
Subject:	REVISION TO CONTRACT STANDING ORDERS
Meeting and Date:	Governance Committee – 1 December 2022 Council – 25 January 2023
Report of:	Head of Finance & Investment and Monitoring Officer
Decision Type:	Non- Executive
Classification:	Unrestricted

Purpose of the report: The purpose of this report is to propose revisions to Contract Standing Orders to the Council for adoption.

Recommendation: Governance Committee: -

That the Governance Committee recommends to Council that the revised Contract Standing Orders appended to this report are adopted.

Council: -

That the Council, acting on the recommendation of the Governance Committee and the Monitoring Officer, adopts the revised Contract Standing Orders appended to this report.

1. Summary

1.1 A requirement of the existing Contract Standing Orders (CSO's) is that they are reviewed and updated on a regular basis with any such recommendations made by the Monitoring Officer being agreed and adopted by the Council (after consideration by the Governance Committee).

2. Introduction and Background

2.1 Whilst following the UK's exit from the European Union the Council is no longer bound by the EU Directives on public procurement, the Public Contract Regulations 2015 have continued mostly unchanged.

2.2 The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 made the minimum changes necessary to maintain the Public Contracts Regulations 2015 in force, substituting references to EU institutions and procurement documents to their (sometimes new) UK equivalents.

2.3 This report sets out the amendments proposed to the Council's Contract Standing Orders (attached at Appendix A), to reflect the changes in legislation and current working practice. These amendments are summarised below.

2.4 **Advertising Tender Opportunities** - the Official Journal of the European Union (OJEU) Notices have been replaced by the Governments Find a Tender (FaTS) Notices. In late 2019, the Government set up the "UK wide procurement e-notification service" as the "no-deal Brexit" replacement for OJEU. This has been revived under

its original name "Find a Tender Service". The Council's current procurement portal has been amended and integrates with this new notification service and is fully compliant with the Regulations for producing notices (as required for above threshold procurement).

- 2.5 **Financial Thresholds** - The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 (the Regulations) updated the financial thresholds applicable to public procurements under the Public Contracts Regulations 2015.
- 2.6 These thresholds have been applied from the 1st January 2022 and whilst they now include VAT (due to the UK's obligations under the World Trade Organisation), the thresholds proposed to be shown in CSO's are excluding VAT for ease and alignment with the Councils sub thresholds.
- 2.7 Such thresholds will still be reviewed and amended as necessary and the requirement to advertise/complete notices inc. VAT will be adjusted accordingly by the Procurement Manager at the time of publication to ensure compliance with the Regulations.
- 2.8 In addition to the threshold amendments proposed through the legislative changes set out above, it is also proposed to amend the threshold for obtaining three written quotes (through the formal Invitation to Quote (ITQ) process set out at 7.4.2 of CSO's) from £10K to £15K.
- 2.9 The current threshold (£10K) was originally introduced in 2008 (and last reviewed in 2015). Based on the Consumer Price Index (CPI) Inflation data from the Office for National Statistics, the equivalent of goods and services costing £10K in 2008 would now be £14.6K (as of September 2022).
- 2.10 This would have a minimal impact on the number of procurements mandated to be undertaken through the formal competitive quotation process (average reduction of 2 per annum) but would align our current sub threshold in line with inflation. Note - there is no proposed amendment to the current Invitation to Tender (ITT) threshold of £100K.
- 2.11 Appropriate communication, training and support will be provided in respect of the new thresholds (and ongoing requirements of CSO's) as appropriate.
- 2.12 **Waivers & Contract Extensions/Variations** – The current version of CSO's requires approvals by the Monitoring Officer or Section 151 Officer in respect of Waivers (13.3) and Contract Extensions/Variations (14.2). It is proposed that this is amended to allow for the nominees of such Officers to be included and express permission provided for them to approve on behalf of the Monitoring Officer/Section 151 Officer.
- 2.13 **Future Amendments** - the Procurement Bill 2022 introduced in the House of Lords on the 22nd May is the next step in the Government's plan to reform procurement policy in the UK following Brexit (as set out in its December 2020 green paper "Transforming Public Procurement).
- 2.14 The requirements of the Bill are expected to come into force in 2023 following further consultation with stakeholders as the Government develops secondary legislation and guidance to provide the additional detail on how the new regime will operate.

- 2.15 The Government has confirmed that there will be a period of at least six months following the Bill becoming law and the new regime coming into force. This will ultimately require a full review and amendment of Contract Standing Orders once the details are known.

3 Identification of Options

- 3.1 Option 1: To note the report and recommend to Council that the revised Contract Standing Orders appended to this report are adopted.
- 3.2 Option 2: To not note the report nor recommend to Council that the revised Contract Standing Orders appended to this report are adopted.

4. Evaluation of Options

- 4.1 Option 1 is the recommended option to ensure Contract Standing Orders are reflective of current legislation and working practices.
- 4.2 Option 2 is not the recommended option as it will mean Contract Standing Orders are not reflective of current legislation and working practises.

5. Resource Implications

- 5.1 There are no resource implications arising from this report.

6. Appendices

Appendix 1 – Revised Contract Standing Orders

7. Background Papers

Cabinet Office Procurement Policy Note (PPN) 08/20

The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020

Contact Officer:

Dean Coulls, Procurement Manager, dean.coulls@dover.gov.uk 01304 872424