

SUMMARY OF CHANGES TO CONTRACT STANDING ORDERS 2013

Section & paragraph	Changes	Reason/observation
Whole document	<p>Reorganisation of sections</p> <p>Section 1: Scope of Contract Standing Orders</p> <ol style="list-style-type: none"> 1. Basic principles 2. Officer responsibilities 3. Waivers and exemptions 4. Relevant contracts 5. Prevention of corruption 6. Declarations of interest <p>Section 2: Preparing for tendering</p> <ol style="list-style-type: none"> 7. Steps prior to purchase 8. Pre-tender market research & consultation 9. Procurement Principles <p>10. Standards & Award Criteria</p> <p>Section 3 Starting the procurement</p> <ol style="list-style-type: none"> 11. Procurement processes, advertising & approved lists 12. Competition requirements for purchase, disposal & partnership arrangements 13. Shortlisting 14. Invitations to tender/quote (no change) 15. Submission, receipt and opening of tenders 16. Clarification procedures and post tender negotiations 17. Evaluation and award of contract 18. Records and debriefing of candidates 	<p>No change in heading (title)</p> <ul style="list-style-type: none"> - no change in sequential order - relocated previously found in section 5 - relocated previously found in section 5 <p>Renamed - previously Common Requirements</p> <ul style="list-style-type: none"> - no change in sequential order - no change in sequential order - (new section based upon texts previously contained in "Procurement processes, advertising and approved lists" - relocated - previously found in section 3 <p>Previously called "Conducting a Purchase & Disposal"</p> <ul style="list-style-type: none"> - moved from section 2 - no change in sequential order - moved from Section 2

Section & paragraph	Changes	Reason/observation
	<p>Section 4 Contract & other formalities</p> <ul style="list-style-type: none"> 19. Contract documents 20. Extensions & variations 21. Parent company guarantees and bonds <p>Section 5: Special procedures</p> <ul style="list-style-type: none"> 22. Consultants and Council 23. Spot contracts (ASC and Children's Services) <p>Section 6: Contract management</p> <ul style="list-style-type: none"> 24. Managing contracts 25. Risk assessment and contingency planning 26. Post contract monitoring, evaluation & review 	<p>Formerly section 5</p> <ul style="list-style-type: none"> - no change in sequential order (para. 17) - no change in sequential order (para. 18) - no change in sequential order (para. 19) <p>Previously section 4</p> <ul style="list-style-type: none"> - no change previously paragraph 16 - new paragraph <p>No change to heading</p> <ul style="list-style-type: none"> - no change (was paragraph 22) - no change (was paragraph 23) - no change (was paragraph 24)
Whole document	Director of Legal & Democratic Services to Bi-borough Director of Law	Change of title of post holder
Whole document	Head of Internal Audit to Bi-borough Director of Audit	Change of title of post holder
Whole document	Internal cross-referencing where paragraph numbering has been moved around.	(e.g. CSO 9.4.1 has become CSO 12.5.1)

Section & paragraph	Changes	Reason/observation
1.2	Where financial thresholds are mentioned they should be cross-referenced with the Council's Financial Regulation and in the event of any inconsistency between the two documents Financial Regulations shall take precedence.	New paragraph. Resolve any anomalies/conflicts between the 2 documents.
1.3	Throughout these CSOs where reference is made to "estimated values" that means the total estimated spend and not the annualised estimated value of the proposed contract.	New paragraph. Resolve any anomalies/conflicts between FR & CSO.
1.4	For the avoidance of doubt, and subject to specific exemptions contained within these CSOs, a Cabinet Member Decision (CMD) is required for the approval of all contracts that have a total value of £20,000 and greater, but less than £100,000 and a Cabinet Key Decision (KD) for all contracts that have a total value of £100,000 or greater	New paragraph. Resolve any anomalies/conflicts between FR & CSO.
1.5 (previously 1.4)	In the last bullet point deleted "Market Testing Toolkit" and added the word "and" after strategy.	The Market Testing Toolkit now forms part of the purchasing guides.
1.7	Where there is an inconsistency or ambiguity in these CSOs, the Director for Procurement & I T Strategy will advise.	New paragraph. Resolve any issues that need interpretation
1.9.2	Insert reference to "Tri-borough Procurement Code"	Joint working with the Royal Borough of Kensington and Chelsea and Westminster City Council.
2.2	Deleted <i>"to make appropriate arrangements for the opening of written quotations and their secure retention, so as to protect the integrity of the tendering process (see CSO 9.2)";</i> (j) to keep proper records of all contract awarded (using the	No longer applicable all tendering must be conducted through the Council's e-tendering system Added "or any other approved system" as there are planned

