

**Urgent
Item**

Title of Report:

New EU Procurement Regulations

Report to be considered by: Governance and Audit Committee on 26th January 2005

Forward Plan Ref:

Purpose of Report:

To propose changes to the Council's Contract Rules of Procedure as a result of The Public Contracts Regulations 2006.

Recommended Action:

To approve the changes (underlined in the Appendix) to the Contract Rules of Procedure. Any amendments required to the rules as a result of any changes to the regulations prior to their implementation on 31st January 2006 shall be delegated to the Head of Resources and Commissioning and the Head of Legal and Electoral Services in consultation with the Portfolio Member.

Reason for decision to be taken:

Implementation into UK law of EU Directive 2004/18/EC

List of other options considered:

None

Key background documentation:

- The Public Contracts Regulations 2006
- EU Directive 2004/18/EC
- Council's Contract Rules of Procedure

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Supporting Information

1 Background

- 1.1 European Directive 2004/18/EC on the co-ordination of procedures for the award of public works contracts, public service contracts and public supply contracts must be implemented into UK law by 31st January 2006. The draft Public Contracts Regulations 2006 have been circulated for consultation and are consistent with Directive 2004/18/EC, therefore no significant changes are expected in the final regulations.
- 1.2 These changes to the contract rules of procedure will also be considered by the Governance and Audit Committee on 26th January 2006 and full Council on 2nd March 2006.

2 Changes to the Contract Rules of Procedure

- 2.1 Attached as an appendix are the contract rules of procedure with the changes shown as underlined. Some of the changes have been made to update the drafting and avoid duplication in the rules rather than as a result of the new legislation and to reflect changes to overview and scrutiny arrangements.
- 2.2 As well as amalgamating the different regulations into one, the new regulations have introduced a number of new procedures, such as the competitive dialogue procedure for use with complex procurements, electronic auctions and dynamic purchasing systems. These alternative procedures can only be used in specific circumstances, therefore, the rules stipulate that the restricted procedure must be used unless approval is obtained from the Head of Resources and Commissioning or nominated Officer and / or the Head of Legal and Electoral Services.
- 2.3 European case law has also introduced two additional procedural requirements which have been added to the rules; the requirement to consider "equivalent" standards (12.3.4(e)) and the 10 day cooling off period (12.3.4(j)). It is proposed to incorporate a note on the implications of case law within the Procedure Rules as an appendix.

Recommendation: That the changes (underlined in the Appendix) to the Contract Rules of Procedure be approved. Any amendments required to the rules as a result of any changes to the regulations prior to their implementation on 31st January 2006 shall be delegated to the Head of Resources and Commissioning and the Head of Legal and Electoral Services in consultation with the Portfolio Member.

Appendices

Appendix - Part 12 Contract Rules of Procedure – Changes to reflect new EU Procurement Regulations, including a note on the implications of European case law.

Consultation Responses

Local Stakeholders:	None
Officers Consulted:	Jo Gread, Steve Hounsell, Liz Howlett, Andy Day, Martin Cawte
Trade Union:	None