

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

## Contents

Contract Standing Orders Introduction	1
1 Introduction	1
2 The Purpose of CSOs	1
3 ICT Procurement	2
4 Use of Agency Workers, Interims and Consultants	2
5 Innovative Procurement	2
6 Public Services (Social Value) Act 2012	2
7 Governance Expectations	3
8 Key Decisions	3
9 General Matters	4
Contract Standing Orders (Part 1) The Scope of Contract Standing Orders (CSOs)	5
1 Activities Covered by CSOs`	5
2 Legislation	5
3 Exceptions to CSOs (“Waivers”)	7
4 Probity	7
5 Emergency Works	7
6 Conflicts of Interest, Gifts & Hospitality (and Conflicts Assessment for Above-threshold Contracts)	7
7 Procurement Plan	8
8 Aggregation Rules	8
9 Specification	9
10 Evaluation of Tenders and Quotations	10
11 Thresholds and Award Process	11
12 Low Value Contract: Below £30,000 including VAT	13
13 Intermediate Value Contract: £30,00 but less than £60,000 including VAT (Quotations)	13
14 High Value Contracts: £60,000 or greater including VAT (Tenders)	14
15 Contracts Subject to the PA: Above-threshold Contracts	15
16 Conditions of Participation and Exclusion of Suppliers	16
17 Opening Tenders and Quotations	18
18 Amending Tenders and Quotations	18
19 Late Tenders and Quotations	18
20 Tender/Quotation Clarification	19
21 Errors in Tenders/Quotations	19
22 Negotiations and Discussions	19
23 Evaluation	19
24 Standstill Period	21
25 Contract Details Notice and publication of contracts with a value exceeding £5 million (inclusive of VAT)	21

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

26	Extending Contracts	22
27	Modifications	22
28	Termination of a Procurement or a Contract	23
29	Payments Compliance Notice	23
30	Concession Contracts	23
31	Contract Management	23
32	Contract Formalities	24
33	Bonds and Other Security	24
34	Insurances	24
35	Retendering	25
36	Declaration of Interest	25
37	Freedom of Information Act (2000)	25
38	Bankruptcies and Liquidations	25
39	Disposal of Assets (including IT Equipment)	25
40	Corrupt Practices	26
	Contract Standing Orders (Part 2) Disposal of Land	26
1	Introduction	26
2	Exceptions	26
3	Authority to Dispose of Land	26
4	Entering into Contracts	27
5	Selective bidding by advertisement (where the PA and PR do not apply)	27
6	Selective bidding by invited Housing Providers	27
7	Best Consideration	28
8	Sale At Less Than Best Consideration	28
9	Subsidy Control	28
10	Planning Permission	28
11	Marketing and Sale of Land – Choice of Procedure	28
12	Opening Tenders	29
13	Negotiations with Developers/Purchasers	29
14	Accepting Bids/Offers	29
15	Revised Bids/Offers	30
16	General Requirements	30
17	Exemptions and Special Cases	30
	Council Contract Standing Orders Definitions	31
1	Accredited Supplier List	31
2	Agency Staff	31
3	Bond	31
4	Central Digital Platform	31
5	Consultant	31

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

6	Council	31
7	Councillor	31
8	CSOs	31
9	Emergency	32
10	Financial Regulations	32
11	Framework Agreement	32
12	Goods, Works and Services	32
13	Housing Provider	32
14	Interim Staff	32
15	Lead Officer	32
16	Leaseholder Properties	32
17	Local Supplier	32
18	Monitoring Officer	32
19	Novation	33
20	Portfolio Holder	33
21	Project Registration Form	33
22	Quotation	33
23	Section 151 Officer	33
24	Supplier	33
25	Tender	33
26	Third Sector	33

## **Contract Standing Orders Introduction**

### **1 Introduction**

- 1.1 This version of Contract Standing Orders (CSOs) dated [28] March 2025 approved by Full Council supersedes Contracts Standing Orders dated 22 February 2022.
- 1.2 This document is part of the Council's Constitution and is a requirement of Section 135 of the Local Government Act 1972.
- 1.3 CSOs set out the rules for all Council spending and the disposal of land. CSOs must be followed every time there is a requirement to:
  - 1.3.1 purchase goods, works or services (including consultancy services);
  - 1.3.2 enter into a contract for the disposal of land (see Section 2);
  - 1.3.3 enter into contracts for hire and lease/rental agreements; and
  - 1.3.4 enter into contracts for interim and agency workers.
- 1.4 CSOs do not apply to contracts of employment.
- 1.5 CSOs should be read in conjunction with the Council's Procurement Strategy and Guidance Documents (which gives direction and advice on the appointment of Suppliers and setting up contracts), Financial Regulations and the Officer Code of Conduct.
- 1.6 The Monitoring Officer or their nominee will interpret and advise on legal issues arising from CSOs, subject to the statutory responsibilities of the Section 151 Officer.
- 1.7 All values in CSOs include VAT.

