

# CONTRACT STANDING ORDERS

## Introduction

### 1. When do Contract Standing Orders apply?

### 2. General principles

- 2.1 Compliance with relevant statutory and corporate requirements
- 2.2 Consequences of non-compliance
- 2.3 General principle of contract decision making
- 2.4 Contracts in writing
- 2.5 Record keeping
- 2.6 Lead contract officer
- 2.7 Authority to act in line with scheme of management
- 2.8 Declarations of interest
- 2.9 Changes to CSOs

### 3. Overview of procurement process

### 4. Requirements to obtain quotes or tenders

- 4.1 Contracts less than £25,000
- 4.2 Contracts from £25,000 or more to below £100,000
- 4.3 Contracts of £100,000 or more to below EU threshold
- 4.4 All contracts above EU thresholds

### 5. Use of Framework agreements and Purchasing consortia

- 5.1 Using Framework agreements
- 5.2 Third-party Framework agreements
- 5.3 Contracts secured through Purchasing consortia

### 6. Approvals processes

- 6.1 Gateway and other reports
- 6.2 Supplemental advice from other officers in Gateway and other reports
- 6.3 Decision on pre-procurement strategic assessment – Gateway 0
- 6.4 Decision on procurement strategy – Gateway 1
- 6.5 Decision on contract award – Gateway 2
- 6.6 Decision to allow Variations during contract term – Gateway 3
- 6.7 Retrospective approvals
- 6.8 Exemptions
- 6.9 Emergencies

### 7. Tender return and opening procedure

### 8. Advertisement and publication of procurement notices

**9. Contract management and monitoring**

**10. Contract termination / Mergers and acquisitions**

10.1 Contractor termination

10.2 Mergers and acquisitions

**11. Contractor insolvency**

**Glossary**

**Flowcharts**

## **Introduction**

The council seeks to achieve value for money and best value when obtaining supplies of goods, services and works.

The Contract Standing Orders (CSOs) set out minimum requirements to be followed. CSOs are governed by section 135 of the Local Government Act 1972 and are the council's rules for contracts. They must always be followed unless the law (European or UK) requires something different.

Further information can be found in the Procurement Guidelines. Officers must always seek advice from the procurement advice team and legal services for all contracts where European law applies or which are Strategic Procurements and for other contracts if they have any queries.

CSOs do not override other parts of the council's constitution. For example, if a decision about a contract is also a "key decision", then the requirements set out in the constitution in relation to CSOs and to key decisions will have to be met.

There is a Glossary at the end of these CSOs which provides explanations of important words or phrases (e.g. Estimated Contract Value).

### **1. When do Contract Standing Orders apply?**

#### **1.1 CSOs apply:**

- to any procurement or tendering process or contract entered into by the council for the provision of goods, services and works and to the operation of any concession
- where the council is involved in joint working funded partly or entirely by external funding to the extent that the money passes through the council's accounts
- to all schools maintained by the London Borough of Southwark but subject to the current Southwark Scheme for Financing Schools and the Schools' Contract Standing Orders.

unless an exemption to CSOs is approved (see 6.8 below).

#### **1.2 CSOs do not apply:**

- to contracts of employment
- to land transactions
- to grants given by the council.

## **2. General principles**

### **2.1 Compliance with relevant statutory and corporate requirements**

#### **2.1.1 There must be compliance with the requirements of:**

- a) propriety, including obtaining all necessary approvals
- b) value for money and best value, through the consideration of all procurement options

- c) all parts of the council's constitution such as these CSOs, the Financial Standing Orders and the protocol on Key Decisions
- d) EU and domestic legislation
- e) the council's procurement strategy, Procurement Guidance and other council policies and procedures
- f) the employee code of conduct (for officers)
- g) the council plan
- h) the council's policy commitment to the London Living Wage

## **2.2 Consequences of non-compliance**

2.2.1 It is a disciplinary offence to:

- fail to comply with CSOs
- fail to comply with council policies and procedures when letting contracts.

2.2.2 Employees have a duty to report breaches of CSOs to an appropriate senior manager, who will advise the monitoring officer and the strategic director of finance and governance.

