

HUNTINGDONSHIRE DISTRICT COUNCIL

Title: **Code of Financial Management and Code of Procurement update for 2015/16**

Meeting/Date: Corporate Governance Panel
25 March 2015

Executive Portfolio: Resources: Councillor J A Gray

Report by: Accountancy Manager
Procurement Manager

Ward(s) affected: All Wards

Executive Summary:

The Code of Financial Management and the Code of Procurement are reviewed on an annual basis to ensure that they reflect current legislation and the changing needs of the Council. These policies underpin financial governance in the Council and are annexes to the Council's Constitution.

The Code of Financial Management is the Council's primary financial policy which sets out the financial responsibilities, financial and service planning, control of financial plans, cash and credit management, accounting procedures and capital management. With the implementation of Zero Based Budgeting (ZBB), a revised capital approval process and other changes during 2014/15, the Code of Financial Management requires updating to reflect these changes to provide clear guidance of responsibility and accountability for the 2015/16 financial year.

The Public Procurement Regulations 2015 introduces significant change to procurement legislation. The EU elements have simplified some procedures, reduced timescales and codified some long standing pieces of case law and are generally welcomed. The UK additions include the obligation to advertise new requirements and contracts awarded in a central government portal called "Contracts Finder" at the relatively low threshold of £25,000 and outlawing both the shortlisting (pre-qualification questionnaires) and awarding contracts on lowest price. The Local Government Transparency Code also adds the requirement to publish contracts awarded over £5,000 and identify Small and Medium Sized Enterprises and voluntary sector organisations.

Recommendation(s):

It is recommended that the Panel agrees the report and recommends to Council the approval of:

- The Code of Financial Management, Annex A
- The Code of Procurement, Annex B

1. PURPOSE

1.1 The Code of Financial Management and the Code of Procurement are reviewed on an annual basis to ensure that they reflect current legislation and the changing needs of the Council. These policies underpin the financial governance of the Council and are annexes to the Constitution.

2. BACKGROUND

2.1 The Code of Financial Management is the Council's primary financial policy which sets out the financial responsibilities, financial and service planning, control of financial plans, cash and credit management, accounting procedures and capital management.

2.2 With the implementation of Zero Based Budgeting (ZBB), a revised capital approval process and other changes during 2014/15, the Code of Financial Management requires updating to reflect these changes to provide clear guidance of responsibility and accountability to Officers for the 2015/16 financial year.

2.3 The Code of Procurement provides the framework for compliance with current legislation as well as the basis for 'best practice'. Procurement documentation and training will be revised to comply with the changes detailed at paragraph 3 below.

3. The Code of Procurement

3.1. Beyond substantial changes to layout to simplify, there are a number of proposed changes to the Code of Procurement which are caused by two pieces of recent legislation:

- (a) The Local Government Transparency Code 2014 (as revised 3rd October 2014).
- (b) The Public Procurement Regulations 2015 (which took effect 26th February 2015 except for the requirements relating to Contracts Finder which come into force on 1st April 2015).

3.2 The legislation introduces four significant changes to the Code:

- (a) Pre-qualification questionnaires are now banned for competitions below the EU threshold.
- (b) All opportunities put into the public domain (regardless of value) and contract opportunities over £25,000 have to be advertised in a Crown Commercial Service portal called "Contracts Finder".
- (c) Contract awards based solely on lowest cost are no longer allowed.
- (d) All contract awards have to be published:
 - in Contracts Finder if advertised in Contracts Finder or greater than £25,000 (including mini-competitions using a framework).
 - on the Internet (via Contracts Register) if greater than £5k.

3.3 There are some changes proposed to simplify currently disproportionately onerous requirements (e.g. minor amendments to lower value contracts).

3.4 The table below sets of the proposed changes for 2015/2016

Paragraph	Section	Summary of the Changes
2	Reporting	Simplified by setting the reporting threshold to £100k from the previous EU thresholds.
2.2.	Advertising	UK additions to the EU Directive require that that any contract