### **2 The Purpose of CSOs**

- 2.1 CSOs have five main purposes. These are to:
  - 2.1.1 provide a framework for the Council to get value for money when entering into contracts;
  - 2.1.2 enable the Council to demonstrate value for money to the public;
  - 2.1.3 set out how the Council complies with the laws that govern public spending;
  - 2.1.4 protect the Council, Officers and Councillors from unfair criticism and allegations of wrongdoing;
  - 2.1.5 regulate the manner in which bids, tenders and quotations are invited; and
  - 2.1.6 regulate the manner in which Suppliers are appointed.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

### **3 ICT Procurement**

- 3.1 All procurement activity relating to Information and Communications Technology must be undertaken in conjunction with ICT Services and Corporate Procurement. This includes but is not limited to:
- 3.1.1 hardware, software and equipment;
  - 3.1.2 consumables such as printer cartridges and keyboards; and
  - 3.1.3 telecoms.

### **4 Use of Agency Workers, Interims and Consultants**

- 4.1 The engagement of Agency Workers and Interims must be undertaken in accordance with the Human Resources Policy Statement and Recruitment Policy. This states that:
- 4.1.1 a full consultation with the Senior Officer (HR) must take place prior to any decision to engage an agency worker or interim; and
  - 4.1.2 contracts with a recruitment/employment agency must be reviewed by the Senior Officer (HR) in agreement with the Senior Officer prior to any formal agreement being entered into.
- 4.2 All contracts for the appointment of a Consultant must be procured in accordance with CSOs and in conjunction with Corporate Procurement if the estimated value is £30,000 or greater.

### **5 Innovative Procurement**

- 5.1 New or different ways of purchasing goods, works or services which give better value for money are encouraged. Proposals for innovative procurement should always be approved by the Senior Officer (Legal Services) to ensure that the proposed procurement route is legally sound. Examples of innovative procurement solutions include:
- 5.1.1 purchasing consortia, subject to following the consortium's procedures;
  - 5.1.2 partnership agreements which involve a joint venture or contractual arrangement with a private sector body;
  - 5.1.3 partnerships with the Third Sector;
  - 5.1.4 shared services, partnerships or collaborations with other local authorities;
  - 5.1.5 Framework Agreements;
  - 5.1.6 Public Service Mutuals/Trading Company; and
  - 5.1.7 e-auctions.

### **6 Public Services (Social Value) Act 2012**

- 6.1 Full consideration shall be given to the following matters when entering into service contracts. These are:

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 6.1.1 how proposed procurements could make local improvements and how these could be delivered via the procurement process;
  - 6.1.2 whether or not to undertake a consultation process;
  - 6.1.3 how what is being procured may improve the economic, social and environmental well-being of Harlow and the surrounding area; and
  - 6.1.4 equality, diversity and sustainability issues.
- 6.2 Reasonable steps should be taken to encourage a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses, voluntary and community sector Suppliers.
- 6.3 The Council has a duty to keep an accurate record and full audit trail demonstrating that its duties under the Act have been properly discharged.

**7 Governance Expectations**

- 7.1 The Council's Governance Expectations set out the Council's aspirations and how the Council expects its Suppliers to act. This document highlights areas that may apply to goods, works and services being procured, provided that this is proportionate and relevant to the subject matter of the contract, including:
- 7.1.1 blacklisting and other discriminatory practices;
  - 7.1.2 zero hours contracts;
  - 7.1.3 Living Wage;
  - 7.1.4 apprenticeship and local employment; and
  - 7.1.5 ethics.

**8 Key Decisions**

- 8.1 The award of a contract may be a Key Decision as defined below. If so then the decision to award the contract must (notwithstanding the requirements of CSO 11 - Award Values and Thresholds of Section 1 and CSO 13 of Section 2 – Disposal of Land) be taken in accordance with the the Council's procedures for taking Key Decisions as set out in the Constitution.
- 8.2 A Key Decision means a Cabinet/Portfolio Holder decision which is likely to:
- 8.2.1 result in the Council incurring expenditure which is, or the making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates. Expenditure or savings are deemed to be significant if they exceed £350,000; and
  - 8.2.2 be significant in terms of its effects on communities living in an area comprising two or more wards or electoral divisions in the area of the local authority.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

## **9 General Matters**

- 9.1 Officers are required to seek early advice from Corporate Procurement for any procurement activity with an estimated value of £30,000 or greater.
- 9.2 Corporate Procurement will give the appropriate level of support, advice and guidance to Officers.
- 9.3 Failure to comply with CSOs may result in disciplinary action.
- 9.4 The Senior Officer (Procurement) will submit an annual report at the end of each financial year to the Corporate Management Team summarising procurement activity and issues arising during that period.
- 9.5 The Senior Officer (Procurement) will instigate an annual review of CSOs and arrange for the latest version to be available on the Council's internal and external websites.



