

Update to Regulatory and Appeals Committee on changes to Contract Standing Orders

Appendix 1 Summary of proposed changes to CSOs

June 2016 list of changes						May 2017 Update
Subject Area: At what value of purchase is competition mandatory?						
Item	Change	Current CSO value	Proposed CSO value	Reason		
1	<p>The value at which a single verbal quote is permitted with no recorded justification for the lack of competition.</p>	<p>Currently CSOs require some level of competition for all purchases above £ 250. Above that level the rigour of the competitive process increases with value.</p> <p>This Change 1 would increase the value at which competition is required, with no further justification, to £ 500</p> <p>Only Budget Holders and holders of procurement cards would be authorised to enable payment of such items</p>	£ 250	£ 500	<p>Cost of officer time in seeking competitive bid outweighs potential savings.</p>	<p>This change was implemented in the subsequent CSO redraft.</p> <p>No further action is proposed.</p>
2	<p>To permit non-competitive award up to a value of £5000, provided Officers retain a written record which demonstrates how value for money was achieved without a competitive process.</p> <p>Please see the revised Authorisation Table at Annex 1</p>	<p>As stated above, currently some level of competition is mandatory for purchases above £ 250.</p> <p>This £250 threshold would move to £500 if Change 1 above were authorised.</p> <p>Currently between this threshold and £5000 CSOs require Officers to obtain two verbal quotes with email confirmation.</p> <p>Any non-competitive award has to be justified using a single tender justification process which may only apply in a limited range of specific circumstances. See Annex 2.</p>	N/A	£ 5000	<p>The cost of preparing a written brief in sufficient detail that bidders can respond competitively can outweigh the saving achievable especially for one off items required by senior staff.</p> <p>An informal survey suggests that the £5000 threshold is at the lower end of similar threshold specified by other equivalent Local Authorities.</p>	<p>This change was implemented in the subsequent CSO redraft.</p> <p>Indicative comparisons suggest that the number of orders raised in 15/16 (before the change) and in 16/17 are reasonably constant and do not indicate excessive use of this clause however Officers will continue to monitor this issue and further training on procurement processes will be provided.</p>

		This proposed Change 2 is for purchases with values between £500 and £5000, competition is to be advisable but not mandatory. Officers must retain evidence of competition in the form of email, paper or any other written format, or retain a written explanation of how value for money was achieved without a competitive process.			The requirement to retain a justification would be tested through internal audits	
Subject Area: For paper tenders, at what value must a Head of Service be present at the opening						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
3	The value at which it is mandatory for a Head of Service to be present at the opening of a paper tender. Please see the revised Authorisation Table at Annex 1	It is proposed that the threshold at which it is mandatory for a Head of Service to be present at the opening of a paper tender be increased from £25,000 to £100,000. Below £100,000 the Ordering Officer must be present.	£25,000	£100,000	Reduce the administrative burden on Heads of Service.	This change was implemented in the subsequent CSO redraft. No further action is proposed.
Subject Area: At what value of purchase is Head of Service authority required to award a contract?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
4	The alignment of the value at which Head of Service authorisation for purchase orders is required, compared to the value of authorisation that is required for written contracts . Please see the revised Authorisation Table at Annex 1	Electronic purchase orders generated by the finance system, and written contracts which are generated by the legal team may both create a commitment between the Council and a supplier. Currently the value at which Head of Service authorisation is required differs between the two. Looking back, this is a long standing anomaly This proposed Change 4 would align the value at which authorisation by a Head of Service is required for electronic purchase	£ 5000	£ 25,000	Correct historical anomaly. The other hierarchical authorisation levels are already aligned.	This change was implemented in the subsequent CSO redraft. No further action is proposed.

		orders generated by the finance system (£25,000) with that required for written contracts which are generated by the legal team (currently £5,000). It is proposed that the Head of Service authorisation value for written contracts be increased by £20,000.				
Subject Area: At what value does the Council require its Officers to raise a purchase order						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
5	Value at which a purchase order is required. Please see the revised Authorisation Table at Annex 1	The Council will no longer require its Officers to raise purchase orders for individual purchases below £ 500.00. The practice of reviewing and approving Suppliers before buying from them will continue.	£0.01	£ 500	There is a cost incurred in raising and processing purchase orders. Also, losing sight of the accrued value of orders of that value has no material affect on the Council's accounts.	This change was implemented in the subsequent CSO redraft. In the 16/17 financial year the number of orders placed with a value of less than £500 dropped by about 45% compared to 15/16.
What are Purchase Orders used for at WDC?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
6	Explanation of the uses of Purchase Orders at WDC	Electronic purchase orders may have one, or two separate purposes at WDC. 1) A legal function, to create a contractual commitment. 2) A financial function, to record a financial commitment and to initiate the invoice payment process. An electronic purchase order is not the only means of achieving purpose 1. They do however always have purpose 2. CSOs do not currently explain both of the Purchase Order purposes. Under this	N/A	N/A	CSOs do not currently explain both of the functions of a Purchase Order at WDC.	This change was implemented in the subsequent CSO redraft. No further action is proposed.

