

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Corporate Governance Committee

30<sup>th</sup> June 2008

**AUTHOR/S:** Chief Executive / Principal Solicitor

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### REVIEW OF CONTRACT STANDING ORDERS

#### Purpose

1. The publication of an Internal Audit report on the Council's procurement procedures in January 2008 confirmed that a review of the Council's Standing Orders and associated procedures was essential. A review was already underway and has now been completed by an officer working party, involving a complete overhaul of Contract Standing Orders. The proposed new "Contract Regulations" can be found as the Appendix to this report.

#### Background

2. Although the Audit report stated that the control framework for procurement currently provided "adequate assurance" that risks to the organisation were being adequately managed and controlled, it considered there were increased risks of non-compliance with laid down requirements in particular with Contract Standing Orders and the potential for non-compliance with European Union Regulations.
3. The Audit report highlighted the following issues:
  - (a) The need for an up to date Contracts Register and the lack of control for collating all relevant contract-related activity
  - (b) The need to set a target date to complete the review of Contract Standing Orders, which should be more user-friendly and easier to understand
  - (c) A need to ensure that all consultants are procured in accordance with Contract Standing Orders and that they in turn also comply with Contract Standing Orders in procuring goods, works or services for the Council
  - (d) The Council needed to devise a mechanism for capturing contracts entered into through exemptions to Contract Standing Orders and to provide formal documenting of the reasons in support of the exemption decision(s)
  - (e) The Council needed to ensure that written reports on the awarding of contracts are produced to the relevant officers in accordance with the revised Scheme of Delegation. Where levels of reporting have been delegated to Chief Officers or other suitable officer other than the Executive, evidence is required that reports have been produced and seen by the relevant officers.
  - (f) The Council needs to provide more training to staff involved in the procurement of goods, works and services
  - (g) The Council's management needs to consider the introduction of quality control checks by the Procurement Officer to ensure compliance with laid down requirements.

## Considerations

4. The Council's existing Contract Standing Orders are misleading and inaccurate in places and are not a current reflection of the law and best practice. CIPFA (in conjunction with the Constructing Excellence: Local Government Task Force) published an updated set of guideline Contract Procedure Rules in 2006 as a key for councils to adopt best practice, encourage innovation and achieve greater efficiency when procuring goods, works or services. The model rules, which are based on those in operation at Cambridgeshire County Council, accommodate current procurement initiatives and have been used by the officer working group as a model for the Council's new version of Contract Standing Orders.
5. To avoid any confusion with the existing Contract Standing Orders the title on the new document has been changed to Contract Regulations. This title should make the importance of these regulations clear. Current references to Contract Standing Orders in the Constitution will need to be changed to reflect this.
6. The Contract Regulations, once implemented, should address all the issues of concern raised in the Audit report along with other useful additions, including:
  - An active process to keep a record of all new Contracts
  - A simple tender return process
  - An exemptions recording process
  - A record of the award decision for a contract
  - Detailed instructions for hiring Consultants
  - Easy to understand regulations with a simple layout and flowcharts
  - Use of Corporate Contracts
  - Consortium Framework Contracts
  - Collaborative Contracts and Shared Services
  - Equalities
  - Sustainable Procurement
  - Consultancy procurement
  - Electricity and Gas procurement
  - The use of Constructionline
  - Contract Management
  - Ongoing Cost Savings
  - Risk Management
  - Fraud
  - Breach of regulations

7. The Procurement Officer has produced two procurement procedure flowcharts which detail a step-by-step guide for staff to follow in order to determine the correct course of action to follow. These have been included within the new Contract Regulations.
8. The Procurement Officer will be reproducing the Contract Regulations in an A5 size Procurement Users Guide which will be distributed to all staff, and published on the intranet, along with complete copies of the Contract Regulations. This will be supported by a series of mini-training events in each section. In addition the Contract Regulations will be a fundamental part in the forthcoming new Procurement Strategy.

### Options

9. Corporate Governance Committee should consider the Contract Regulations and take one of the following options:
  - (a) Endorse the changes that have been made and associated staff training plans and send the Contract Regulations to Full Council for ratification
  - (b) Send the Contract Regulations back to the officer working group for further amendments to be made

### Implications

10. If the existing Contract Standing Orders are not significantly amended then the Council faces the following risks, as outlined in the Internal Audit report:
  - (a) Failure to comply with the Council's policies and procedures by staff who do not understand their responsibilities
  - (b) Failure to achieve value for money from the procurement function
  - (c) The accuracy and integrity of the purchasing system is compromised by material errors, malice or fraud going undetected
  - (d) Orders are not raised in line with Financial Regulations
  - (e) Delivery/receipt of goods are not adequately controlled
  - (f) Information is not received on a timely basis and significant risks may not be identified/reported

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| 11. | Financial           | Potential impact on value for money through ineffective practices and non-compliance with organisational requirements. No instructions to look for ongoing cost savings or formal contract management. Corporate Contracts may not be used duplicating effort and increasing costs. High cost areas such as consultancy aren't covered in Contract Standing Orders. |
|     | Legal               | Risk of non-compliance with EU Regulations and OGC Guidance. Legal resources used explaining our current Contract Standing Orders to staff.   |
|     | Staffing            | Role of Procurement officer essential to oversee operation of Contract Standing Orders. Staff time could be wasted by not taking advantage of existing contracts  |
|     | Risk Management     | The existing Contract Standing Orders increases risks of non – compliance in procurement. Risk Management isn't built in to the procurement process. There is no requirement to Contract Manage.  |
|     | Equal Opportunities | Equalities are not adequately facilitated.  |