**Contract Standing Orders (Part 1) The Scope of Contract Standing Orders (CSOs)**

**0 Activities Covered by CSOs`**

0.0 These CSOs apply to every contract the Council enters into for:

0.0.1 goods, works or services (including consultants' advice and expertise);

0.0.2 contract hire and lease/rental agreements;

0.0.3 concessions and sponsorship;

0.0.4 the disposal of land with an estimated aggregate value equal to or above the sum currently specified in CSO 2 of Section 2 for the disposal of land and Financial Regulations;

0.0.5 use of any received grant monies; and

0.0.6 the appointment of interim or agency workers.

0.1 For every contract, the Senior Officer will:

0.1.1 (where appropriate) delegate operational responsibilities to a Lead Officer who will be responsible for all the activities necessary to deliver the Council's objectives (including the arrangements for contract management and monitoring post contract award);

0.1.2 (where appropriate) advise any agent, consultant or agency/interim member of staff appointed to act on the Council's behalf that they must also comply with CSOs, Financial Regulations and with all governing legislation as if they were an Officer of the Council;

0.1.3 ensure that everyone in their Service knows that they must follow CSOs, and avoid any impropriety or the appearance of impropriety;

0.1.4 ensure that everyone in their Service knows that it is a disciplinary offence to fail to comply with CSOs; and

0.1.5 ensure that everyone in their Service knows that if they have concerns in relation to breaches of CSOs that they can discuss the matter with the Senior Officer (Procurement), Internal Audit or the Monitoring Officer.

0.2 In all cases, the Lead Officer must notify Corporate Procurement before starting the procurement process to establish the appropriate procurement route and level of procurement support required. A Project Registration Form must be completed for all projects with a value estimated to be £30,000 or greater.

0.3 A simple reference in these CSOs to an Officer or Officers without any further description shall mean the Officer or Officers responsible to the Council for the conduct of any of the activities covered by these CSOs.

**1 Legislation**

1.0 The CSOs apply to procurements which are to be commenced on or after 24 February 2025. Procurements commenced before that date (and contracts awarded following such procurements) shall continue to be regulated by the requirements of the Public

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

Contracts Regulations 2015 (**PCR**), including the award of a call-off contract from a framework, where the procurement for the framework commenced before that date.

- 1.1 The CSOs cover Regulated and Unregulated Procurement activities of the Council. Regulated Procurements covers the award of contracts regulated by the Procurement Act 2023 (**PA**) and the Procurement Regulations 2024 (**PR**). Compliance with the PA and PR is a strict legal requirement upon the Council, and it is not open to the Council to waive compliance for such procurements. Unregulated Procurement covers contracts of a value below £30,000 which are not covered by the PA. A more limited form of regulation applies to contracts with a value between £30,000 and specified thresholds in the PA (**Below-threshold Contracts**).
- 1.2 These CSOs do not replicate the legislation. If an officer is in doubt about whether the PA applies to a proposed procurement, they must seek the guidance of Corporate Procurement. However, the CSOs do set out the Council's position under the PA, where there is discretion or choice and provide the necessary guidance to officers and members to understand how they work. For Unregulated Procurements, these CSOs provide a comprehensive code which the Council shall follow in letting relevant contracts, which must be followed unless waived in the exceptional circumstances set out in CSO 2 of this Section 1 ((Exceptions to CSOs ("Waivers"))).
- 1.3 Quotations for grant funded contracts for goods, services or works, where they are procured by the Council, should be invited, in accordance with these CSOs, except to the extent that any specific requirements for the receipt of the grant specify different requirements, in which case the specific grant procedures must be followed, and the procurement completed in accordance with the relevant grant procedural requirements. Please note that there is a difference between using grant funding to procure goods, services or works from Suppliers (which must be in accordance with these CSOs); and the Council awarding grants itself (which do not fall within these CSOs as they do not relate to the procurement of goods, works and services but rather the award of money to organisations to deliver grant objectives). Where the Council awards a grant, as opposed to a contract for goods, services or works, subsidy control laws apply rather than public procurement laws.
- 1.4 The PA includes at section 12 the PA Objectives. The PA also obliges the Council to follow the National Procurement Policy Statement (NPPS), published by the government, and which may be amended from time to time, for both Regulated Procurement and Unregulated Procurement. The NPPS sets out a number of important obligations upon the Council for procurement including:
  - 1.4.1 Delivering social and economic value;
  - 1.4.2 Building commercial capability to deliver value for money and stronger outcomes
  - 1.4.3 Driving economic growth

If there is any doubt about the terms of the NPPS, advice should be sought from Corporate Procurement.
- 1.5 At all times during a contract award procedure for an Above-threshold Contract, the Council, through its members and officers, shall consider and implement the PA Objectives. The Council shall also consider the PA Objectives in the award of Below-threshold Contracts and Unregulated Procurement.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

## **2 Exceptions to CSOs (“Waivers”)**

- 3.1 No exceptions shall be made from these CSOs otherwise than by a joint written decision of the appropriate Senior Officer and/or the Section 151 Officer in agreement with the Monitoring Officer and in consultation with the relevant Portfolio Holder.
- 3.2 This is permissible when the Lead Officer has given detailed reasons for the Exception, such as efficiencies, savings, limited market, statutory duty or requirement, social value, furtherance of equality duty, engagement of SME or third sector organisation, or some other substantial reason and provided that the value, including where a contract is being varied, at no times exceeds any published thresholds set out in the PA. The appointment by the Playhouse of Specialist Artists, and the appointment of Barristers, Arbitrators or similar shall be subject to prior written approval by the appropriate Senior Officer.

