



ESPO MANAGEMENT COMMITTEE – 21 JULY 2016

PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES

REPORT OF THE DIRECTOR

Purpose of Report

1. The purpose of this report is to:
 - (a) report on the operation of the Contract Procedure Rules between 1 July 2014 and 30 June 2015.
 - (b) seek approval of the proposed amendments to the Contract Procedure Rules for 2015/16.

Background

2. Rule 7 (Annual Reporting) of ESPO's Contract Procedure Rules stipulates that the Director of ESPO, in consultation with the County Solicitor, shall at least once in each financial year submit a report to the Management Committee in relation to the operation of these Rules. This includes (amongst other things) details of the approved exceptions to these Rules and approved extensions to contract where this has not been provided for in the contract, and proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU procurement law, as may be necessary from time to time.
3. Officers of Leicestershire County Council and ESPO work together on an annual basis to review the Contract Procedure Rules and agree on any draft revisions and amendments to be proposed for approval.

Approved Exceptions to the Rules

3. Between 1 July 2014 and 30 June 2015, one approved exception to the Contract Procedure Rules which was allowed for under Rule 5 has been recorded in the Exceptions Log maintained by the Director of ESPO. Details of the exception are set out at Appendix A of this report.
4. The estimated value of the approved exception is £125k.
5. The reasons for the approved exception are:

- On 1 April 2015 ESPO's supplier of exercise books went into administration and ESPO was informed that the supplier was no longer able to fulfil any further orders. At the time that the supplier went into administration there was approximately seven to eight weeks stock of exercise books in ESPO's store and a subsequent delivery was received in May.
- The bespoke exercise books (printed with the ESPO logo and product code on the cover) were manufactured in Poland which held sufficient stock to supply demand through to the end of the year. The polish company had title in the goods.
- There was no immediate alternative for the supply as the Framework which had been used to establish the contract did not provide for further competitions, and the lead time for delivery was typically three months after competitive market engagement , and would therefore it would have taken at least four months before supply was available. The peak supply period for the products was in mid – summer (June/July).
- The most expedient and commercially sound solution was to negotiate supply terms with the polish company for the supply of the stock of exercise books held by them and so an order was placed.
- A full EU compliant procurement process was subsequently undertaken for the future supply of exercise books.

Approved Contract Extensions where no provision in the Contract the Rules

6. Between 1 July 2014 and 30 June 2015 there were no contract extensions approved where there was no provision in the Contract.

Proposed Revisions to the Rules

7. In February 2015, the UK government transposed the new EU procurement directive into UK law. The Public Contracts Regulations 2015 introduced substantial changes to the practice of public procurement. For this reason a comprehensive review of the Council's Contract Procedure Rules was undertaken to ensure that the Council's Rules align with the new regulations. The revisions to the Rules (see Appendix B) were supported by the County Solicitor and the Chief Financial Officer (i.e. the Assistant Director for Corporate Resources (Strategic Finance and Property) and were approved by the County Council on 2 December 2015.
8. The new Public Contracts Regulations aim to:
 - (a) facilitate participation of small and medium-sized enterprises (SMEs) in public procurement;

- (b) enable procurers/commissioners to make better use of procurement in support of community goals;
 - (c) clarify the procurement rules.
9. It should be noted that the Director of Corporate Resources was granted delegated authority to revise the value threshold stated as £172,514 contained within Rule 6 (Exceptions), Rule 11 (Procurement exercise process), Rule 19 (Irregular Tenders), Rule 20 (Receipt and opening of Tenders), Rule 32 (Early termination), in the proposed Contract Procedure Rules to align with the new EU thresholds coming into force in January 2016. The thresholds stated in ESPO's Contract Procedure Rules have been amended accordingly.
10. Should the Management Committee approve the draft revised Contract Procedure Rules, they will be published on the ESPO's intranet and communicated to all relevant managers and staff within the organisation.

Recommendations

11. It is recommended that:
- (a) the contents of this report on the operation of the Contract Procedure Rules between 1 July 2014 and 31 June 2015 be noted;
 - (b) the Management Committee approve the proposed amendments to the Contract Procedure Rules as set out in Appendix B to this report.

Equalities and Human Rights Implications

12. The Rules ensure that all suppliers and potential suppliers receive equal treatment when bidding for contracts.

Background Papers

13. None.

Officer to Contact

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Appendices

Appendix A – Contract Procedure Rules Exceptions and Extensions (July 2014 – July 2015)

Appendix B - Proposed amendments to ESPO's Contract Procedure Rules 2015-16

Appendix C – draft revised Contract Procedure Rules 2015-16