2.2.3 The monitoring officer will report to the audit, governance and standards committee any serious breach of CSOs.

## **2.3 General principle of contract decision making**

2.3.1 The aim of the procurement process is to ensure that each contract is awarded to the most economically advantageous tenderer, who may or may not have submitted the lowest sum offered, and that any decision on a Variation is made on a similar basis so as to ensure that value for money, quality considerations and the need to implement the council's plan and strategies are taken into account. Contracts may only be awarded or a Variation decision made if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of, the council.

2.3.2 When estimating the value of a contract, reference should be made to the Estimated Contract Value paragraph set out in the Glossary and, in particular, to the note that a contract may not be split into two or more separate contracts with the intention of avoiding the application of the CSOs.

2.3.3 For contracts with an Estimated Contract Value of £100,000 or more, the LCO must consult with the relevant cabinet member before a procurement strategy is implemented.

## **2.4 Contracts in writing**

2.4.1 Every contract awarded must be in writing and, wherever practicable, on terms agreed by the council and consistent with any council terms of trading and contain full details of the contract documents and contract terms. All Strategic Procurement contracts for supplies and services and those works contracts whose contract value is £200,000 or more must be executed on behalf of the council under seal as a deed.

2.4.2 All other contracts over £25,000 must be signed by at least two authorised officers of the lead contract officer's department.

2.4.3 All contracts must wherever practicable be signed or sealed before contract commencement and in accordance with the procedures set out in the Procurement Guidance.

## **2.4 Record keeping**

2.5.1 Chief officers must ensure that the following records are kept:

- a detailed contract file for each contract, including the Estimated Contract Value and, for all contracts with an Estimated Contract Value of £100,000 or more, all tender opening records where e-procurement is not used
- all decisions made, reasons for them and actions taken in relation to procurement processes and contracts
- all documents and reports relating to procurement processes and contracts.

2.5.2 Chief officers must ensure that all contracts with an Estimated Contract Value of £5,000 or more are recorded on the council's contract register via the e-procurement system.

## **2.5 Lead contract officer**

2.6.1 A lead contract officer (LCO) must be identified for each contract. Where no LCO is named, the LCO will be deemed to be the budget holder of the section from which the contract is funded.

## **2.6 Authority to act in line with scheme of management**

2.7.1 Each officer will act only within the limits of their delegated authority, as set out in their department's scheme of management. The hierarchy of decision makers for procurement decisions is as follows:

- cabinet/cabinet committee (highest)
- individual decision maker (IDM)
- strategic director of finance and governance
- chief officer, or as delegated through departmental schemes of management.

## **2.7 Declarations of interest**

2.8.1 The following will declare any interests which may affect the procurement process:

- a) all staff, whether directly employed by the council or otherwise, who play a role in any aspect of the tendering process
- b) all staff listed on a scheme of management or delegation in relation to a contract or procurement issue
- c) external consultants, community representatives and representatives of bodies other than the council who play a role or whose work gives them influence over or information about any aspect of the contract process
- d) joint negotiating committee (JNC) officers

- e) any other officers who regularly give advice to members including report authors.
- 2.8.2 Chief officers will ensure that staff, consultants, community representatives and representatives of bodies other than the council appointed or agreed by them make declarations on appointment, or on any change in circumstances (and annually in the case of staff); and will either certify them as acceptable or take any necessary action in respect of potential conflicts of interest.
- 2.8.3 Chief officers will keep completed staff declarations and also maintain a departmental register of declarations indicating the names and grades of all those declaring, and the nature of their declaration. LCOs will keep any consultants' or other bodies' representatives' declarations on the contract file.

## **2.8 Changes to CSOs**

- 2.9.1 As set out in article 1, the monitoring officer may make minor changes to the CSOs, after consultation with the chief finance officer.
- 2.9.2 Minor changes are defined as:
- typographical/presentational/explanatory changes
  - changes in statutory framework, i.e. references to new or updated legislation
  - changes in titles, names or terminology
  - changes consequential to other constitutional changes already made.