## **3 Probity**

- 3.0 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. Members shall comply with the Code of Conduct for Councillors, and officers shall comply with the Code of Conduct for Officers.
- 3.1 Effective audit trails must be maintained at all stages throughout the procurement procedure, particularly when approval or agreement is required and at evaluation/decision making stage.
- 3.2 The Lead Officer must:
  - 3.2.1 maintain a complete record of bids, offers, quotations or tenders received, reasons for making an award decision, Minutes of meetings, supporting correspondence and documentation;
  - 3.2.2 treat all Suppliers equally in an open, fair and transparent way;
  - 3.2.3 under no circumstances provide a Supplier with information that has not been given to other Suppliers bidding for the same contract; and
  - 3.2.4 under no circumstances disclose to Suppliers details of bids invited or prices received before a contract has been awarded.

## **4 Emergency Works**

If an emergency or disaster threatens life or property, these CSOs may be deemed waived to the extent necessary in the circumstances, but the Lead Officer must take urgent legal advice from the Monitoring Officer in advance of such action.

## **5 Conflicts of Interest, Gifts & Hospitality (and Conflicts Assessment for Above-threshold Contracts)**

- 5.1 Every officer entitled to buy supplies, services or works shall comply with the requirements of the Officer Code of Conduct in respect of conflicts of interest, gifts and hospitality.
- 5.2 The PA requires that before publishing a tender notice for an Above-threshold Contract, the Council must take all reasonable steps to identify, and keep under

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

review, any conflicts of interest or potential conflicts of interest. The Council must take all reasonable steps to ensure that a conflict of interest does not put a Supplier at an unfair advantage or disadvantage in the procurement. Before publishing a tender notice, the Council must also prepare a conflicts assessment in relation to the procurement. This conflicts assessment must include details of any conflicts or potential conflicts of interest identified by the Council; and any steps the Council has taken or will take to mitigate them. This conflicts assessment must be kept under review and revised as necessary during a procurement for an Above-threshold Contract.

## **6 Procurement Plan**

6.0 Prior to the start of each financial year, each Senior Officer must prepare a procurement plan setting out their department's contracts to be procured during that financial year, and where possible for forthcoming years. A copy of the plan must be supplied to the Senior Officer (Procurement) who shall use this information to formulate an Annual Procurement Plan for the Council.

6.1 The PA also obliges local authorities which expect to spend more than £100 million per year on contract spend to publish a pipeline notice annually, on the Central Digital Platform, by 26 May each financial year, setting out information on any contracts with a value of more than £2 million for which they intend to publish a Tender Notice or transparency notice in the next 18 months from the 1st April. While the Council does not spend over £100 million per year on goods, services and works, it may consider publishing a pipeline notice detailing contracts with an expected value of £2 million which it expects to procure in any given financial year.

7.4 All procurements planned with an estimate value greater than £350,000 must be included in the Forward Plan.

## **7 Aggregation Rules**

7.0 In estimating the value of a contract, the Lead Officer must not artificially split up any contract, either in structure, duration or value to avoid financial thresholds.

7.1 Prior to commencing any procurement, you must estimate the total monetary value of the contract (including VAT) over its full duration, including any extension options (i.e. not the annual value). The estimated total value of the contract will determine which procedure you must then adopt.

7.2 Where it is proposed to procure a contract on terms which will provide for renewal on a "rolling" basis, the Lead Officer must make a reasonable estimate of the term of the contract in order to estimate the contract value. If during the term of the Contract it appears that the estimated contract value may be exceeded by anticipated further renewals of the contract, the provisions for contract extension at CSO 25 shall apply. This Rule shall not apply to rolling contracts where the annual value is below £10,000. Such contracts shall be subject to an annual review.

7.3 Circumstances may arise where a number of low value contracts of the same type, for regular, routine, similar goods or services are given to one Supplier within a 12-month period. In this case, 12 months expenditure should be aggregated to determine which procedure should be followed. When the value of those contracts is aggregated the effect may be to move the total purchase from one value band to another. This may mean that a different procurement method has to be followed to comply with these CSOs, or it may be necessary to seek a waiver of these CSOs in such circumstances.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

7.4 The requirement to aggregate under the circumstances described at paragraph 8.4 will not apply where the Lead Officer identifies that the spend activity is:

- (a) unknown or unplanned and therefore cannot be specified at the commencement of the 12 months period; or
- (b) of a similar general category but is so varied that it would be impractical or difficult to specify, the aggregate annual value is less than £30,000, and a blanket discount arrangement, schedule of rates or other such general framework agreement would be impractical and lead to additional cost.