		opportunity publically advertised elsewhere and or all contracts over £25k have to be advertised in a Crown Commercial Services portal called “Contracts Finder”.
2.3	Advertising	Previously we have advertised contract opportunities >£5k on the Internet using the Contracts Register but because of the overriding requirement to use Contracts Finder the proposal is to make advertising below £25k optional except where suitable contractors are unknown.
5.1	Contracts Register	Amended to include the Transparency Code requirement to record spend with Small or Medium Enterprises, voluntary or third sector organisations or charities and if the selected contractor is VAT registered.
5.3	Thresholds	<p>Estimates: The Local Government Transparency Code requires all contract awarded over £5k are published and this is currently managed through the Contracts Register. The threshold for estimates (direct award) is therefore, maintained at £5k.</p> <p>Formal Quotes. The requirement to advertise all requirements above £25k has been used to set the formal quote threshold.</p> <p>Tenders. A new threshold for tenders is proposed as £75k to align with County Council and other authorities.</p>
6.2	Contract Extensions	The proposal is that in limited circumstances the Procurement Manager can approve limited extensions to contracts. This is proposed for purely practical reasons: commonly the preferred supplier’s legal team do not consider the Council’s terms and conditions until they have been given notice of preferred supplier status. Only at this late stage are potential objections and proposed changes exposed. Often in these circumstances work starts without any agreement or under a letter of intent with the consequent contractual and legal perils.
6.4 (c)	Single Quote	Where a properly advertised requirement receives only one response and there is no practical opportunity for competition then the quote may be approved by the Head of Service subject to caveats regarding advertising and compliant process.
6.4(d)	Minor Contract Extensions	This amendment allows for minor extensions to contracts awarded under the quote procedure and is in-line with EU law.
8.1	Framework Contracts	Framework contracts often permit direct award in certain circumstances. Where the framework explicitly permits direct award and the Head of Service can show both objective reasons for the selection of a supplier and evidence of best value, then a direct award would be permitted up to the tender threshold (£75,000).

9.1	Tender Procedures	The Public Procurement Directive has outlawed restricted (shortlisting) for tenders below the EU threshold. The paragraph is amended accordingly.
11.6	Tender Opening	The amendment allows the Legal Services Officer some latitude to accept late tenders in exceptional circumstances. This would only apply before any tenders have been opened and where a potential contractor could show that the delay is due to circumstances entirely beyond their control (e.g. postal strike).

4. Code of Financial Management

4.1 The main changes to the Code of Financial Management are included in the table below.

Paragraph.	Section	Summary of the Changes
1.12	Budget Managers	Removal of references to the previous annexes A, B and C. The relevant budget requirements are now included within this section. Revised vacant post authorisation process. Inclusion of the capital authorisation process Simplification of the Budget Managers guidance for the annual budget efficiency roles. Clarification of the approval process for fees and charges
2.	Financial and Service Planning	Update of the annual financial cycle to reflect the revised financial reporting process.
3.1	Financial Monitoring	Clarification that the Financial Performance Monitoring Suite (FPMS) will be reported to Cabinet on a quarterly basis and to Corporate Management Team (CMT) on a monthly basis.
3.2	Commitments to Expenditure in future years	Clarification of the revised budget commitments rules.
3.3	Grants, Cost sharing and S106/CIL agreements	Inclusion of the revised capital approval process.
3.6	Budget Virements	Consistent use of correct terminology for virements. Removal of the budget types as these are no longer relevant. Revised process for budget virements and the removal of references to the previous Annexes. Inclusion of a material virement amount per budget to reduce the administration associated with minor virements

		(i.e. less than £4,000 per budget).
3.7	Re phasing of Expenditure	Removed as no longer relevant to the revised budget process.
3.8	Price Base Changes	Clarification and responsibility for the inclusion of inflation in budgets.
3.9	Capital Programme	Revision of the capital approval process.
4.2	Income	Head of Customer Services changed to the Head of Resource for income collection procedures
4.3	Treasury Management	Revised name for the Treasury Management and Advisory group to Treasury Management and Investment Group and removal of the Overview and Scrutiny Chairman from the group.
4.4	Payments	Inclusion of the restriction that all Direct Debits and Standing Orders require the approval of Deputy Responsible Finance Officer (DRFO) before they are initiated.
6	Assets	Inclusion of a caveat that this process will be review within the next year therefore only minor changes have been made.
Annex A B C		Removed and where necessary information has been included in the appropriate section.

5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from this report.

6. RESOURCE IMPLICATIONS

6.1 There are no direct financial implications arising from this report.

LIST OF APPENDICES INCLUDED

Annex A – Changes to Code of Financial Management
Annex B – Changes to Code of Procurement

BACKGROUND PAPERS

Working papers in Resources.

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