## **3. Overview of procurement process**

- 3.1 Having identified a need to purchase goods, services or works which are not covered by an existing contract and having confirmed that they are subject to CSOs (see section 1 above), the main stages of all non-emergency procurements are – in summary:
- a) to identify who is the lead contract officer (LCO) – see 2.6 above
  - b) to follow appropriate quote/tender route. This will depend on the Estimated Contract Value and other factors – see 4 below
  - c) to obtain approval of a pre-procurement strategic assessment for services contracts with an Estimated Contract Value of £10 million or more – see 6.3 below
  - d) to obtain approval of procurement strategy (Gateway 1 report). This will depend on the Estimated Contract Value and other factors and may require consideration of the report by the Departmental and Corporate Contract Review Boards (DCRB and CCRB) – see 6.4 below
  - e) to obtain approval to award contract (Gateway 2 report). This will depend on Estimated Contract Value and other factors and may require consideration of the report by the DCRBs and CCRB – see 6.5 below
  - f) to ensure that a written contract has been signed (and sealed if necessary) on behalf of the chief officer of the LCO's department in line with constitutional requirements.

For an emergency procurement, see 6.9 below.

- 3.2 Where there is a need to vary an existing contract, the process to be followed is set out in 6.6 below.

- 3.3 Where it is proposed to bring a service which was previously externalised back in-house, it is necessary to follow 3.1.1 a) and d) above.

#### **4. Requirements to obtain quotes or tenders**

##### **4.1 Contracts less than £25,000**

- 4.1.1 For all contracts where the Estimated Contract Value is less than £25,000, there is a requirement to ensure value for money and best value and to keep a record of what action has been taken and when. The best way of ensuring value for money is to obtain competitive quotes and, if this is not done, the reason for not seeking quotes should be recorded. In addition, if the contract is for works or for works-related services, the provider must be obtained from the council's Works Approved List, unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the strategic director of finance and governance or his delegated officers, without which the approval cannot be granted.

##### **4.2 Contracts from £25,000 or more to below £100,000**

- 4.2.1 For all contracts where the Estimated Contract Value is from £25,000 or more to below £100,000, there is a requirement to take all reasonable steps to obtain at least three written quotes, including one from a local supplier where this is possible, unless the LCO decides that this will not secure value for money. In such cases, a Gateway 1 report must be completed to explain what alternative action is being taken and why. In addition, if the contract is for works or works-related services, those invited to submit quotes must be selected from the council's Works Approved List unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the strategic director of finance and governance or his delegated officers, without which the approval cannot be granted.

##### **4.3 Contracts of £100,000 or more to below EU threshold**

- 4.3.1 For all contracts where the Estimated Contract Value is £100,000 or more to below the relevant EU threshold, there is a requirement to take all reasonable steps to obtain at least five tenders. In addition, if the contract is for works or work-related services, those invited to submit tenders must be selected from the council's Works Approved List unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the strategic director of finance and governance or his delegated officers, without which the approval cannot be granted.

##### **4.4 All contracts above EU threshold values**

- 4.4.1 For all contracts above the EU threshold applicable to them, there is a requirement to comply with the Public Contract Regulations 2015 following a publicly advertised competitive tendering process, as set out in these CSOs and in line with the Procurement Guidance.

- 4.4.2 Health, social care or educational services fall within the EU's Light Touch Regime (see definition in Glossary). The relevant chief officer must have regard to the threshold for these services under the Public Contract Regulations 2015.

## **5. Use of Framework agreements and Purchasing consortia**

### **5.1 Using Framework agreements**

- 5.1.1 Where there is a contract in place for the council by way of a Framework agreement for a service, supply or work, it must be used to make the relevant purchase. If the LCO believes that the Framework agreement does not meet their requirements, they must obtain an exemption (see CSO 6.8) through a Gateway report if the value is £25,000 or more.
- 5.1.2 Establishing a council-led Framework agreement or use of a third party's Framework Agreement is subject to the full requirements of these CSOs, including a Gateway 1 and Gateway 2 report.
- 5.1.3 For all Framework agreements, if recommending use of a direct award on a multi-supplier framework, the LCO must treat this as a single supplier negotiation in the Gateway 1 report.
- 5.1.4 Any planned use of a Framework agreement once in place will need a Gateway 2 report, which will be approved in line with CSO 6.5, and which should set out how orders are to be placed. In the absence of this, the LCO will need to prepare Gateway 1 and 2 reports.

