

REVIEW OF CONTRACT STANDING ORDERS (CSOs)

CSO Number/Subject	Present Wording	Proposed Amendment	Comments
C1(6)(a) (Definitions)	“For the purposes of these Standing Orders, the expression (a) “Chief Officer” means the Chief Executive, the Deputy Chief Executive or a Service Director.”	ADD “Assistant Service Director”	To reflect current operational practice and Directorate delegation arrangements.
C1(12) (Definitions)	“These Contract Standing Orders apply to procurement of goods and services...”	DELETE “goods and services”.  SUBSTITUTE “goods, services or works”.	To clarify the range of activities involved.
C2(1) (Selection of Tendering Method)	“(1) A chief Officer is required, prior to the invitation of tenders or quotations, to determine the correct procurement procedure in accordance with the provisions of Standing Orders, based on the best estimate available at that time of the contract sum.”	ADD new paragraph (to be numbered (2)) as follows:  “(2) A Chief Officer who is of the opinion that tenders or quotations are only likely to be available from a single source, shall compile and record auditable evidence which justifies his or her decision not to pursue procurement by competition.”	Single source procurement is not available as an option in Contract Standing Orders. However, the new paragraph (2) introduces this means of procurement as this situation does arise in practice. The Chief Officer is required to compile evidence which justifies his or her decision.
C4 (1)(g) (Contract Renewals)	“Where the Council has procured services, supplies or works through a competitive process and the services, supplies or works are considered to represent best value in terms of quantity and price, then the relevant Chief Officer should be enabled to continue for a period of no more than 4 years... to appoint that service provider...”	DELETE: “4 years”  and  SUBSTITUTE: “2 years”	Contract renewals over a period of up to 4 years put value for money at risk due to changes in the market. Renewals should be limited to two years only, after which the market should be tested once more.  This change should be subject to further review in 2012/13 when CSO’s are recommended to be reviewed again.

CSO Number/Subject	Present Wording	Proposed Amendment	Comments
C4 (3) (Notification of Contracts to Chief Internal Auditor)	“Chief Officers will notify the Chief Internal Auditor of all individual purchases and contracts... over £25,000 in value whatever the period of the contract...”	ADD new sentence to C4(3) as follows:  “These requirements shall apply equally to procurement under the Essex Procurement Hub or Contract Standing Orders.”	Additional reference to the Essex Procurement Hub is to clarify that all contracts are to be notified.
C6(1) (Restricted Tendering – for Contracts Exceeding £50,000 in Value)	“... A Chief Officer will resolve that invitation to tender for a contract be limited to those persons or bodies whose names are on Constructionline...”	ADD new paragraph to C6 (to be numbered (1)) as follows:  “(i) For the purposes of this Standing Order restricted tendering is defined as any procurement where large numbers of applicants to join a tendering process are anticipated. Such tendering arrangements will consist of:  (a) the pre-qualification stage – where potential suppliers are required to demonstrate their financial standing and technical ability to meet the Council’s requirements. Account will be taken at this stage of the potential suppliers’ past performance experience in equivalent contracts with the Council or similar bodies, health and safety, environmental and equality procedure checks and any references thought appropriate.  (b) the tendering stage – where suppliers shortlisted at the pre-qualification stage are invited to tender.	Definition of “restricted tendering” will assist interpretation of requirements by Chief Officers.

CSO Number/Subject	Present Wording	Proposed Amendment	Comments
<p>C7(6)(a) (Ad Hoc Tender Lists – Contracts over £2 million)</p>	<p>“After the expiry of the period specified in the public notice and the contract notice, invitations to tender for the Contract shall be sent to</p> <p>(a) not less than five persons or bodies who have applied for permission to tender and who have been selected as suitable by the appropriate Portfolio Holder”</p>	<p>DELETE: “Portfolio Holder” in (a) and</p> <p>SUBSTITUTE: “Chief Officer”</p> <p>ADD after “Portfolio Holder” the following:</p> <p>“but only in respect of contracts valued in excess of £50,000 but less than the EU procurement thresholds”</p> <p>NB A clerical amendment of “four” to “ five” will be made.</p> <p>ADD new paragraph 6(d) as follows:</p> <p>“(d) In exercising their delegated authority under paragraph (a) above, Chief Officers will record the criteria used in decisions on the ad hoc list of tenderers and be required to supply a copy to the Chief Internal Auditor for audit purposes.</p>	<p>C7(6)(a) relates to approval of ad hoc tendering lists after public notice. Authority is currently required from Portfolio Holders but it is recommended that this should be amended to refer to the appropriate Chief Officer. This will avoid premature disclosure of the list of competitors via the Portfolio Holder decision process. Clarification of the contracts which are involved is also recommended, namely those contracts above £50,000 in value but below the EU limit</p> <p>It is proposed that a new paragraph (d) be added requiring Chief Officers to record their decisions for audit purposes.</p> <p>It is also recommended that this change in procedure be reviewed in 2012/13.</p>
<p>C8(2) (Open Tendering)</p>	<p>“For the purposes of this Standing Order, procedures should comply with the requirements of... C16 (Opening of Tenders)”</p>	<p>ADD new paragraph (to be numbered (3)) as follows:</p> <p>“(3) The procedures for the opening of tenders may be varied in accordance with CSO 19 (relating to pre-tender estimates).”</p>	<p>To clarify that arrangements for tender opening and the circumstances where a Portfolio Holder need not supervise (see CSO 19 below).</p>