In any event, the Lead Officer shall ensure that Value for Money is achieved, make best use of the Council's purchasing power by aggregating where appropriate, undertake periodic review of the procurement decision, and keep appropriate records including the reason for any decision not to aggregate, throughout.

7.5 In accordance with Schedule 3 of the PA, if a Lead Officer is unable to make a reasonable estimate of the contract value, it must treat the contract as if it is an Above-threshold Contract. In addition, section 4(3) of the PA prohibits a Lead Officer from estimating a contract value with a view to securing that any requirement of the PA does not apply (i.e. under-estimating the contract value).

7.6 If, following calculation of the estimated value, the low value route (below £30,000) is used, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £30,000, then the Lead Officer will complete a CSO Waiver Form to be submitted for approval by Corporate Procurement, the relevant Senior Officer, the Monitoring Officer and the relevant Portfolio holder. The CSO Waiver Form shall provide full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received, and the evaluation model applied leading to selection of the preferred offer. Provided that the aforementioned are of the opinion that a robust exercise with an appropriate level of competition has been carried out, with a genuine pretender estimate, they may authorise the contract award.

7.7 If, following calculation of the estimated value, the intermediate route (below £60,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £60,000, then the Lead Officer will complete a CSO Waiver Form to be submitted for approval by Corporate Procurement, the relevant Senior Officer, the Monitoring Officer and the relevant Portfolio holder. The CSO Waiver Form shall provide full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received, and the evaluation model applied leading to selection of the preferred offer. Provided that the preferred offer is within 10% of the pre-tender estimate and that the aforementioned are of the opinion that a robust exercise with an appropriate level of competition has been carried out, with a genuine pretender estimate, they may authorise the contract award.

## **8 Specification**

8.0 The Lead Officer must ensure that the specification:

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 8.0.1 clearly describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
  - 8.0.2 includes relevant robust performance measures so that the contractor's performance can be properly and adequately monitored;
  - 8.0.3 incorporates all relevant quality standards, qualifications and accreditations and does not discriminate or inhibit competition;
  - 8.0.4 does not refer to trade names or patents unless "or equivalent" is also stated; and
  - 8.0.5 clearly sets out the mechanism for pricing, payments and delivery period.
- 8.1 The Lead Officer shall give consideration to social, economic, environmental, sustainability, equalities and diversity issues to the extent that they may be relevant and proportionate to the project.

**9 Evaluation of Tenders and Quotations**

- 9.0 The method of evaluation must be determined before inviting bids and this should reflect the type, value, duration and complexity of the contract. Suppliers must be advised how their bids will be evaluated and given weightings for all criteria and sub-criteria, where applicable.
- 9.1 The method of evaluation must not be altered after the closing date and time for the receipt of bids under any circumstances. Evaluation can be on the basis of:
- 9.1.1 lowest price, where payment is to be made by the Council;
  - 9.1.2 highest price, where payment is to be received by the Council;
  - 9.1.3 most advantageous tender (e.g. 60% Quality, 40% Price); and
  - 9.1.4 any other method clearly explained in the invitation to bid documentation that complies with relevant legislation.
- 9.2 Abnormally Low Tenders
- 9.2.1 If any Tender is more than 20% less than the next lowest it will, on the face of it, be considered to be an abnormally low offer and the Council may seek an explanation from the Tenderer as to why this is the case and some assurances that the goods, works or services can be delivered at the price offered.
  - 9.2.2 To enable all tenders to be evaluated in full compliance with the principles of equal treatment and transparency the abnormally low tenderer should be asked to provide an explanation of their tender price to satisfy the Council that they can sustain the contract over the contract duration at no additional cost to the Council.
  - 9.2.3 The Council has a duty to the competing tenderers to investigate an abnormally low tender and may, subject to the foregoing, reject an abnormally low tender.

All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation

## 10 Thresholds and Award Process

- 10.1 The thresholds, minimum number of Suppliers to be invited to bid and the different award processes for appointing Suppliers are set out below.
- 10.2 The thresholds, minimum number of Suppliers to be invited to bid and the different award processes for appointing Suppliers are set out below.

Process	Threshold (Estimated Value of Contract)	Minimum Number of Suppliers	Awarding Contracts
Quotation	Less than £30,000	1	Lead Officer issues Agresso Order
Quotation (Leaseholder Properties only)	Low value Leaseholder contracts (less than £30,000) – see CSO 10.4, 10.5 and 10.6 of this Section 1	3	Lead Officer issues Agresso Order. Note – a minimum of two bids must be received to comply with the terms of the Landlord & Tenant Act
Quotation	£30,000 but less than £60,000	3	Lead Officer* issues Agresso Order
Tender	£60,000 but less than £214,904	4	Lead Officer* in agreement with the Senior Officer and Monitoring Officer
Tender	£214,904 or above but less than £350,000 and within budget or item within agreed capital programme within limit approved by council (i.e. within budget)	5	Lead Officer in agreement with the Senior Officer and Monitoring Officer. Decision to award subject to approval of the relevant Portfolio Holder in accordance with Portfolio Holder approval financial thresholds.

