



CORPORATE GOVERNANCE COMMITTEE – 21 NOVEMBER 2022

CONTRACT PROCEDURE RULES - ANNUAL REPORT 2021/22

JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES AND THE DIRECTOR OF LAW AND GOVERNANCE

Purpose of the Report

1. The purpose of this report is to provide an update to the Committee on the operation of the Contract Procedure Rules between 1st July 2021 and 30th June 2022.

Background

2. Rule 8 (Annual Reporting) of the Council's Contract Procedure Rules stipulates that the Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance 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 a contract where this has not been provided for in the contract, and to set out any proposed revisions to the Rules and/or changes required to accommodate the requirements of UK and EU procurement law, as may be necessary from time to time.

Approved Exceptions to the Rules

3. Between 1 July 2021 and 30 June 2022 eighty-one approved exceptions, which are allowed for under Rule 6 of the Contract Procedure Rules, have been recorded in the Exceptions Logs maintained by the Council's Commissioning Support Unit and Chief Officers.
4. Of the eighty-one exceptions seven were above the threshold values at which public procurement opportunities are subject to the full suite of regulations governing public contracts. Six of the seven were approved at the Cabinet.
5. In exceptional circumstances, a single source of supply may be appropriate to meet a particular specification. This is classed as a Rule 6a exception and can be applied when goods/services are only offered by one supplier (so more than one quote cannot be obtained) or, for continuity reasons (such as the duplication of scientific tests using specific equipment), the department may wish to use a single supplier. Of the eighty-one exceptions this rule was

approved ten times.

6. The remaining sixty-four exceptions approved were low value under threshold exceptions which require Chief Officer sign off only. The exceptions had occurred for the following reasons:

- Covid recovery – market remained unstable for tender process.
- Capacity pressures.
- Increased controls introduced within Oracle Fusion.
- Spend control's introduction increased visibility.

7. The below table demonstrates the increase in the number of exceptions in comparison to previous years.

Period	Number of Approved Exceptions	Total Value of Approved Exceptions	No. of Exceptions above relevant UK Threshold
1 July 2021 to 30 June 2022	81	£21.6	7
1 July 2020 to 30 June 2021	33	£11.4	5
1 July 2019 to 30 June 2020	20	£1.9m	2
1 July 2018 to 30 June 2019	13	£1.8m	3
1 July 2017 to 30 June 2018	18	£1.2m	None
1 July 2016 to 30 June 2017	22	£2.5m	1

8. During the implementation of Oracle Fusion best practice was implemented around contract purchase agreements and purchase ordering. The change meant that any purchase orders or cumulative spend with one supplier that exceeded a value of £25,000 would not be excepted by the system without a valid contract entry and a compliant procurement.
9. The implementation of the Councils spend controls as a reaction to Covid around procurement, introduced a sign off by the Commissioning Support Unit of all procurements over £5,000. This implementation has increased visibility on all low value spend therefore increased the number of exceptions to allow sufficient time for a considered procurement process to take place.
10. The Commissioning Support Unit is working with departments to further develop their procurement pipelines for all spend. Good procurement planning should ensure sufficient time to undertake a competitive process going forward.

Approved Contract Extensions and Modifications where no provision in the Contract

11. During the same reporting period, 1 July 2021 to 30th June 2022, in compliance with Rule 30(c), Rule 30(g) and Rule 30(h) there were thirteen approvals for contracts either where there was no provision within the original contract for an extension or where the proposed contract variation required such approval.
12. Six of the contract extensions/variations involved contracts whose value was above the relevant UK threshold.
13. A comparative table of approved contract extensions and modifications over the last 5 years is provided in Table 2 below.

Table 2: Comparison of Approved Contract Extensions and Modifications			
Reporting Period	Number of Approved Extensions/Modifications	Total Value of Contracts (including value of approved extensions/modifications)	No of Extensions above relevant UK Threshold
1 July 2021 to 30 June 2022	13	£25.9m	6
1 July 2020 to 30 June 2021	7	£26.3m	2
1 July 2019 to 30 June 2020	7	£160.8m	1
1 July 2018 to 30 June 2019	7	£132.5m	2

1 July 2017 to 30 June 2018	7	£156.3m	3
1 July 2016 to 30 June 2017	10	£135.2m	2

14. Comparison over the last few years from 2016/17 to 2020/2021 shows a slight increase in the number of contract extensions (without an extension provision) or contract variations being approved but a significant increase in the number exceeding the thresholds in the Public Contract Regulations (PCR) 2015.
15. The six above threshold modifications were modifications over 10% and were approved, in accordance with Rule 30, by the Director of Law and Governance and the Director of Corporate Resources. The reasons for the modifications include:
- Covid 19
 - Increased funding
 - Improving value for money with changes in inflation.
16. The Corporate Management Team continues to review, on a quarterly basis, approved exceptions, and modifications as part of corporate performance monitoring.

Proposed Revisions to the Rules

17. It has been determined that no amendments need to be made to the Contract Procedure Rules at this time. The government is bringing forward new legislation in 2023 for the UK regarding procurement – Transforming Procurement. A further report will therefore be brought to the Committee with proposals to bring the Contract Procedure Rules in line with that legislation at the appropriate time.

Equality and Human Rights Implications

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

Recommendations

19. It is recommended that:
- a) the contents of this report on the operation of the Contract Procedure Rules between 1 July 2021 and 30 June 2022 be noted;
 - b) that it be noted that no changes are proposed to be made to the Contract Procedures Rules at this time and that the current Rules, which will be reviewed in 2023 in line with new legislation, currently remain fit for purpose.

Background Papers

The Constitution of Leicestershire County Council -

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=1187&MId=6960&Ver=4&Info=1> .

Circulation under the Local Issues Alert Procedure

None

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