CSO Number/Subject	Present Wording	Proposed Amendment	Comments
C10(a)(1)(i)(Contractor Selection – All Contracts Valued at More Than £25,000)	<p>“(1) For contracts in excess of £25,000, under no circumstances shall an invitation to quote be given to any person or body:</p> <p>(i) whose names do not appear on Constructionline unless the trade required is not included on Constructionline...”</p>	DELETE (i)	This section is unduly restrictive and does not reflect the procurement options available via the Essex Procurement Hub and Contract Standing Orders. Constructionline remains an option for some types of contract.
C12 (Sub Contractors and Nominated Suppliers)	ADD NEW PARAGRAPH TO BE NUMBERED (3)	<p>ADD new paragraph as follows:</p> <p>“(3) Any contractor appointed by the Council to perform any contract shall not appoint a Sub Contractor to perform any part of that contract or any supplier without the prior written consent of the Council”.</p>	<p>This Contract SO relates to a Sub Contractor or supplier which may be nominated by the relevant Chief Officer to the appointed contractor. Any such Sub Contractor or supplier may only be nominated by the Chief Officer if competitive quotations are obtained in according with contract standing orders.</p> <p>At present this CSO does not deal with a main contractor who wishes to sub contract. The proposed amendment is proposed in order to require that any such appointment is approved in advance by the Council.</p>
C14(1) (Appointment of Consultants)	“... The Council’s standard forms of appointment for consultants shall apply in all cases unless the Director of Corporate Support Services directs otherwise. These are set out on the Council’s intranet.”	<p>ADD new sentence at the conclusion of paragraph (1) as follows:</p> <p>“All Chief Officers shall be required to take advice from the Council’s legal staff on the form of contract to be used and specific provisions to be included therein before any contract is executed.”</p>	Places a responsibility on Chief Officers to consult fully with legal staff throughout the contract process so as to avoid complications at a later stage.

CSO Number/Subject	Present Wording	Proposed Amendment	Comments
C14(2) (Engagement of Consultants)	“The engagement of consultants shall be in accordance with Standing Orders...”	ADD reference in (2) to C14(1) (Legal Advice on Contracts) – see preceding item	Ditto
C18 (Alterations)	<p>“(a) Quotations and tenders shall not be altered after the date stipulated for their return, save that the relevant Chief Officer shall permit correction of arithmetical errors if he is satisfied that such errors were made inadvertently.</p> <p>(b) If an error is identified before the closing date for the return of tenders, all the tenderers shall be informed of the error and invited to adjust their tenders.</p> <p>(c) If an error in the specification is identified after the closing date for the return of tenders, all tenderers shall be given details of the error and afforded the opportunity of withdrawing the offer or submitting an amended tender.”</p>	<p>ADD following note after (c):</p> <p>“NOTE: For the purposes of paragraph (a) above the term “arithmetical error” is defined as an error in addition, subtraction, multiplication or division which has no impact on the results of the tendering exercise. Where omissions or similar errors occur in the tender which, if corrected would change the outcome of the tendering exercise, such corrections will not be undertaken except as a result of further consultation with all tenderers. “</p>	Definition of what is an arithmetical error would assist in the interpretation of this CSO. Arithmetical error should not include errors which affect the value of the tender (e.g. major omissions from the costed tender specification).

CSO Number/Subject	Present Wording	Proposed Amendment	Comments
<p>C19(2) (Acceptance of Quotations £25,000 - £50,000)</p>	<p>“(1) A Chief Officer may accept the lowest quotation received in respect of a contract not exceeding £50,000 in value or amount; a quotation other than the lowest received shall not be accepted until the relevant Portfolio Holder has considered a report...”</p> <p>(2) Paragraph (1) above shall not apply where: ...</p>	<p>ADD new paragraphs (to be numbered (2)(c) and (d)) as follows:</p> <p>“(c) the relevant Chief Officer has obtained approval in advance of the terms under which quotations will be accepted from the Cabinet or the relevant Portfolio Holder and acceptance of a quotation is fully in compliance with that decision.</p> <p>(d) in cases where quotations received exceed the limit of £50,000, provided that the lowest quotation exceeds the pre-contract estimate by no more than 10%</p>	<p>Currently C19(2) requires a Chief Officer to obtain the approval of the Portfolio Holder if other than the lowest price quotation is to be accepted.</p> <p>This applies to quotations in the range of £25,000 - £50,000. To avoid delays in letting contracts, it is recommended that, provided that the Chief Officer has agreed the terms of acceptance in advance including the basis of evaluation and the proposal to accept a tender other than the lowest accords with those terms, the Chief Officer may make the decision.</p> <p>New paragraph (d) would enable the Chief Officer to accept the lowest quotation even if it exceeds the £50,000 limit, provided it is no more than 10% above the pre-tender estimate.</p>
<p>C20(3) (Acceptance of Tenders – Contracts Exceeding £50,000)</p>	<p>“(3) A tender other than the lowest received may only be accepted after acceptance by the Cabinet or the Council on the recommendation of the appropriate Chief Officer to the Portfolio Holder concerned.”</p>	<p>AMEND first sentence of (3) by the addition of the following:</p> <p>“... unless the terms for accepting a tender have been approved in advance and the acceptance of other than lowest tender is fully in compliance with that approval.”</p>	<p>See above.</p> <p>The same exception is applied to tendering for contracts in excess of £50,000. Contracts over £1 million are excluded however as still requiring Cabinet or Council approval.</p>