All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation

Process	Threshold (Estimated Value of Contract)	Minimum Number of Suppliers	Awarding Contracts
Tender	£350,000** or above £1 million and within budget or item within agreed capital programme within limit approved by council (i.e. within budget)	5	Lead Officer in agreement with the Senior Officer and Monitoring Officer. Decision to award subject to Cabinet Key Decision approval process.
Tender	Non-capital contracts of £1 million or of £350,000** or more where the proposed spend is outside of approved budgets	5	Lead Officer in agreement with the Senior Officer and Monitoring Officer. Decision to award subject to approval of Cabinet or Full Council
<p>* Irrespective of value Lead Officers must consider whether consultation with the Leader and/or Portfolio Holder is appropriate in any given case.</p> <p>**<i>must be included on the Forward Plan of Cabinet</i></p>			

### 10.3 Leaseholder Contracts

10.3.1 If the value of the goods, works or services directly affect leaseholder service charges by £250 or more per property, or £100 per property for a qualifying long term agreement of twelve months or greater, or such other value as may be prescribed from time to time by statute. The Senior Officer(Home Ownership) must be notified to ensure that:

- (a) Initial Notice of Intent leaseholder consultation is carried out and completed before tenders or quotations are sought; and that
- (b) Notice of Estimates leaseholder consultation is carried out on returned tenders or quotations and completed prior to any award being made.

10.4 In such circumstances, a minimum of 3 Suppliers should be invited to bid to comply with Section 151 of the Commonhold Leasehold Reform Act 2002.



**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 10.5 For leaseholder contracts with an estimated value of £10,000 or greater, the requisite number of Suppliers stated in the relevant row of the table at CSO 10.2 of this Section 1 should be invited to bid and a minimum of 2 bids should be received by the Council.
- 10.6 The Lead Officer must ensure that sufficient time is allowed for leaseholder consultation prior to inviting bids and prior to awarding a contract. Each consultation period shall be a minimum of 30 days. Failure to do so will result in the Council being unable to recharge leaseholders for their proportion of the works.

**11 Low Value Contract: Below £30,000 including VAT**

- 11.1 Where the estimated value or amount of the proposed contract is £30,000 or below, the Lead Officer shall ensure that Value for Money is achieved and that the arrangements made secure the best available terms for the Council. All quotations must be in writing, either paper or electronic and saved as part of the decision. Officers should always consider whether a local supplier can be asked to provide a quotation. The Lead Officer should ensure that the number and type of quotations received are appropriate and proportionate to the contract risk and value. With the exception of leaseholder property works, where the estimated value or amount of the proposed contract is £30,000 or greater, the expectation is that at least 3 quotes shall be invited via email or through the Council's e-procurement portal "[MyTenders" – if this does not happen then the reasons for not so doing should be recorded.
- 11.2 The purchase order must be made on an official purchase order and shall specify the services, supplies or works to be provided and set out the price and terms of payments.
- 11.3 Two Lead Officers must be involved in the procurement process.
- 11.4 Every purchase order (whether issued as a result of High, Intermediate or Low Value Contract) **must** contain the current approved standard form of terms and conditions of contract between the Council and the Supplier. A quotation and a purchase order will create a legally binding contract. A copy of the Purchase Order must be provided to the Corporate Procurement team.

**12 Intermediate Value Contract: £30,00 but less than £60,000 including VAT (Quotations)**

- 12.1 For contracts valued between £30,000 but less than £60,000, at least 3 Quotes shall be invited through the Council's e-procurement portal "MyTender", before a formal purchase order is issued specifying the supplies, services or works to be provided. If only one or two responses are submitted by Suppliers invited to submit a Quote, the Council may proceed with the award process without the need for a waiver unless it is for works to leaseholder properties.
- 12.2 Where a procurement is £30,000 or greater in value, and the intention is to advertise it on "MyTenders" Portal, the PA requires that the opportunity is **first advertised** on the Central Digital Platform with a below-threshold Tender Notice. Additionally, for all contract awards whether the opportunity was openly advertised or not, a Contract Details Notice must still be published on the Central Digital Platform following the award of the contract. In both instances, the notices must include the specific details listed in the PR, and in both instances, these notices may be accommodated through MyTender.
- 12.3 At least one Local Supplier should be included in the list of Suppliers to be invited to quote where possible.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 12.4 Invitations to Tender shall:
- 12.4.1 specify or refer to a specification of the goods, materials, services or work required;
  - 12.4.2 state the date and time by which the quotation must be received;
  - 12.4.3 include the instructions for submission and state that no quotation will be considered unless it is received in accordance with those instructions; and
  - 12.4.4 set out the evaluation criteria.
- 12.5 All tenders shall be evaluated in accordance with the evaluation criteria set out in the quotation documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous Tender to the Council.
- 12.6 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Contract.
- 12.7 Any procurement that may involve a transfer of Council staff shall be treated as a High Value Contract,

