVICES****LEAD OFFICER: JULIE FISHER, DEPUTY CHIEF EXECUTIVE****SUBJECT: REVISION OF PROCUREMENT STANDING ORDERS****SUMMARY OF ISSUE:**

The Procurement Standing Orders (PSOs) set out how the Council governs spending by Officers on goods, works and services. The PSOs need revision to take account of recent changes in the law, and to update them to ensure they reflect best practice and Council priorities, including partnership working.

RECOMMENDATIONS:

It is recommended that:

Cabinet notes proposed changes to Procurement Standing Orders (PSOs) and commends them to full Council for final approval.

REASON FOR RECOMMENDATIONS:

To provide support for adoption of the revised Procurement Standing Orders (PSOs) by full Council.

The PSOs have been updated to take account of:

- The new Public Contract Regulations 2015 (as described in more detail in paragraph 3, part viii)
- best practice updates for lower value contracts from Lord Young recommendations aiming to making it easier for small and local businesses to tender for contracts
- the Local Government Transparency Code on publication of data
- closer alignment of procurement practices to support effective collaboration and partnership working, including extension of the existing partnership with East Sussex County Council whilst still respecting the sovereignty of individual Council requirements
- improvements to purchasing processes intended to speed up transactions and ensure proper compliance
- improvements to strengthen contract management and management of contract variations and extensions
- updates to reflect best practice around electronic invoicing

<u>DETAILS:</u>

Business Case

1. The Procurement Standing Orders (PSOs) set out how the Council governs spending by Officers on goods, works and services, on consultants and contractors, and on direct care services. The PSOs cover all spend with external suppliers regardless of the source of funding (for example, revenue, capital, ring-fenced government money and/or any grant or third party funding). In the case of awarding grants, the PSOs refer to the Grants Procedure, which was the subject of a separate Cabinet Report in September 2013.
2. These PSOs have four main purposes:
 - To secure **value for money** through appropriate market competition for contracts, so that we offer best value for services to Surrey residents.
 - To be **transparent** to our residents about how we spend their money.
 - To make sure we spend public money **legally and fairly**, and to **protect** us from undue criticism or allegation of wrongdoing.
 - To support **sustainability** and social value objectives, and our public sector equality duty
3. Amendments have been included to reflect changes in legislation and in order to ensure that the Council maintains a fit for purpose set of guidance and rules to govern the procurement process. In summary the changes are as follows:
 - i. Clearer roles and responsibilities, especially in relation to partnership working with East Sussex County Council and other potential partners via Orbis. This includes but is not limited to explaining:
 - a. The role of the Procurement Review Group
 - b. The role of Business Operations in supporting quotation processes and associated publications
 - c. A clear governance process for establishing and using a 'Select Supplier List' for managing lower value contracts and spend
 - d. Clear approval for publication of notices in the Official Journal of the European Union (OJEU)
 - ii. An increase in the threshold for seeking 3 quotations from £10k to £15k to re-balance the need to ensure good value for money with minimising paperwork and processes for more modest levels of spend. It is intended that this will also support smaller suppliers participate in procurement and contract awards.
 - iii. For all contracts, greater flexibility on required insurance levels from suppliers to make it less onerous for smaller companies to obtain work from the Council
 - iv. Updating Conflicts of Interest to reflect commercial and income generation, as well as collaboration considerations
 - v. The transparency obligations from the Local Government Transparency Code
 - vi. Updated requirements to publish notices nationally on Contracts Finder for lower value contracts (over £25k in value) when they are advertised and awarded
 - vii. Purchasers are encouraged to use local suppliers for purchases under £100,000 where they offer best value for money

- viii. Reflect the new Public Contract Regulations 2015 which implement the new EU Public Sector Procurement Directive (2014/24/EU) and were implemented into UK law in February 2015. This new legislation aims to modernise rules for the procurement of goods, services and works above thresholds by public authorities. The Council has been fully compliant with the new legislation, and the suggested changes to the PSOs would reflect this into our own constitution. This includes updated information on procurement procedures, introduced in the Public Contract Regulations 2015:
- The 'Innovation Partnership' procedure intended to identify partner/s develop substantially new services, goods and even works compared to those currently available on the market so requiring investment in development / research.
 - The "Light Touch Regime" is the newly introduced procedure for Social Care, Health and Education service contracts. With a new threshold value (£625,000) we are now obliged to place contract adverts in the Official Journal of the European Union (OJEU) and run a fair and transparent procurement process to award contracts over this value, as well as debriefing bidders and observing a standstill time when awarding contracts as has always been the case for other service contracts.
- ix. Includes known implications of new Public Concessions Directives 2014 in advance of their transposition into UK law as regulation to ensure compliance when procuring concession contracts over £4.3m in value. Concession contracts are those where part or all contract funding originating from exploiting opportunities, as well as transferring risk to the supplier e.g. operation of a toll road.