### **5.2 Third party Framework agreements**

- 5.2.1 Some Framework agreements require buying authorities to formally join the framework in order to use it. Some may require an access charge to be paid. Wherever necessary, these should be made clear in the Gateway 1 and 2 reports.

### **5.3 Contracts secured through Purchasing consortia**

- 5.3.1 Approval to create or join a Purchasing consortium must be obtained in a Gateway 1 report which must identify the procedure for award of individual contracts or orders placed via the consortium. Once approval has been obtained, contracts or orders placed through the Consortium Agreement will not be subject to the quotation or tendering requirements in these CSOs, but a Gateway 2 report must be obtained in accordance with CSO 6.5 before any individual contract or order is placed.

## **6. Approvals processes**

### **6.1 Gateway and other reports**

- 6.1.1 The procurement process requires written reports at the following stages:

- a) approval of pre-procurement strategic assessment – Gateway 0 report
- b) approval of procurement strategy – Gateway 1 report
- c) approval of award of the contract – Gateway 2 report
- d) approval of Variation or Extension to contract – Gateway 3 report
- e) monitoring reports throughout the life of the contract.

More information can be found in CSOs 6.3 to 6.8, 9 and the Glossary.

## **6.2 Supplemental advice from other officers in Gateway and other reports**

- 6.2.1 Where the Estimated Contract Value or, in relation to a Variation, the Contract Value is over the relevant EU threshold for supplies and services or over £2 million for works contracts or where required elsewhere in the CSOs, any Gateway report or other report containing a contract matter (such as a Variation report) must include legal advice from the monitoring officer, financial and procurement advice and, for housing-related reports, statutory leaseholder consultation advice from the strategic director of finance and governance or delegated officer(s).
- 6.2.2 There is a requirement to include all relevant information and this may require advice from other officers e.g. the director of modernise for all IT projects or director of education for all school-related projects.

## **6.3 Decision on pre-procurement strategic assessment – Gateway 0**

- 6.3.1 A pre-procurement assessment decision is required for:
  - All services contracts with an Estimated Contract Value of £10 million or more in value (excluding capital investment works)
  - Other strategically important contracts for services, goods or works where requested by the relevant cabinet member
- 6.3.2 The decision on a pre-procurement assessment is to be taken by the relevant cabinet member, after consideration by the CCRB of a Gateway 0 report.

## **6.4 Decision on procurement strategy – Gateway 1**

- 6.4.1 For contracts with an Estimated Contract Value of £100,000 or more, the LCO must consult with the relevant cabinet member before a procurement strategy is implemented.
- 6.4.2 A decision on the procurement strategy to be used on any contract with an Estimated Contract Value of £100,000 or more must only be made after consideration of a Gateway 1 report. It is recommended that such a report is also used for contracts with an estimated value below £100,000. As a minimum, the LCO must keep a written record of decisions, the date that the decision is taken and action taken.
- 6.4.3 The decision on the approval of the procurement strategy is to be taken as set out below:
  - a) if the contract is a Strategic Procurement, the decision must be taken by the cabinet or cabinet committee, after consideration by the CCRB of the report

- b) if the Estimated Contract Value is £2 million or more but below £4 million for services and supplies or £10 million or more but below £15 million for works but the contract does not fall into a) above, the decision must be taken by the relevant individual decision maker, after consideration by the CCRB of the report
- c) if the contract will affect the budget of more than one directorate but does not fall into a) or b) above, the decision must be taken by the chief officer responsible for the contract after consideration by all relevant DCRBs of the report
- d) if the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into a), b) or c) above and the LCO is requesting approval to proceed with a single tenderer or to negotiate with a single provider (and this is permitted by EU legislation), the decision must be taken by the strategic director of finance and governance, after consideration by the CCRB of the report
- e) if the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into a), b), c) or d) above, the decision must be taken by the chief officer or under his/her delegated authority, after consideration by his/her DCRB of the report
- f) a different requirement must be met as specified elsewhere in the constitution or these CSOs:
  - i) for the decision to be made by someone else (e.g. pensions, treasury management and insurance where decisions are to be made by the strategic director of finance and governance), or
  - ii) about the decision (e.g. in emergencies where no prior written report is needed – see CSO 6.9).
- g) if the decision does not fall into any of the categories above, it must be taken by the relevant chief officer or under their delegated authority in line with the department's scheme of management.