**13 High Value Contracts: £60,000 or greater including VAT (Tenders)**

- 13.1 All contracts with a cumulative value of £60,000 or greater shall be classed as High Value Contracts and Corporate Procurement will normally lead on the procurement.
- 13.2 Additionally, any contract where Council employees may be transferred to other bodies or where risk in the procurement is perceived to be high shall be treated as a High Value Contract.
- 13.3 All High Value Contracts must be advertised on the Council's e-procurement portal "MyTenders". The PA requires that the opportunity is **first advertised** on the Central Digital Platform with a below-threshold Tender Notice.
- 13.4 The below-threshold Tender Notice should set out the Council's requirements and the expectation is that tenders will be invited from interested Suppliers. The accompanying procurement documents will set out:
- 13.4.1 the specification of the goods, materials, services or work required;
  - 13.4.2 the date and time by which the tender must be received;
  - 13.4.3 instructions for submission and state that no tender will be considered unless it is received in accordance with those instructions; and
  - 13.4.4 the evaluation criteria.
- 13.5 All tenders shall be evaluated in accordance with the evaluation criteria set out in the procurement documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous Tender to the Council.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 13.6 For High Value Below-threshold Contracts, a Contract Details Notice must be published on the Central Digital Platform following the award of the contract. In both instances, the notices must include the specific details listed in the PR, and in both instances, these notices may be accommodated through the MyTenders Portal.
- 13.7 Nothing in these Rules prevents an officer from adopting any aspect of the High Value Contract procurement procedure in the procurement of Low or Intermediate Value Contracts.

**14 Contracts Subject to the PA: Above-threshold Contracts**

- 14.1 Above-threshold Contracts which have the values set out in CSO 14.4 shall be procured in accordance with the PA. Under the PA, the contract must be procured using either:
- 14.1.1 a single-stage tendering procedure without restriction on who can submit tenders (an “**Open Procedure**”); or
  - 14.1.2 such other competitive tendering procedure as the Council considers appropriate for the purpose of awarding the Above-threshold Contract (a “**Competitive Flexible Procedure**”).
- 14.2 For each Above-threshold Contract, a Tender Notice shall be published in the prescribed form on the Central Digital Platform to invite tenders or expressions of interest. These Notices can also be published via the My Tenders Portal.
- 14.3 Advertisements published in addition to the Tender Notice must not appear in any form before the Tender Notice is published on the Central Digital Platform and should not contain any information additional to that contained in the Tender Notice.
- 14.4 From 1 January 2024 – 31 December 2025, the total contract values which classify different types of contact as an Above-threshold Contract are as set out below. All figures are inclusive of VAT:
- 14.4.1 good and services: £214,904;
  - 14.4.2 works: £5,372,609;
  - 14.4.3 light touch social and other services: £663,540; and
  - 14.4.4 Concession Contracts: £5,372,609.

These thresholds are revised every two years. The Cabinet Office will publish a Procurement Policy Note confirming the new thresholds from 1 January 2026. The Monitoring Officer has the delegated authority to amend the CSOs to reflect any change in values in this CSO 14.4 of this Section 1.

- 14.5 The PA is complex, and sets out legal obligations on the Council in respect of procurement of Above-threshold Contracts. These rules differ from those contained in the PCR, so officers **must** consult Corporate Procurement and Legal Services department prior to commencing any procurement which is subject to the PA.
- 14.6 Before publishing a Tender Notice for an Above-threshold Contract, the Council shall consider whether to publish a Planned Procurement Notice setting out its intention to carry out a procurement for an Above-threshold Contract. The Council shall, if possible, issue the Planned Procurement Notice at least 40 days prior to the Tender

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

Notice, in order to give the ability if required to utilise reduced tendering periods in the procurement itself.