Section & paragraph	Changes	Reason/observation
	<i>London Councils</i> Contracts Database or any other approved system where these have a total value of £20,000 and over);	changes to procurement systems during 2013-14. Decreased the £50,000 limit to £20,000 to record contracts as part of the Council's commitment to transparency (e.g. Spotlight on Spend).
3.4	<p>New CSO</p> <p>Each Chief Officer shall take immediate action in the event of breach of these CSOs by reporting this breach to the Executive Director of Finance and Corporate Governance. It will be the responsibility of the Executive Director of Finance and Corporate Governance to determine the nature of the breach and if it is deemed to be serious (e.g. involving a Key Decision) to refer the matter to the Head of Internal Audit for investigation with view to identifying the steps to be taken to avoid a reoccurrence.</p>	Resolve any issues relating to breaches in the CSOs that may arise
7.4 (footnote removal)	<p>The removal of the following wording: The Corporate Passenger Transport Unit in Children's Services Department is responsible for making travel arrangements for all Members and officers.</p>	Removed as no longer applicable
7.6	<p>New CSO – proposed wording:</p> <p>The TAP will be chaired by a senior service manager in the client department (or where there are several departments involved, in the department with the highest spend), with a senior sponsor, and include relevant stakeholders (e.g. contract manager). It will consult and engage relevant professional officers in legal, finance, procurement, IT and HR as required and commission additional expertise where this is warranted. It will be responsible for</p> <ul style="list-style-type: none"> • ensuring a contract is put in place in accordance with 	Defining the role of a Tender Appraisal Panel.

Section & paragraph	Changes	Reason/observation
	<p>legal requirements,</p> <ul style="list-style-type: none"> • that it meets required deadlines and service requirements and • represents value for money. <p>The TAP will keep accurate records of all meetings, retain appropriate documentation and maintain proper records for transparency and audit purposes. The TAP will undertake post project reviews where required. It will implement any corporate or tri-borough shared service requirements including supporting arrangements around any agreed Gate proposals and participating in any audits.</p>	
11.1	Officers will use the methods for selecting potential bidders for either quotations or tenders as set out in Table 11.1 immediately below.	Avoidance of doubt
Table 11.1	Increase of the threshold from £50,000 to £100,000	To align with other thresholds in Contracts Standing Orders.
12.2 New CSO	Chief Officers shall be responsible for planning all tendering exercises. However, the appropriate Cabinet Member shall be responsible for approving the relevant Business Case/Procurement Strategy at the beginning of the procurement process for all tenders regarding services where the estimated value exceeds £1,000,000. Such Business Cases/Procurement Strategies will set out the frequency of interim reports to Cabinet Members on the procurement process.	The current arrangement is for a Cabinet Member Decision half way through a procurement exercise where the estimated value is greater than £1m or involves a potential in-house TUPE transfer. This can delay a procurement exercise whilst the CMD is being signed off and the recommendation is to move the control to the beginning of the procurement exercise rather than keeping it in the middle.

