

# **Report to the Overview and Scrutiny Committee**



**Date of meeting: 11 April 2011**

**Report of Constitution and Member Services SSP**

**Subject: Review of Contract Standing Orders (CSOs)**

**Chairman: Councillor Mrs McEwen**

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## **Recommending:**

**That a report be submitted to the Overview and Scrutiny Committee and the Council recommending:**

- (a) that the schedule of amendments to Contract Standing Orders set out in the Appendix to this report be approved; and**
- (b) that the proposed changes to CSOs C4(1)(g) (Contract Renewals) and C7(6)(a) (Ad Hoc Tender Lists) be reviewed in 2012/13; and**
- (c) that Contract Standing Orders and Financial Regulations be reviewed in alternate years in future, viz**

**2011/12 – Financial Regulations**

**2012/13 – Contract Standing Orders**

## **1. Introduction**

- 1.1 This report deals with our annual review of Contract Standing Orders on which a cross-directorate Officer Working Party submits recommendations for changes to Contract Standing Orders. The Working Party's report also made recommendations on future reviews and the need for new officer guidance and training.

## **2. Review of Contract Standing Orders**

- 2.1 The Appendix to this report sets out detailed changes to Contract Standing Orders arising from this year's review. The Appendix excludes a number of minor textual changes (renumbering, typographical errors and various cross references) which can be made by officers when the Contract Standing Orders are prepared for publication.
- 2.2 None of the changes proposed represent fundamental differences with the version which has been in use for a number of years. The Panel's attention is however drawn to the more significant proposals, namely:
  - (a) provision for tender acceptance terms to be agreed in advance avoiding the need for the Cabinet or a Portfolio Holder to accept tenders (C19(2));

(b) introduction of a 10% tolerance when comparing pre-quotation estimates with the value of quotations received in determining whether a Portfolio Holder needs to accept the lowest tender (C20(3));

(c) transfer of responsibility for approving ad hoc tendering lists from Portfolio Holders to Chief Officers so as to maintain confidentiality (C7(6)(a));

(d) more controls on sub-contracting by main contractors; and

(e) definition of "arithmetical errors" in relation to C7(6)(a) (Ad Hoc Tenders).

2.3 The changes recommended under 2.2(a) and (e) above are proposed to be reviewed again in 2012/13 to assess whether these have been effective.

### **3. Guidance and Training for Staff Engaged in Procurement**

3.1 The review of Contract Standing Orders was accompanied by the usual consultation with Directorates. Although some changes resulted from this feedback, the main message received by the Officer Working Party was that improved guidance on procurement is required. The Essex Procurement Hub is now available to the Council but there remains some lack of clarity as to how Contract Standing Orders relate to that system.

3.2 The Officer Working Party is now working on a flowchart which will be an operational document, guiding procurement officers through the steps and choices in the process. It will also be used as an on line training aid. We were happy to support this initiative.

### **4. Future Reviews of Contract Standing Orders and Financial Regulations**

4.1 We were advised that reviews of Contract Standing Orders and Financial Regulations are currently carried out once a year. In the case of Financial Regulations, very few changes have arisen in recent years. For Contract Standing Orders, there has been a number of changes but this trend is now regarded as counter-productive in some ways because the various changes have merely served to increase the need for clarification with relevant staff.

4.2 We recommend that reviews of Financial Regulations and Contract Standing Orders should be in alternate years, with the next review of Contract Standing Orders taking place in 2012/13 and Financial Regulations during 2011/12. This will provide more stable rules and give greater weight to training and guidance as the means of dealing with problems. Procurement via Contract Standing Orders will increasingly be secondary to use of the Essex Procurement Hub and our view is that the Council should not need to review these procedures so often.

4.3 Changes to Contract Standing Orders require an amendment to the Constitution, requiring approval of this Committee and the Council. We therefore recommend as set out at the commencement of this report.