
CONTRACT STANDING ORDERS AND PURCHASING GUIDE

To: **Constitutional Review Working Party**

Main Portfolio Area:

By: **Karen Paton, Procurement and Contracts Manager**

Classification: **Unrestricted**

Ward: **(Not applicable)**

Summary: Review of Contract Standing Orders and associated Purchasing Guide

For Decision

1.0 Introduction and Background

1.1 In May 2009 new Contract Standing Orders (CSOs) and an associated Purchasing Guide, which had been developed by the Kent Legal secretaries Group, were adopted by the Council. Clause 16.1 of the CSOs stipulated that 'these Contract Standing Orders shall be reviewed and updated on a regular basis'. A review of both documents has now been undertaken.

2.0 The Current Situation

2.1 The review of Contract Standing Orders and the Purchasing Guide has concentrated on four different areas: realigning the documents with the Council's new Structure, increasing the level of control at tender openings, changes in procedure and updating the areas exempt from Contract Standing Orders. Amended copies of both documents are attached.

2.2 Realignment of CSOs with new Structure - With the implementation of the new council structure certain small amendments are required to the CSOs and Purchasing Guide to bring the documents in line. Changes have therefore been made to service areas and the officer structure quoted in the document. Changes have not been made to where responsibilities lie.

2.3 Tender Opening Procedure - At the Governance and Audit committee meeting held on 29 September 2011, during consideration of the Internal Audit Progress report, members queried whether cross-party Member attendance at tender openings would provide an additional level of control and Assurance. Members were advised that each tender is opened in the presence of the Cabinet Portfolio holder, a procurement officer, an officer from the relevant tendering department and a Democratic Services Officer and that whilst cross-party Member attendance would provide an additional level of control it would require a change to the Council's Constitution. The actual procedure for Tender opening is stipulated in the Council's Contract Standing Orders (Clause 11) and in more detail in Appendix 1 so to permit cross-party Member attendance changes would be required to this document.

2.4 Changes to procedures - Clause 7.4 financial thresholds and procedures - Amend procedures for spend within quotation bands, to incorporate consideration of suitably qualified Thanet Suppliers. This supports corporate regeneration objectives by optimising

potential for incorporating wider social benefits in the delivery of value for money to the Thanet community.

- 2.5 Exemptions to compliance with CSOs. - Contract Standing Orders apply to all contracts entered into or on behalf of the Council with the exception of five categories which are listed in Clause 2.3 of the document. The operation of the CSOs over the last three years has shown that another category of contracts should be included. There are some areas of purchasing where only one supplier is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive rights. In these cases it is not possible to comply with Contract Standing Orders especially Clause 7 which stipulates the purchasing procedure to be followed depending on the contract value. It would therefore be advisable to exclude this type of contract but with the proviso that where a procurement is captured by EU Regulations, the negotiated process would still apply, as allowed for within the provisions of the Procurement legislation.

3.0 Options

- 3.1 To recommend approval of the minor amendments made to the Contract Standing Orders and Purchasing Guide in order to bring the documents in line with the new Council structure.
- 3.2 To recommend approval of the amendment to both Clause 11.5 and Appendix 1 of the CSOs to add to those present at tender openings 'the appropriate Shadow Portfolio Holder or another Shadow cabinet member' and in order to ensure that tender opening is not delayed, add to Clause 11.5 'In circumstances where both Portfolio/Cabinet member and/or, both Shadow Portfolio/Cabinet members are unable to attend, opening of tenders can and should be undertaken in presence of officers only to ensure procurement programme is maintained'
- 3.3 To recommend approval of amendments to Clause 7.4 of the CSOs to add the following wording to the first two financial threshold groups listed. 'Consideration to be given to suitably qualified Thanet Supplier/s, if available'
- 3.4 To recommend approval of the addition of the following wording to Clause 2.3 so that Contract Standing orders do not apply 'When, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the goods, services or works may be provided only by a particular service provider.'
- 3.5 To retain the Contract Standing Orders and Purchasing Guide in their current format.

4.0 Next Steps

- 4.1 N/A

5.0 Corporate Implications

5.1 Financial and VAT

- 5.1.1 Costs would be limited to officer time required to make the amendments to the current Contract Standing Orders and Purchasing Guide.

5.2 Legal

- 5.2.1 Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972

5.3 Corporate

- 5.3.1 This is captured within "Performance" section of the interim Corporate Plan 2011/2012:

“The Council is committed to ensuring that it has efficient and economically effective ways of working”.

- 5.3.2 Ensuring Contract Standing Orders and associated documents are updated as required, is critical to maintaining robust procurement procedures, which give clear guidance and instruction on compliance requirements and upholds transparency of operation, which reduces risk of challenge within procurement activity.

5.4 **Equity and Equalities**

- 5.4.1 These Contract standing Orders and Purchasing Guide identify the statutory requirement under European and UK law and obligations placed on the contractor to comply with relevant legislation. Application of these CSO's and Purchasing Guide are contained within the Equality Impact Assessment for Procurement.

6.0 **Recommendation(s)**

- 6.1 The Constitutional Review Working Party approve and recommend to the Standards Committee and Full Council the amendments to the Contract Standing Orders and Purchasing Guide listed below and the associated amendment to the Constitution as required.

- Amendments made to bring the documents in line with the new Council structure.
- Addition to wording of Clause 11.5 and Appendix 1 of the CSOs of 'the appropriate Shadow Portfolio Holder or another Shadow cabinet member' and to Clause 11.5 of 'In circumstances where both Portfolio/Cabinet member and/or, both Shadow Portfolio/Cabinet members are unable to attend, opening of tenders can and should be undertaken in presence of officers only to ensure procurement programme is maintained'
- Addition to wording of Clause 7.4 of the CSOs of 'Consideration to be given to suitably qualified Thanet Supplier/s, if available'
- Addition of Clause 2.3.6 'When, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the goods, services or works may be provided only by a particular service provider' to the CSOs.

7.0 **Decision Making Process**

- 7.1 This is a non-key decision.
- 7.2 Presented to the Constitutional Review Working Party for this forum to make recommendation to the Standards Committee who will subsequently make recommendation to Full Council.

Future Meetings: Standards Council	Date: 1 st March 2012 19 th April 2012
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Annex List

<i>Annex 1</i>	<i>Contract Standing Orders (Amended February 2012)</i>
<i>Annex 2</i>	<i>Purchasing Guide (Amended February 2012)</i>

Background Papers

Title	Details of where to access copy
<i>Minutes of Governance and Audit Committee 29 September 2011</i>	<i>Democratic Services</i>

Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager & Deputy S.151 Officer
Legal	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer
Communications	Sarah Carroll, Business Services Manager