6.4.4 Gateway 1 reports should consider social value and set out how this will be included in any tender process. They must also include any details of procurement proposals that are different from the normal routes, including requests for exemptions to all or some of these CSOs and requests to delegate powers to award the contract.

## **6.5 Decision on contract award – Gateway 2**

6.5.1 A decision to award any contract with an Estimated Contract Value of £100,000 or more must only be made after consideration of a Gateway 2 report. It is recommended that such a report is also used for contracts with an estimated value below £100,000. As a minimum, the LCO must keep a written record of decisions, the date that the decision is taken and action taken.

6.5.2 The decision on the award of a contract is to be taken as set out below:

- a) if the contract is a Strategic Procurement, the decision must be taken by the cabinet or cabinet committee, after consideration by the CCRB of the report
- b) if the Estimated Contract Value is £2 million or more but below £4 million for supplies and services or £10 million or more but below £15 million for works but the contract does not fall into a) above, the decision must be taken by the relevant individual decision maker, after consideration by the CCRB of the report

- c) if the contract will affect the budget of more than one directorate but does not fall into a) or b) above, the decision must be taken by the chief officer responsible for the contract after consideration by all relevant DCRBs of the report
- d) If:
  - i) the Estimated Contract Value is £500,000 or above (for services and supplies contracts) or above the relevant EU threshold (for works contracts), and
  - ii) the contract is to be awarded to a contractor whose bid was more than 15% above the Lowest Bid,
 but does not fall into a), b) or c) above, the decision must be taken by the relevant chief officer after consultation with the strategic director of finance and governance
- e) if the proposed contract includes pension arrangements terms which are different from those set out in the council's Admitted Bodies policy but the contract does not fall into a), b), c) or d) above, the decision must be taken by the strategic director of finance and governance, after consideration of the report by the CCRB and taking advice from the Pensions Advisory Panel
- f) if the Estimated Contract Value is above the relevant EU threshold but the contract does not fall into a), b), c), d) or e) above, the decision must be taken by the relevant chief officer or under his/her delegated authority, after consideration by the relevant DCRB of the report
- g) a different requirement must be met as specified elsewhere in the constitution or these CSOs:
  - i) for the decision to be made by someone else (e.g. pensions, treasury management and insurance where decisions are to be made by the strategic director of finance and governance)
  - ii) about the decision (e.g. in emergencies where no prior written report is needed – see CSO 6.9)
- h) approval has been obtained in line with CSO 6.4.4 above to a different decision process.
- i) if the decision does not fall into any of the categories above, it must be taken by the relevant chief officer or under their delegated authority in line with the department's scheme of management.

- 6.5.3 Requests to delegate the decision on the award of a contract should be included within the Gateway 1 report.
- 6.5.4 Report authors should include, as part of the proposed recommendations contained within the Gateway 2 report, details of any possible options to extend the contract.

## **6.6 Decision to allow Variations during contract term – Gateway 3**

- 6.6.1 For contract Variations with an Estimated Contract Value of £100,000 or more, the LCO must consult with the relevant cabinet member before this is implemented.
- 6.6.2 A decision to allow a contract Variation of £100,000 or more must only be made after consideration of a Gateway 3 report. It is recommended that such a report is also used for contract Variations with an estimated value of £100,000 or below. As a minimum, the LCO must keep a written record of decisions and action taken.