Table 9.2 (2012) revised table 12.3 (2013): Simplification of requirements

2012 Contracts Standing Orders Table 9.2				Proposed changes 2013 Table 12.3			
Maximum total value	Award Procedure	Shortlisting	Contract Award Procedure	Maximum Total estimated Value	Competition requirement	Shortlisting	Contract Award Procedure. (total contract value threshold)
Not more than £5,000	One Quotation (confirmed in writing using a designated electronic system), although the duty to obtain value for money still remains.	Officer	Chief Officer's responsibility (may be delegated).	Not more than £5,000	One Quotation (confirmed in writing using a designated electronic system), although the duty to obtain value for money still remains.	Not applicable	Less than £20,000. Chief Officer's responsibility (may be delegated).
£5,000 to below £20,000	Invitation to Quote as set out in CSO 12.2. A minimum of 3 written quotations should be sought (using a designated electronic system)	Officer & line manager	Chief Officer's responsibility (may be delegated)	£5,000 to below £20,000	Invitation to Quote as set out in CSO 14.2. A minimum of 3 written quotations should be sought (using a designated electronic system)	Officer & Line Manager	
£20,000 to below £100,000	Invitation to Quote as set out in CSO 12.2. A minimum of 3 quotations (or tenders) should be sought (using a designated electronic system).	TAP	Cabinet Member(s), subject to the exemptions set out in CSO 9.4 below.	£20,000 to below £100,000	Invitation to Quote as set out in CSO 14.2. A minimum of 3 written quotations (or tenders) should be sought (using a designated electronic system).	TAP	£20,000 or greater but less than £100,000 ----- Cabinet Member(s) responsible for award.
£100,000. or more (except those listed below)	Invitation to Tender as set out in CSO 12.2. A minimum of 5 tenders should be sought.		Cabinet responsible for award, subject to the exemptions set out in CSO 9.4 below	£100,000. or more but less than £173,934	Invitation to Tender as set out in CSO 14.2. A minimum of 3 tenders should be sought.	TAP	£100,000 ----- Cabinet responsible for award, subject to the exemptions set out in CSO 12.5
£173,934 or more (EU)	Invitation to Tender as set out in CSO 12.2.	TAP	Cabinet responsible for	£173,934 or greater	Invitation to Tender as set out in CSO 14.2.	TAP	below

2012 Contracts Standing Orders Table 9.2				Proposed changes 2013 Table 12.3			
Maximum total value	Award Procedure	Shortlisting	Contract Award Procedure	Maximum Total estimated Value	Competition requirement	Shortlisting	Contract Award Procedure. (total contract value threshold)
Threshold: Supplies & Services only)	A minimum of 5 tenders should be sought, if the <i>Restricted Procedure</i> is used		award, subject to the exemptions set out in CSO 9.4 below		A minimum of 5 tenders should be sought, if the <i>Restricted Procedure</i> is used		
£1,000,000 and above	Invitation to Tender as set out in CSO 12.2. A minimum of 5 tenders should be sought.	TAP providing advice to the appropriate Cabinet Member and Leader	Cabinet responsible for award, subject to the exemptions set out in CSO 9.4 below.				
£4,348,350 (or more EU Threshold: Works only)	Invitation to Tender as set out in CSO 12.2. A minimum of 5 tenders should be sought, if the <i>Restricted Procedure</i> is used.	Appropriate Cabinet Member and Leader	Cabinet responsible for award				
Market testing of In-house (DSO) services	Invitation to Tender as set out in CSO 12.2.. A minimum of 5 external tenders should be sought.	Strategy and invitation to tender approved by Leader & Appropriate Cabinet Member.	Cabinet responsible for award				

CSO 15.5	<p>The person responsible for authorising those officers who can open tenders has been changed from Executive Director of Finance & Corporate Governance to the Director for Procurement & I.T. Strategy.</p> <p>The requirement to open tenders has been changed from 2 witnesses to an independent witness.</p>	<p>The use of electronic tendering system is more secure than when the Council operated a paper-based tendering arrangement. Tenders received through the system cannot be tampered with so having 3 people present at the unlocking of the “electronic vault” is no longer necessary.</p>
Table 19.6.1	<p>2nd line 2nd column wording changed to Contract or agreement to be signed by the Chief Officer (or their nominated deputy in accordance with CSO 2.3), otherwise to follow the procedure below.</p> <p>The words in the bracket were previously (or Assistant/Deputy Chief Officer in accordance with CSO 2.3)</p>	<p>Minor consequential change.</p>
CSO 20 (previously CSO 18)	<p>Section on variations and extensions completed replaced. Current wording:</p> <p>18.1 Except for minor variations to projects (which are covered by contingency sums within the contract value – e.g. Contract Administrator Instructions or Variation Orders), and subject to any statutory restrictions and compliance with Financial Regulations and EU Procedures, a Chief Officer may authorise the following extensions and variations to an existing contract:</p> <p>(a) Either:</p> <ul style="list-style-type: none"> (i) an extension for a particular period provided for within the terms of the contract, but subject to satisfactory outcomes of contract monitoring; or (ii) a single extension of the contract by up to six months or half the contract term, whichever is 	<p>The change is required to clarify the requirement and to align with the Council’s Financial Regulations.</p>