		proposed Change 6 an explanation is to be added. The explanation will recognise the obligation (already implicit in the Authorisation Table) that a formal contract prepared by the Legal Team is required for any legal commitment over £50,000.				
Subject Area: When is single bid authorisation required to justify the use of a non-competitive procurement process?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
7	The authorisation of non-competitive award: minimum threshold at which the "single tender" process applies. (Please see Annex 2 attached)	Any non-competitive award has to be justified using a "Single Tender" justification process which may permit such awards only in a limited range of specific circumstances. The process has no minimum value. Under this Change 7 the minimum value would be amended to £5000, to reflect Change 2 above, if that change were approved.	£0	£5000	Consequential change	This change was implemented in the subsequent CSO redraft. This change is a consequence of change 2 above. No further action is proposed.
8	The authorisation of non-competitive award: circumstances when non - competitive award is justified. (Please see Annex 2 attached)	Change 8 is a general clarification of the wording of the circumstance under which non competitive award may be permitted. The changes are grammatical.	N/A	N/A	Existing wording to be improved	This change was implemented in the subsequent CSO redraft. It was grammatical and had no material effect, no further action is proposed.
9	The authorisation of non-competitive award: Item 3.4.1(Please see Annex 2 attached)	The second repeat occasion of non-competitive award may be authorised by the Corporate Director as well as by the Chief Executive.	N/A	N/A	Improve flexibility and resilience of decision making.	This change was implemented in the subsequent CSO redraft.to increase agility. No further action is proposed
Subject Area: When and where does the Council advertise?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
10	Specify the minimum requirement when	[1] Currently Contract Standing Orders fall short of making advertising mandatory.			The Council is keen to encourage SMEs and	This change was implemented in the subsequent CSO redraft

	<p>and where Officers must advertise.</p> <p>Please see the revised Authorisation Table at Annex 1</p>	<p>[2] Under this Change 10 Officers would be required to advertise all opportunities over £10,000, as a minimum on the Council's website. Opportunities over £25,000 would as a minimum be advertised on Contracts Finder. Opportunities above the EU Thresholds would be advertised in OJEU and on Contracts Finder as required under the Public Contract Regulations 2015.</p> <p>[3] Advertising opportunities worth less than £10,000 would be optional.</p> <p>[4] Where opportunities are not advertised, in order to ensure that value for money is achieved, the requirement for competitive award will remain, also Officers will be required to ensure variety in the selection of bidders approached over time. In addition the Council will conduct a regular spend analysis to identify purchase patterns and opportunities to achieve additional savings.</p>			<p>Local Businesses. One way of doing this is to make them aware of opportunities as they arise.</p> <p>The Council's Procurement Strategy reads: We aspire to advertise all opportunities unless there is a good reason not to.</p> <p>Under the Public Contract Regulations 2015, for contracts over £25,000, where a contracting authority advertises a contract award opportunity, the contracting authority must publish information about the opportunity on Contracts Finder (the Governments website), regardless of what other means of advertising it uses.</p> <p>Currently Contract Standing Orders fall short of making advertising mandatory. Officers have requested clarity on this issue.</p>	<p>Regarding paragraph 2:</p> <p>This advertising has not resulted in a noticeable increase in the number of local tenderers.</p> <p>In recent weeks the Council has introduced a new electronic newsletter feature through which companies who register can receive an email notification when a new opportunity arises rather than having to look at the site.</p> <p>In an effort increase the levels of interest stimulated by our web advertisements we have publicised this new feature in the Talking Business insert to the Bucks Free Press</p> <p>Officers will monitor the number of registrations with a view to issuing a further reminder later in the year.</p> <p>We have also produced an information paper for Members to hand out at business meetings.</p> <p>Regarding paragraph 4:</p> <p>During the latter part of 2016 the Council did conduct an initial spend analysis of off contract spend. The analysis highlighted general lower value building works as an area of interest. These are the subject of a</p>
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						separate strategy which is discussed further in Appendix 2.
Subject Area: What changes are necessary to take account of the Public Contract Regulations 2015?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
11	<p>Changes to CSOs driven by changes to public procurement legislation.</p> <p>Please see the summary of key changes implemented by the Public Contract Regulations 2015 at Annex 3.</p>	<p>In 2013 when Contract Standing Orders were last reviewed the Council was subject to the Public Contract Regulations 2007, as amended in specific areas by associated legislation.</p> <p>In April 2015 much of the preceding legislation was replaced by the Public Contract Regulations 2015. These new regulations implemented significant changes; some of these are listed in Annex 3 below.</p> <p>CSOs will be amended to reflect these legislative changes.</p> <p>Officers have been operating in accordance with the new legislation, guidance was circulated under separate cover.</p>	N/A	N/A	See "Change"	<p>These changes were implemented in the subsequent CSO redraft.</p> <p>No further action is proposed.</p>
12	Changes to CSOs driven by changes to the Construction (Design & Management) Regulations	<p>CSOs carry advice to Officers specifically regarding construction (works) contracts and the associated CDM regulations.</p> <p>The Construction (Design & Management) Regulations 2015 implement changes that need to be reflected in CSOs.</p>			See "Change"	