- 6.6.3 Any decision to allow a Variation of a contract or Framework agreement is to be taken as set out below:
- a) if the value of the proposed Variation is a Strategic Procurement, the decision must be taken by the cabinet or cabinet committee, after consideration by the CCRB of the report
  - b) if the value of the proposed Variation is £2 million or more but below £4 million for supplies and services or £10 million or more but below £15 million for works but the contract does not fall into a) above, the decision must be taken by the relevant individual decision maker, after consideration by the CCRB of the report
  - c) if the value of the proposed variation is £1 million or more but the contract does not fall into a) or b) above, the decision must be taken by the strategic director of finance and governance, after consideration by the CCRB of the report
  - d) a different requirement must be met as specified elsewhere in the constitution or these CSOs:
    - i. for the decision to be made by someone else (e.g. pensions, treasury management and insurance where decisions are to be made by the strategic director of finance and governance)
    - ii. about the decision (e.g. in emergencies where no prior written report is needed – see CSO 6.9)
  - e) if the decision does not fall into any of the categories above, the decision must be taken by the relevant chief officer or under their delegated authority in line with the department's scheme of management.
- 6.6.4 Where an additional amount is to be paid in respect of an outstanding sum for works, services or supplies already provided or where an Urgent Payment is required, written confirmation from the monitoring officer that the sums are legally payable must be obtained and the decision to make the payment must be reported in writing to the strategic director of finance and governance within five clear working days.
- 6.6.5 Where a decision on a Variation is made in relation to a contract for works, there will also be a deemed variation of the contract of any consultant engaged in relation to that works contract. This only applies where the consultant is engaged on a fixed percentage of the works contract value. The deemed variation of the consultant's contract will be by the same percentage as that applied to the works contract.
- ## 6.7 Retrospective approvals
- 6.7.1 In the event of a contract having been entered into other than in compliance with these CSOs, it may be necessary to seek approvals retrospectively. In such cases, the procedures relating to Gateway 1, Gateway 2 and Gateway 3 reports should be followed as soon as possible. In addition, a report should be submitted to the relevant departmental contract review board for information and, where a decision relates to a procurement strategy, a contract award or a contract Variation with an estimated value of over £100,000, also to the audit, governance and standards committee, setting out the circumstances and manner in which the decision was taken, for the purpose of obtaining guidance to inform future decision making.
- ## 6.8 Exemptions

6.8.1 In the event that there appear to be exceptional circumstances which mean that the usual procedures set out in the CSOs cannot be followed, written approval must be obtained in advance through a Gateway report. The report should set out the exceptional circumstances and explain why usual procedures cannot be followed. Proposed alternative courses of action must still comply with remaining relevant statutory and corporate requirements as set out in 2.1 above.

6.8.2 Examples of circumstances which might amount to an exceptional reason for not following the usual procedures include but are not limited to:

- a) the nature of the market has been investigated and is such that a departure from the CSO requirements is justified
- b) the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or domestic law).

## **6.9      Emergencies**

6.9.1 An emergency is a situation where action is needed to prevent a risk of injury or loss of life, or to the security or structural/operating viability of a property or other tangible or intangible asset. In the case of an emergency, action necessary can be approved by a chief officer without a prior written Gateway report. Such action shall be limited to dealing with the emergency and it shall be subsequently recorded in a written report to the CCRB, within six months of the action taken.

# **7. Tender return and opening procedure**

7.1 Officers must use any e-procurement processes as required by the procurement advice team in order to ensure compliance with relevant legislative requirements. All tender processes must comply with the following requirements.

7.2 Tenderers must be told that their tenders may only be considered if they are received in time within the protocols of the council's e-procurement system or, where permitted by the invitation to tender instructions, if they follow the following requirements:

- a) the tender must be returned in a plain envelope or parcel which is marked clearly "Tender" followed by the subject of the contract, and
- b) the envelope or parcel must not show the identity of the tenderer in any way, and
- c) the envelope or parcel must be delivered to the place and by the time stated in the tender invitation with Tenders where the Estimated Contract Value is £500,000 or more being returned to the monitoring officer.

7.3 All tenders will be electronically released or opened at the same time and place, after the closing date and time for receipt stated in the tender documents.

7.4 A tender received by the council via the e-procurement system or otherwise (subject to CSO 7.6) after the time and date specified in the invitation shall not be accepted or considered.

- 7.5 Tenders where the Estimated Contract Value is £500,000 or more shall be electronically released or opened by the monitoring officer's authorised representative. Where the Estimated Contract Value is less than £500,000, tenders not required to be returned using the e-procurement system may be returned to the chief officer or their authorised representative who will arrange for tender opening in the presence of at least two officers, one of whom will be the witness and will not have been directly involved in that particular contract. Tenders required to be returned using the e-procurement system will be released from the sealed tender box by the relevant chief officer or their authorised representative.
- 7.6 Exceptions to the requirements set out in 7.1 to 7.5 above will only be made in exceptional circumstances and must be authorised by the relevant chief officer in writing following consultation with the monitoring officer and legal advice as necessary.

