

CONTRACT STANDING ORDERS

Report of the: Director of Finance & Resources
Contact: Simon Young/ Lee Duffy/ Gillian McTaggart
Urgent Decision?(yes/no) No
If yes, reason urgent decision required:
Annexes/Appendices (attached): Contract Standing Orders (CSO's)
Other available papers (not attached):

REPORT SUMMARY

The Contract Standing Orders set out the rules for letting contracts. This report outlines the proposed changes to the Contract Standing Orders to reflect the Public Contract Regulations 2015.

RECOMMENDATION (S)

That the Committee approves the new Contract Standing Orders and recommends to the Council that the Constitution be updated accordingly.

Notes

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The updated Contract Standing Orders (CSOs) will support the delivery of the Council's Corporate Plan.
- 1.2 The managing resources service plan covers exploring opportunities for cost savings, joint working and collaborative service delivery with others.

2 Background

- 2.1 During 2015, an internal audit review identified a number of weaknesses in the Council's procurement arrangements, concluding that they were not adequate and the controls in place could not be relied on. A further independent healthcheck was carried out in August 2015 by Procurement Partners which stated that the Council's arrangements were overall below average. Both these reviews made a number of recommendations and an action plan was agreed to address these. As part of this, the Council agreed to review and update its CSOs.

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- 2.2 The Contract Standing Orders form part of the Constitution and apply to all contracts entered into by the Council for the procurement of goods, works, and services.
- 2.3 The purpose of the Contract Standing Orders is to provide a structure within which purchasing decisions are made and implemented which ensures that the Council can meet its corporate objectives, use resources effectively, purchase quality goods and services and safeguard its reputation from any implications of dishonesty or completion.
- 2.4 The new Public Contract Regulations 2015 (PCR) came into force in February 2015 which changed the existing procurement regulations. The stated objectives of the Public Contracts Regulations are to improve quality and value for money in the public sector procurement of goods and services in particular in making procurement opportunities more accessible to smaller businesses and voluntary organisations. As a result the CSOs have been rewritten to reflect the changes in legislation and make them easier to understand. The main changes include:
 - 2.4.1 Contracts must be awarded to the most economically advantageous.
 - 2.4.2 Below EU thresholds Pre-Qualification Questionnaires (PQQs) are prohibited and above EU thresholds standard PQQs must be used meaning that in most cases open tenders must be used and therefore all expressing an interest must be sent an invitation.
 - 2.4.3 Contracts over £25,000 should be advertised on Contracts Finder and award notices should also be recorded.
 - 2.4.4 E-procurement should be used to improve record keeping and reporting obligations, (now deferred to April 2018)
 - 2.4.5 Encourage contracts to be split into lots to make them more attractive to smaller businesses.
- 2.5 The Council are also looking to improve strategic procurement through a joint working arrangement with the London Borough of Sutton. This was previously agreed by the Committee at the meeting on 25th January, to restructure the procurement function to address performance issues.
- 2.6 Their proposal covers strategic procurement whilst transactional procurement will remain in-house. Strategic procurement encompasses updating our procurement strategy aligning it to the new Corporate Plan, analysis of spend and the implementation of an e-tendering system.. The Council will use the Due North e-procurement platform with implementation support from the London Borough of Sutton. The updated CSOs will be required to set the relevant workflows and authorisation limits on the system.
- 2.7 Transactional procurement which will remain in-house covering day to day transactions within departments which will be supported by a new Data Analyst role.
- 2.8 The Contract Standing Orders were last updated in 2007.

- 2.9 The CSOs do not provide guidance on the best way to purchase these will be set out in the Procurement Strategy and the Procurement Toolkit which will be updated at a later time as part of the Implementation Plan.

3 Proposals

- 3.1 The Contract Standing Orders have been streamlined to give greater clarity and take into account the Public Contracts Regulations. The main changes are:

3.1.1 Clarification on the Council's processes and responsibilities for starting a procurement exercise, evaluating tenders, awarding contracts and contract management and administration.

3.1.2 Clarification on the use of frameworks.

3.1.3 Provide an updated list of exemptions and waiver provision.

3.1.4 The new thresholds are similar to the previous thresholds but are more streamlined across evaluation and award criteria. The lowest threshold remains £5,000. The previous threshold of £5,000 to £75,000 has been split into two, £5,000 to £24,999 and £25,000 and £74,999 in line with PCR requirements that contracts over £25,000 be advertised on contract finder. A new threshold level of £75,000 to EU threshold has been included as restricted procedures can no longer be used for tendering below EU threshold levels.

3.1.5 The Committee should note that the existing threshold of £750,000 for strategic procurement being reported to Committee will remain unchanged.

3.1.6 The independent Procurement Healthcheck had recommended that the lowest threshold be reduced to below £2,500. This was felt to be too low and overly bureaucratic. However this will be reviewed after a year in order to assess the impact of the current level.

3.2

	NEW THRESHOLDS			
CONTRACT VALUE	Award Procedure	Accepting Quotes/ Tenders	Evaluation	Award
Below £5,000	One (but preferably three)	Contract Manager with delegated authority	Officer with delegated authority	Contract Manager with delegated authority
£5,000 to £24,999	At least three Quick Quotes & OR Request for Quotation	Contract Manager with delegated authority	At least two officers, one of whom not previously involved in the	Head of Service

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			procurement	
£25,000 to £74,999	3 quotes and all on Contract Finder over £25,000	Head of Service	At least two officers one of whom must be a representative from the Finance department	Head of Service in conjunction with a representative from Finance
£75,000 to below EU Threshold	A minimum of five organisations who express interest must be asked to formally tender	Open procedures must be used	At least three officers including one representative from Finance and one from Legal	Head of Service in conjunction with the Director of Finances & Resources
EU Threshold to £750,000	Five	EU Procurement / tender using Open/ Restricted/ others	At least three officers including one representative from Finance and one from Legal	The Director of Finances & Resources in conjunction with the relevant committee chairman
All Over £750,000	Five	EU Procurement / tender using Open/ Restricted/ others	At least three officers including one representative from Finance and one from Legal	The Director of Finance & Resources in conjunction with the relevant committee chairman
EU LIMITS	Works £4,104,394	EU Compliant		
	Supplies £164,176	EU Compliant		

4 Financial and Manpower Implications

- 4.1 There are no financial implications for this report. Although the annual spend with suppliers is around £9million.
- 4.2 **Chief Finance Officer's comments:**

5 Legal Implications (including implications for matters relating to equality)

5.1 Pursuant to section 135 of the Local Government Act 1972, local authorities are required to make standing orders in respect of contracts. These have been drafted to reflect current completion requirements as set out in the Public Contracts Regulations 2015.

5.2 ***Monitoring Officer's comments.*** *It is important that the Council conducts its procurement activities in accordance with the law. The new CSOs, together with the new procurement arrangements should assist us in doing that.*

6 Sustainability Policy and Community Safety Implications

6.1 The policy will have no negative sustainability and community safety implications.

7 Partnerships

7.1 The Council will be working with the Procurement Team at the London Borough of Sutton to strengthen arrangements and ensure compliance with legislation and best practice.

8 Risk Assessment

8.1 Failure to update the Contract Standing Orders could result in officers making illegal or poor procurement decisions leading to a legal challenge and/ or increased costs.

9 Conclusion and Recommendations

9.1 That the Strategy & Resources Committee agree the updated Contract Standing Orders.

WARD(S) AFFECTED: ALL