Annex 1 – Proposed Authorisation Table

Est. Value (excl. of VAT)	Advertise	Competition	No. Quotations/Tenders requested	Opening - Paper Tenders. (The record of Tenders which are submitted electronically, is signed by the Head of Financial and Commercial services only.)	Form of contract	Authority required to award contract/ place purchase order
<£500	Discretionary	Discretionary	Single verbal quote sufficient with email confirmation	N/A	Verbal	Budget Holder or Procurement Card Holder
£ 501 - £5,000	Discretionary	Discretionary	<p>Competition is advisable evidenced in the form of email, paper or any other written format.</p> <p>However a single verbal quote with email or any other written confirmation may be sufficient. In this case the ordering officer must retain a written explanation of how the procurement process followed achieved the best value for money for the Council.</p>	Ordering Officer	Purchase Order/MWO	Budget Holder

£ 5001 - £10,000	Discretionary	Mandatory	3 quotes which may be evidenced in the form of email, paper or any other written format .	Ordering Officer	Purchase Order/ MWO or Contract	
£ 10,001 – £25,000	Mandatory As a minimum on the Council's web site	Mandatory		Ordering Officer	Purchase Order/ MWO or Contract	
£25,001 - £50,000	Mandatory As a minimum on Contracts Finder and the Council's web site.	Mandatory	Min. 3 written quotes (each signed by a bidder employee) or tenders. The choice of quote or tender should be subject to consultation with Legal Services or Procurement Manager/Supervising Officer.	Ordering Officer	Purchase Order/ MWO or Contract	Head of Service (White Sheet)
£50,001- £100,000	Mandatory As a minimum on Contracts Finder and the Council's web site.	Mandatory	Min. 3 written tenders shall be invited and recorded	Ordering Officer	Contract document	
£100,001- £500,000 ⁵	Mandatory As a minimum on Contracts Finder and the Council's web site. Contracts above the	Mandatory	Min. 5 tenders shall be invited and recorded	Head of Service responsible for seeking tender in presence of independent witness.	Contract document	Head of Service in consultation with the appropriate Cabinet Member under delegated powers with report on action taken

	relevant EU Thresholds must be advertised in accordance with the EU Procurement Directives					(Green Sheet)
£500,001+		Mandatory	Min. 5 tenders shall be invited and recorded	Chairman or Vice-Chairman of Council or any other Member if both unavailable, Corporate Director or nominated representative, plus a nominated officer from the department seeking the tender.	Contract document	Corporate Director and then Cabinet or duly authorised Committee £500,000 to £2,000,000, or full Council over £2,000,000. Cabinet Report or Council Report

Annex 2 - Proposed changes to the Single Tender Process as track changes to the existing text.

3 Single tenders

3.1 Although you have an obligation to obtain competitive quotations for [Goods](#), [Services](#) and [Works](#) contracts, in certain limited circumstances, contracts can be awarded without competition. These are known as single tenders.

3.2 Even if it is not required below, you are advised to seek the advice of the District Solicitor or Procurement Manager before awarding a single tender contract.

3.3 Contracts under single tenders can only be awarded once you have completed the [relevant form](#) in full and obtained all the necessary signatures. You should give a copy of the form to the Procurement Manager with one working day of it being completed. The Procurement Manager must sign the form to acknowledge receipt.