## **8. Advertisement and publication of procurement notices**

- 8.1 Chief officers are responsible for ensuring that the council's obligations in relation to the publication of notices relating to procurement and contracts are met. Contract opportunities for quotations or tenders with an Estimated Contract Value of £25,000 or above that are advertised in any way must be advertised on the Contracts Finder website. All awards of contracts that have an Estimated Contract Value of £25,000 or above, including call-off contracts from Framework agreements must also be published on the Contracts Finder website.
- 8.2 Notices to be published in the Official Journal of the European Union (OJEU) must only be placed by the monitoring officer or delegated representative. These include contract notices, contract award notices, voluntary ex-ante transparency (VEAT) notices and modification of contract during term notices.

## **9. Contract management and monitoring**

- 9.1 The LCO must ensure that systems are in place to manage and monitor contracts in respect of at least:
  - a) compliance with specification and contract
  - b) contractor performance and KPIs
  - c) budget and cost
  - d) user satisfaction
  - e) risk management
  - f) delivery of social value commitments, including London Living Wage.
- 9.2 Where the Estimated Contract Value exceeds the relevant EU threshold, the LCO should prepare a six-monthly monitoring report to the relevant DCRB.
- 9.3 Where the contract relates to a Strategic Procurement or was awarded by an individual decision maker, the LCO should prepare an annual monitoring report to the CCRB, within six months of the contract anniversary.

## **10. Contract termination / Mergers and acquisitions**

### **10.1 Contract termination**

- 10.1.1 A contract may only be terminated early or suspended by a chief officer by the council only after obtaining approval from the monitoring officer and strategic director of finance and governance; all such decisions will be advised in writing by the chief officer to the relevant member of the cabinet and cabinet member for finance, modernisation and performance.

### **10.2 Mergers and acquisitions**

- 10.2.1 Where it appears that a current contractor may be the subject of a merger or acquisition by another company or organisation, the LCO must inform the monitoring officer and strategic director of finance and governance as early as possible, in order to enable appropriate advice to be given.

## **11. Contractor insolvency**

- 11.1 Where it appears that a contractor is at risk of becoming insolvent, or the council is notified that insolvency proceedings have been brought, the chief officer must inform the monitoring officer and strategic director of finance and governance as early as possible, in order to enable appropriate advice to be given.

## Glossary

|                             |   |
|-----------------------------|---|
| CCRB                        | Corporate Contract Review Board – panel of officers operating under terms of reference of CCRB. Its role includes considering reports from LCOs for the cabinet, individual decision makers and the strategic director of finance and governance on contract decisions and contract monitoring reports.   |
| Consortium agreement        | A consortium agreement is a single formal legal document, agreed and signed by all the parties to a project, and which imposes a set of standard conditions on those signatories. These conditions include, amongst other things, agreements as to ownership and exploitation of intellectual property rights, and a set of warranties and disclaimers allocating risk between the parties. A consortium agreement is needed when joining a purchasing consortium.  |
| Contract Value              | The total value of a contract as awarded (which may be different from the Estimated Contract Value), net of VAT, or if there is no fixed figure, the LCO's best estimate of the likely amount to be spent over the period of the contract, taking into account the prices accepted.   |
| Council's contract register | A register of contracts, compiled through the council's e-procurement system.   |
| DCRB                        | Departmental Contract Review Board – panel of officers operating under terms of reference of DCRB. Its role includes reviewing reports for consideration by the CCRB and the chief officer on contract decisions and contract monitoring reports.   |
| Estimated Contract Value    | The total value of a proposed contract including options to extend it (as estimated by the LCO on the basis of all relevant factors) net of VAT calculated for the proposed contract period, or, if for an undetermined period, in accordance with the valuation rules contained in European Regulations, whether or not the Regulations apply to the particular contract. This may be different from the lifetime cost of the contract, which may need to be considered for other purposes (see Procurement Guidelines). Note that a contract may not be artificially packaged into two or more separate contracts, nor a valuation method selected, with the intention of avoiding the application of these CSOs. Chief officers are responsible for considering aggregation within their department to ensure delivery of best value within CSO requirements. The Estimated Contract Value should be based on the best available estimates, or on actual costs if known. |
| EU Regulations              | The Public Contracts Regulations 2006 and 2015 or any amendment to or successor to those Regulations.   |
| EU threshold                | The current contract value at which the requirements of the EU Regulations apply for the services, supplies or works being procured.  |