<p>CSO 20 (continued)</p>	<p>less; and</p> <p>(b) any other major or significant variation, and if relevant a consequent change in price, determined in accordance with the contract terms.</p> <p>18.2 In any other circumstances the Cabinet may vary or extend a contract providing that to do so is in accordance with current legislative provisions and consistent with the Council's Financial Regulations.</p> <p>To be replaced with the following wording –</p> <p>20.1 <u>Options to extend.</u></p> <p>20.1.1 Providing that the original award report contains no provision relating to exercising an optional extension provision, these may be authorised by the</p> <p>(a) relevant Chief Officer where the total value of extension or extensions is below £20,000 (subject to appropriate budgetary provision);</p> <p>(b) relevant Cabinet Member where the total value of the extension or extensions is £20,000 or greater but does not exceed £100,000 (subject to appropriate budgetary provision); or</p> <p>(c) the Cabinet where the total value of the extension or extensions is £100,000 or greater.</p> <p>20.2 <u>Variations to a contract</u></p> <p>20.2.1 Where minor variations are required to</p>	
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<p>CSO 20 (continued)</p>	<p>construction or highways related works that are covered by contingency sums within a contract sum they may be authorised by a Chief Officer subject to compliance with Financial Regulations.</p> <p>20.2.2 Where a variation to a contract is to be made that will have service delivery impacts to users or residents then this may be agreed by a Chief Officer providing that there are no increased costs to the contractual value. Where there will be an increase in the contract value then the decision is reserved to the</p> <ul style="list-style-type: none"> (a) relevant Chief Officer where the total value of extension or extensions is below £20,000 (subject to appropriate budgetary provision); or (b) relevant Cabinet Member where the total value of the extension or extensions is £20,000 or greater but does not exceed £100,000 (subject to appropriate budgetary provision); or (c) the Cabinet where the total value is £100,000 or greater <p>20.2.3 Providing that there is no breach of the Public Contracts Regulations 2006 (as amended a variation may be made to the term of a contract that has no options to extend or where those options have already been exhausted. Any decision to extend the contractual term by way of a variation must be approved before the contract expires by</p> <ul style="list-style-type: none"> (a) relevant Chief Officer where the total value of extension or extensions is below £20,000 (subject to appropriate budgetary provision); or 	
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<p>CSO 20 (continued)</p>	<p>(b) relevant Cabinet Member where the total value of the extension or extensions is £20,000 or greater but does not exceed £100,000 (subject to appropriate budgetary provision); or</p> <p>(c) the Cabinet where the total value is £100,000 or greater.</p> <p>20.2.4 The report recommending a variation to the term of a contract shall include reasons for the proposed extension which demonstrate the need for the extension is genuinely exceptional.</p>	
<p>Section 22</p>	<p>ENERGY PROCUREMENT</p> <p>22.1 The procurement of energy related services is undertaken by Kent County Council (trading as L:ASER Energy Buying Group) on behalf of the Council.</p> <p>22.2 Due to the volatility of the energy market, prices of electricity, gas, oil & petroleum fluctuate on a daily basis and the sums quoted require immediate acceptance. In order to achieve the best value for the Council all decisions relating to energy procurement including the award and/or the variation of contracts may be approved by the Executive Director of Finance & Corporate Governance and the Director for Building & Property Management. All decisions relating to the award of or variation of energy related contracts will be reported to the Cabinet for information purposes only.</p>	<p>New section to deal with the procurement of energy bought through the spot markets.</p>

