East Dean & Friston
Parish Council

Date: **5th March 2020**

Title: **Report Item 8b – Procurement Processes and Thresholds**

By: **Kevin Godden – Lead Member for Finance**

Purpose: **Update Members on the Council's Requirements when procuring Works, Goods and Services and to approve procurement thresholds for 2020/21.**

Recommendations:

1) Members are asked to approve the thresholds in Table 1, subject to:

    a. Consider applying a cash limit in which Orders may be delegated to Members, subject to the approval of works, goods or services by Council,
    b. Consider applying a threshold that allows a Member to approve a variation to an Order whilst works are being carried out, and
    c. Consider applying a minimum value where 2 verbal or written estimates are required by the Council.

2) Note the processes for the procurement of works, goods and services that protect the Councils resources and deliver best value for the taxpayer.

Introduction

1. This report sets out the Council's process on procuring contracts for works, goods and services. It also includes a reference to the latest model financial regulations which is subject to a separate report.

Standing Orders and Financial Regulations

2. The responsibility for ensuring that Standing Orders and Financial Regulations are put in place and to ensure that they are adhered to are the Members of the Council. In order to achieve this, the rules covering the Councils procurement processes are included within its Standing Order 18 and Financial Regulations 10 and 11 which, for ease, are included in Appendix 1 and 2 of this report.

Responsibility for Placing Orders

3. Members are reminded that Financial Regulations previously approved by Council require all orders to be made by an Officer of the Council. Officers shall also verify the lawful nature of any proposed purchase before the issue of any order.

4. Clearly there are the practicalities of the Officers placing Orders when the works are being carried out by Members and they have directly gone to a merchant or a shop to purchase the goods to subsequently carry out these works directly. Examples may include timber, glass, flowers and plants etc.

5. There have also been recent examples where a variation to an existing works order has been made by the Member responsible for the works or portfolio. This has resulted in a technical breach of Standing Order 10 but was proved to be value for money to have the works undertaken whilst the contractor was in situ. The variation was reported at the next Council meeting and included in the minutes.

Contract Values and Quotation Requirements

6. The table below sets out a summary of the Council Requirements relating to contract values which replaces Financial Regulation 11.1 (h) in Appendix 1. The lower end value of £300 has been used given the difficultly experienced in obtaining quotes at or below this value prior to an order being placed.

Table 1 – Recommended Council Procurement Thresholds

Value of Contract (excluding VAT)	Council Requirement
Under [£300]	2 verbal or written estimates by Council.
Under [£3,000]	2 written quotations by Council
Under £25,000	3 written quotations by the Contractor or Service provider
Over £25,000	See Standing Order 18 c) and must be advertised in Contracts Finder
Over EU Thresholds	Follow the Public Procurement Regulations 2015

REPORT ENDS

Appendix 1 – Extract from Financial Regulations

[A number of clarificatory changes made by the Lead Member are included in RED]

10. Orders for work, goods and services

10.1. An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate. Copies of orders shall be retained.

10.2. Order books shall be controlled by the RFO.

10.3. All members and officers are responsible for obtaining value for money at all times. An officer issuing an official order shall ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction, usually by obtaining three or more quotations or estimates from appropriate suppliers, subject to any de minimis provisions in Regulation 11.1 below.

10.4. A member may not issue an official order or make any contract on behalf of the council.

10.5. The RFO shall verify the lawful nature of any proposed purchase before the issue of any order, and in the case of new or infrequent purchases or payments, the RFO shall ensure that the statutory authority shall be reported to the meeting at which the order is approved so that the minutes can record the power being used.