Background

4. The PSOs set out how the Council governs spending by Officers on goods, works and services and cover all spend with external suppliers. The actual mechanism through which the Council makes purchases varies as appropriate depending on the type and nature of the activity. This includes:
- Raising purchase orders through the Councils ERP system and issuing these to a supplier;
 - The use of appropriate specialist business systems, for example within Social Care for the buying of care packages, and within Property Services;
 - The use of Council issued and controlled Purchase Cards.
5. There are separate controls in place for all of our purchasing processes, including for the rules and guidelines under which the Surrey County Council Purchase Card scheme operates (which is underpinned by the Procurement Standing Orders).
6. Purchase cards can be an efficient and cost effective method for low value purchases of goods and services for council use, particularly for certain types of one-off purchases from suppliers with whom we will not trade again. They also reduce the paperwork and administrative effort involved in processing requisitions, purchase orders and invoices.

CONSULTATION:

7. In amending the PSOs we have taken into account good practice at other Local Authorities, and across the wider public sector. This has included reviewing standing orders and supporting policies from other county and unitary authorities across the South East.
8. The revised Orders were prepared in consultation with Finance, Legal, Audit, Business Operations, and a focus group of purchasers from front-line services.
9. The Statutory Officers Network also reviewed the proposed amendments to the Orders.

RISK MANAGEMENT AND IMPLICATIONS:

10. A process of regular review and updating of the Council's Procurement Standing Orders helps in managing any risks associated with procurement activities. This includes:
 - a. Reducing the risk of legal challenge to contracts – by ensuring that legislation is built into our rules, and best practice into our processes.
 - b. Improvements to strengthen our ability to deliver and monitor contracts which drive value for money for the whole Council.
 - c. Ensuring proper controls are in place across the process, to ensure public money is being properly spent
 - d. Supporting efficiencies of the developing partnership working with East Sussex County Council and other potential partner organisations

Financial and Value for Money Implications

11. There are no direct financial implications in these changes.
12. The proposal to amend the quotation threshold at which 3 quotes are required from £10k to £15k reflects the levels in other authorities, including East Sussex County Council. Closer alignment of procurement procedure thresholds will support the delivery of process efficiencies. For Surrey this change represents a minimal impact on value governance; in the last financial year, the average purchase order value between £10k-£15k (for spend not covered by other contractual arrangements) was £12k. This equated to 420 purchase orders and an aggregate spend of £5.2m, which is 0.6% of the overall annual spend by the council.

Legal Implications – Monitoring Officer

13. The Procurement Standing Orders are required to be maintained by the Council under Section 135 of the Local Government Act 1972.
14. These revised Orders take account new legislation and policy, specifically the Local Government Transparency Code 2015 and the Public Contract Regulations 2015, as well as known implications of the Public Concession Directives 2014 (to be transposed in UK law by February 2016).

Section 151 Officer Commentary

15. The Section 151 officer has been consulted on these changes to the Procurement Standing Orders. The S151 officer is satisfied that these regulations maintain the appropriate level of control and security in the procurement and payment of goods and services.

Equalities and Diversity

16. There are no direct impacts or implications from the proposed changes on residents or staff with different protected characteristics. The associated Equality Impact Assessment (EIA) has been completed and notes that the simplification of the procurement process that is included in the PSOs may have a positive impact.
17. An Equalities Impact Assessment has been completed and is available as a background paper. This has been approved by the Head of Procurement following review by the council's Senior Equality, Inclusion and Wellbeing Manager.

Other Implications:

18. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Climate change/carbon emissions implications

19. The County Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change.
20. Procurement Standing Orders explicitly set out the Council's approach to sustainable procurement, including those relating to the pledge to use sustainable timber, specifically intended to reduce the impact on climate change.

WHAT HAPPENS NEXT:

21. The revised Procurement Standing Orders will be placed before full Council for approval on 8th December 2015.
22. We will monitor the progress of any new case law and legislation and update these Orders as necessary.

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Consulted:

The revised Orders were prepared in consultation with Finance, Legal, Audit, Shared Services Business Operations, and a group of super-users from front-line services.

Annexes:

Annex 1: Draft Procurement Standing Orders 2015

Annex 2: Equalities Impact Assessment

Sources/background papers:

- Procurement Standing Orders 2014
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