<p>Table 23.1 (previously table 16.1)</p>	<p>Redefining the requirements of the 4 bands</p> <ul style="list-style-type: none"> • Less than £5,000 the requirement is for 1 written quotation • £5,000 but less than £100,000 the requirement is for 3 written quotations. • £20,000 but less than £100,000 the requirement is for 3 quotations. • £100,000 to the EU threshold the requirement is for 3 tenders • Above the EU threshold the requirement of the Public Contracts Regulations 2006 (as amended) will apply. 	<p>Consistency with other controls contained elsewhere in the CSOs.</p> <p>Removal of the need to seek prior from Chief Officers or Cabinet Members for seeking the use of consultancies.</p>
<p>Section 24</p>	<p>Completely new section dealing with Spot Contracts for Adult Social Care and Children’s Services. Set out as follows –</p> <p>24 SPOT CONTRACTS – ADULT SOCIAL CARE & CHILDREN’S SERVICES</p> <p>24.1 Contracts that relate to “social care” are not regulated under the Public Contracts Regulations 2006 (as amended) and can be let under slightly different, but no less rigorous arrangements; rather than using traditional tendering methodologies.</p> <p>24.2 Specific rules and guidelines for these contracts will be issued by the relevant Chief Officer following consultation with the Bi-borough Procurement Board and approval from the relevant Cabinet Member. These rules and guidelines must be reviewed not less than every two years.</p> <p>24.3 Following the approval of these rules and guidelines the relevant Chief Officer will agree a scheme of delegation for their departments for the</p>	<p>To regularise an area of uncertainty, previously dealt with as a result of a number of Cabinet Decisions going back several years.</p>

<p>Section 24 (continued)</p>	<p>Spot Purchasing of these services where they may be required based on the maximum weekly number of care hours that may be authorised by certain officers.</p> <p>24.4 The relevant Chief Officers are responsible for ensuring that any specific rules and guidelines are adhered to. The provision of CSO 2.3 will apply to contracts let under this section of CSOs.</p> <p>24.5 For the purposes of this section of these CSOs, social care contracts may be defined as those (including supporting people services) under which the Council provides, or arranges to provide, practical help or care services to individuals within the community or in a residential setting.</p> <p><u>24.6 Spot Purchasing of Domiciliary Care and Residential and Nursing Care</u></p> <p>24.6.1 The Chief Officer of Social Services will maintain information on Domiciliary Care Providers and Providers of Residential and Nursing Care placements that can be used for the spot purchase of care services. Such providers will have met the minimum national standards laid down by the Care Quality Commission.</p> <p>24.6.2 Domiciliary care services and residential and nursing care may be spot purchased for people whose needs cannot be met through the commissioned services or service directly provided by the Department itself.</p>	
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25.1 (previously 22.1)	Removal of last sentence - “Details of named contract managers will be reviewed on a regular basis by the Competition Board.” Revised paragraph now reads – “Chief Officers and/or Heads of Service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.”	Reviewing managers is impracticable.
27.2 (previously 24.1)	Revision of previous paragraph Current wording- 24.2 For all contracts with a value higher than the EU Threshold limits, or which are High Risk, an annual report must be submitted to the Competition Board. Proposed wording- 27.2 In relation to all contracts that are considered to be with a value higher than the EU Threshold limits and/or which are considered to be of High Risk, the <i>Bi-borough Procurement Strategy Board</i> may review them with a view to an audit to be undertaken in relation into their management.	Change in emphasis to audit major contracts.
Appendix	Cross-referencing with paragraph numbering within the main text of the CSOs.	
Appendix	Definition of Chief Officer . Addition of Executive Director for Housing & Regeneration	Correction of an omission.
Appendix	Tri-borough Protocol for Joint Contracts	New definition
Appendix	Tri-borough Procurement Code	New definition