3.4 You are required to seek single tender authorisation -for any non-competitive award worth more than £ 5000.00.

3.5 The **only** circumstances under which you can award a single tender are as follows:

	Qualifying circumstances	Authority required	Additional requirements
1	<p>For solutions other than provision of advice or project management</p> <p>You have an existing contract which was competitively tendered and all the following conditions apply:</p> <p>a) The relevant head of service in consultation with the District Solicitor reasonably considers that a new contract for the same solution on the same terms and conditions can be justified and the reasons for that opinion are noted on the single tender form</p> <p>b) The new contract is not likely to invalidate the original competitive tender in the opinion of the District Solicitor</p>	<p>HoS on first occasion. Chief Exec <u>or</u> Corporate Director on second occasion.</p>	<p>A maximum of two consecutive occasions of new award are permitted</p> <p><u>i.e. a maximum of three awards in total.</u></p> <p>Each new award may not exceed the original contract term or 12 months whichever is the shorter</p> <p>The total value of both new awards may not exceed £ 100,000 in total</p>
2	<p>For provision of advice or project management</p> <p>You have an existing contract which was competitively</p>	<p>HoS</p>	<p>The relevant competitive exercise has been conducted in the previous 12 months</p> <p>One new award is permitted.</p>

	Qualifying circumstances	Authority required	Additional requirements
	<p>tendered and all the following conditions apply:</p> <p>a) The relevant head of service in consultation with the District Solicitor reasonably considers that a new contract for the same solution on the same terms and conditions can be justified and the reasons for that opinion are noted on the single tender form</p> <p>b) The new contract is not likely to invalidate the original competitive tender in the opinion of the District Solicitor</p>		<p><u>i.e. a maximum of two awards in total.</u></p> <p>The total value of the new award may not exceed £ 50,000.</p>
3	<p>For <u>Goods, Works</u> or <u>Services</u> which were <u>not</u> competitively tendered:</p> <p><u>a) None of the other Qualifying Circumstances as stated in the table apply, and;</u> a)–</p> <p>b) the relevant Head of Service in consultation with the District Solicitor reasonably considers that a new contract for the same solution on the same terms and conditions- a non-competitive contract award can be justified and the reasons for that opinion are noted on the single tender form.</p>	Decision of the Head of Service in consultation with the Cabinet Member for the relevant service the Cabinet member for Finance and the Head of Financial and Commercial Services	<p>One new award is permitted.</p> <p>The total value of the new award may not exceed £100,000</p>
4	<p>The <u>Goods, Services</u> or <u>Supplies</u> are <u>proprietary</u> articles, or are sold at a fixed price and no satisfactory alternative is available.</p> <p>The cost of the <u>Goods, Works</u> or <u>Services</u> do not exceed the European procurement threshold limits.</p>	HoS Up to £ 100,000	None
5	<p>The procedures relating to the Contract are controlled by Government requirements or the provision of any agency agreement.</p> <p>The cost of the <u>Goods, Works</u> or <u>Services</u> do not exceed the European procurement threshold limits.</p>	HoS Up to £ 100,000	None
6	There would be no genuine competition in the	HoS Up to	None

	Qualifying circumstances	Authority required	Additional requirements
	<p>reasonable opinion of the relevant Head of Service and the reasons for that opinion is noted on the single tender form with evidence proportionate to the value.</p> <p>The cost of the Goods, Works or Services does not exceed the European procurement threshold limits.</p>	£ 100,000	
7	<p>The Goods to be purchased are required as a partial replacement for, or in addition to, existing goods or installations, and obtaining these goods from another supplier would mean acquiring goods with different technical characteristics which would result in the following;</p> <p>(i) incompatibility between existing and acquired goods or</p> <p>(ii) disproportionate technical difficulties in the operation and maintenance of the existing goods or installations</p> <p>(iii) the cost of the goods or installation do not exceed the European procurement threshold limits.</p>	HoS Up to £ 100,000	None

Note: Heads of Service are not permitted to delegate authority for Single Tenders

Annex 3 – Key changes resulting from PCR 2015.

- Timescales for the existing specified EU Procurement processes have been changed.
- New EU Procurement processes have been added.
- We can no longer use pre-qualification questionnaires on contracts valued between £ 25,000 and £164,176 (the EU Services threshold).
- We must pay all correctly submitted invoices within 30 days and must pass that obligation on to the main contractor and all their sub-contractors.
- Procurement documents must be available on the internet at the time we advertise (we can no longer prepare our Tender documents during the PQQ stage, if there is one)
- From April 1st 2015, if we advertise any contract worth more than £25,000 but less than the the EU Thresholds then we must also advertise it on the Government's website "Contracts Finder".
- From April 1st 2015 the award of any contract worth more than £ 25,000 but less than the EU Thresholds must be published on Contracts Finder whether or not the opportunity itself was advertised.
- From April 1st 2015 any opportunity advertised in the Official Journal of the European Union must also be advertised on Contracts Finder.
- From April 1st 2015 any contract award published in the Official Journal must also be published on Contracts Finder.
- The old EU "Part B" services which were largely exempt from the legislation are no longer recognised, there is a shorter list of services to which a new Light Touch regime applies above £ £589,148.