11. Contracts

11.1. Procedures as to contracts are laid down as follows:

a) Every contract shall comply with these financial regulations, and no exceptions shall be made otherwise than in an emergency provided that this regulation need not apply to contracts which relate to items (i) to (vi) below:

i. for the supply of utilities;

ii. for specialist services such as are provided by legal professionals acting in disputes;

iii. for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant;

iv. for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the council;

v. for additional audit work of the external auditor up to an estimated value of £500 (in excess of this sum the Clerk and RFO shall act after consultation with the Chairman and Vice Chairman of council); and

vi. for goods or materials proposed to be purchased which are proprietary articles and / or are only sold at a fixed price.

b) Where the council intends to procure or award a public supply contract, public service contract or public works contract as defined by The Public Contracts Regulations 2015 ("the Regulations") which is valued at £25,000 or more, the council shall comply with the relevant requirements of the Regulations.

c) The full requirements of The Regulations, as applicable, shall be followed in respect of the tendering and award of a public supply contract, public service contract or public works contract which exceed thresholds [the following values] set out in the Procurement Policy Note – New Thresholds 2020 Information Note PPN 06/19 November 2019 which provide from the 1st January 2020:

- Supplies & Services - £122,976
- Works Contracts - £4,733,252

d) When applications are made to waive financial regulations relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the council.

e) Such invitation to tender shall state the general nature of the intended contract and the Clerk shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitation shall in addition state that tenders must be addressed to the Clerk in the ordinary course of post. Each tendering firm shall be supplied with a specifically marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for that contract.

f) All sealed tenders shall be opened at the same time on the prescribed date by the Clerk in the presence of at least one member of council.

g) Any invitation to tender issued under this regulation shall be subject to Standing Orders 18 [which sets out the process of the procurement].

h) When it is to enter into a contract of less than £25,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out in paragraph (a) the Clerk shall obtain 3 quotations (priced descriptions of the proposed supply); where the value is below [£3,000] and above [£100] the Clerk or RFO shall strive to obtain 3 estimates. Otherwise, Regulation 10.3 above shall apply. [These thresholds are included in the most recent template].

i) The council shall not be obliged to accept the lowest or any tender, quote or estimate.

j) Should it occur that the council, or duly delegated committee, does not accept any tender, quote or estimate, the work is not allocated and the council requires further pricing, provided that the specification does not change, no person shall be permitted to submit a later tender, estimate or quote who was present when the original decision-making process was being undertaken.

Appendix 2 – Extract from Standing Orders

18. Financial controls and procurement

a) The council shall consider and approve financial regulations drawn up by the Responsible Financial Officer, which shall include detailed arrangements in respect of the following:

   i. the keeping of accounting records and systems of internal controls;
   ii. the assessment and management of financial risks faced by the council;
   iii. the work of the independent internal auditor in accordance with proper practices and the receipt of regular reports from the internal auditor, which shall be required at least annually;
   iv. the inspection and copying by councillors and local electors of the council's accounts and/or orders of payments; and
   v. whether contracts with an estimated value below £25,000 (excluding VAT) due to special circumstances are exempt from a formal tendering process or procurement exercise.

b) Financial regulations shall be reviewed regularly and at least annually for fitness of purpose.

c) A public contract regulated by the Public Contracts Regulations 2015 with an estimated value in excess of £25,000 but less than the relevant thresholds in standing order 18(f) is subject to Regulations 109-114 of the Public Contracts Regulations 2105 (Below Threshold Procurements) which include a requirement on the council to advertise the contact opportunity on the Contracts Finder website regardless of what other means it uses to advertise the opportunity.

d) Subject to additional requirements in the financial regulations of the council, the tender process for contracts for the supply of goods, materials, services or the execution of works shall include, as a minimum, the following steps:

   i. specification for the goods, materials, services or the execution of works shall be drawn up;
   ii. an invitation to tender shall be drawn up to confirm (i) the council's specification (ii) the time, date and address for the submission of tenders (iii) the date of the council's written response to the tender and (iv) the prohibition on prospective contractors contacting councillors or staff to encourage or support their tender outside the prescribed process;
   iii. the invitation to tender shall be advertised in a local newspaper and in any other manner that is appropriate;
   iv. tenders are to be submitted in writing in a sealed marked envelope addressed to the Proper Officer;
   v. tenders shall be opened by the Proper Officer in the presence of at least one councillor after the deadline for submission of tenders has passed;

vi. tenders are to be reported to and considered by the appropriate meeting of the council or a committee or sub-committee with delegated responsibility.

e) Neither the council, nor a committee or a sub-committee with delegated responsibility for considering tenders, is bound to accept the lowest value tender.