|                             |   |
|-----------------------------|---|
| Framework agreements        | Framework agreements are often used when a number of providers are secured to provide supplies, services or works. Setting up framework arrangements is subject to EU regulations and they generally can exist for no more than four years.   |
|                             | Providers on a Framework agreement will have been through a procurement process to appear on the framework list. During this process the providers must demonstrate that they can deliver the scope of requirements covered by the framework. There should be clear rules supporting the use of the framework as these will need to be followed to ensure the framework remains EU compliant. Some frameworks require a further competition process to be undertaken involving all providers appearing in the list. The council may set up its own framework agreements for a particular service or decide to use a framework set up by a third party, e.g. Crown Commercial Service (CCS). |
| Gateway report              | A written report in substantially the same terms as those contained in the relevant template which can be found on the Source at<br><a href="http://thesource/SectionLandingPage.asp?id=22344&amp;cat=1234">http://thesource/SectionLandingPage.asp?id=22344&amp;cat=1234</a> .   |
| Key Decision                | Definitions of Key Decisions are contained in the Protocol on Key Decisions in appendix 1 of the Access to information procedure rules section of the constitution. Examples of Key Decisions for procurement purposes are: <ul style="list-style-type: none"> <li>• those which are subject to a general financial threshold (£500,000 or more – note that in relation to awarding contracts, this is a per annum value not a contract term value)</li> <li>• those which have a significant impact on communities</li> <li>• Strategic Assessment (Gateway 0) approvals</li> <li>• Gateway 1 approvals in respect of a Strategic Procurement.</li> </ul>                                  |
| Lead contract officer (LCO) | The LCO for each contract is the officer who has a duty to ensure that the obligations set out in these CSOs are complied with.   |
| Light Touch Regime          | Services that fall within the EU definition of Light Touch Regime Services for Social and other Specific Services noted in schedule 3 of the Public Contract Regulations 2015. These generally include Health, Social Care or Education Services. Any queries on this should be directed to the procurement advice or legal contract teams.   |
| Lowest Bid                  | The lowest price offered by tender or quotation which meets the specification and other requirements of the contract and has not been rejected as abnormally low.   |
| Procurement Guidance        | Guidance, advice or templates published on the intranet pages in relation to the procurement process.   |

|                       |  |
|-----------------------|--|
| Purchasing consortium | A purchasing consortium is a group of organisations that have come together with the primary objective to buy collectively, thereby increasing their buying power and minimising procurement activity. To join a purchasing consortium it is necessary to sign a consortium agreement. An example of a purchasing consortium is the London Contracts Supply Group (LCSG).  |
| Strategic Procurement | Procurement where one or more of the following apply: <ol style="list-style-type: none"> <li>1) Estimated Contract Value of £4 million or more for non-works and of £15 million or more for works</li> <li>2) a significant change to previous service</li> <li>3) possible externalisation or change in manner of delivery</li> <li>4) significant transfer of assets or staff</li> <li>5) political sensitivity</li> <li>6) contract carrying a high level of risk.</li> </ol> |
| Tender value          | The value of a contract at the time of the award of the contract or, if there is no fixed value, the LCO's best estimate of the likely spend on the contract during the contract period.   |
| Urgent Payment        | A payment where delay would lead to significant demonstrable financial loss to the council (and where no breach of EU or domestic requirements would be occasioned).   |
| Variation             | A modification to an existing contract such as additional services, exercising options, changes in price or a change in contractor.  |
| Works Approved List   | A list of providers of works and works-related consultancy services which have all been appraised to meet minimum criteria in respect of their financial standing, level of insurance held, health and safety policies and procedures, and equal opportunities policies and procedures, maintained by the procurement advice team. For further information about the use of Approved Lists, seek advice from the procurement advice team.  |