- 14.7 Before publishing a Tender Notice for an Above-threshold Contract, the Council shall consider whether to undertake preliminary market engagement. Where the Council undertakes preliminary market engagement, it shall, unless it has good reason not to, publish a preliminary market engagement notice. Should it choose not to publish such a notice, it must provide the reasons for conducting such engagement without a preliminary market engagement notice in the Tender Notice itself. Officers must ensure that any preliminary market engagement is carried out in a manner which does not put any Suppliers at an unfair advantage, or which otherwise distorts competition. Preliminary market engagement shall only be carried out after consultation with the Lead Officer.
- 14.8 If an officer is concerned that the Supplier's participation in any preliminary market engagement has put it at an unfair advantage or otherwise distorts competition, they must seek the advice of Senior Officer (Procurement) as to whether to exclude such Supplier from the tendering procedure.
- 14.9 The Council may undertake preliminary market engagement for any other procurement (e.g. for a Below-threshold Contract or Unregulated Procurement) in such manner as it deems appropriate, provided such engagement does not put any Supplier at an unfair advantage or otherwise distort competition.
- 14.10 Before commencing a procurement for an Above-threshold Contract, the Council shall consider whether the requirement could reasonably be supplied under more than one contract and whether such contracts could appropriately be awarded by reference to Lots. Commissioners of services shall seek guidance from the Senior Officer (Procurement) as to whether their requirements can be met in this way. Where the Council concludes not to procure by reference to Lots, it must record its reason for not doing so.
- 14.11 The Council must confirm, in the tender notice for an Above-threshold Contract, that a conflicts assessment has been prepared (see CSO 5.2 of this Section 1).
- 14.12 Where a contract (other than a framework, Concession Contract or contract for light touch services) is estimated to have a value exceeding £5 million, the Council must set at least three key performance indicators in the contract unless it is considered that performance could not be appropriately assessed by reference to key performance indicators.
- 14.13 The PA also requires the Council to publish a contract performance notice annually in respect of a Supplier's performance against the key performance indicators of each contract with a value exceeding £5 million.

**15 Conditions of Participation and Exclusion of Suppliers**

- 15.1 "Conditions of Participation" is the new terminology, under the PA, for what was previously known as a Selection Questionnaire or Pre-Qualification Questionnaire. It is an initial stage of a procurement process where the Council assesses whether a Supplier has the legal, financial and technical capacity to perform an Above-threshold Contract (and is therefore eligible to be invited to submit a tender in the next stage of the procurement). The stage is backward, rather than forward-looking, so is not related to how the Supplier might perform the contract in question but rather on its current compliance and past performance (i.e. backward-looking).

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 15.2 Conditions of Participation should not be used as a distinct stage when procuring a Below-threshold Contract; or a call-off contract from a framework agreement as Suppliers on framework agreements are already pre-qualified. However, the Council may ask for suitability information in a call-off or Below-threshold Contract procurement as part of the award stage questions.
- 15.3 Before conducting any evaluation of tenders for Above-threshold Contracts, the Council must consider whether a Supplier is an Excluded Supplier or an Excludable Supplier. The Council shall disregard any tender from a Supplier that is an Excluded Supplier. Where the Council receives a tender from an Excludable Supplier, it shall consider whether it shall disregard that tender. No decision to exclude an Excludable Supplier shall be taken without the agreement of the Senior Officer (Procurement).
- 15.4 As part of every tendering procedure for an Above-threshold Contract, the Council shall request information about whether a Supplier is intending to subcontract any part of the performance of the contract and shall request that such information as is necessary to determine whether the subcontractor is an Excludable Supplier.
- 15.5 Where a proposed subcontractor is an Excluded Supplier, the Council shall exclude the Supplier from the procurement.
- 15.6 Where a proposed subcontractor is an Excludable Supplier, the Council shall treat the Supplier as an Excludable Supplier and determine whether to exclude the Supplier from the procurement.
- 15.7 Where the Council determines to exclude the Supplier, it shall notify the Supplier of its intention and give the Supplier a reasonable opportunity to find an alternative subcontractor.
- 15.8 The Council shall exclude a Supplier if the Supplier acts improperly during a procurement, and its behaviour puts it at an unfair advantage in relation to the award. A Supplier is deemed to have acted improperly where it:
  - 15.8.1 fails to provide information requested by the Council;
  - 15.8.2 provides incomplete, inaccurate or misleading information;
  - 15.8.3 accesses confidential information of the council; or
  - 15.8.4 unduly influences the Council's decision making in relation to any contract.
- 15.9 Where the Council excludes a Supplier, it shall notify the Cabinet Office.
- 15.10 The Council shall exclude a Supplier which is on the Debarment List or is an associated person of a Supplier on the Debarment List.
- 15.11 Any procurement subject to the PA shall be in full compliance with it and any statutory guidance published by the Cabinet Officer. The PA stipulates what must and/or may be taken account of, in assessing eligibility, economic and financial standing and technical and/or professional ability.

## **16 Opening Tenders and Quotations**

16.1 Tenders and quotations received via the MyTenders portal do not require witnessing or Portfolio Holder attendance when opening. For tenders and quotations submitted in hard copy format, the following process must be followed.

### **16.2 Opening Tenders and Quotations**

16.2.1 Returned tenders and quotations will be stored in a secure area by Contact Harlow until they are collected by a member of Corporate Procurement or the Lead Officer, as appropriate after the time and date for the receipt of tenders has expired.

16.2.2 Tenders and quotations must be returned in a plain sealed envelope using the label supplied for this purpose strictly by the deadline stated. There must be no mention of the sender's name or any other way of identifying the bidder.

16.2.3 The appropriate Portfolio Holder (or in their absence another Councillor) and a member of Corporate Procurement will open tenders with an estimated value of £60,000 or greater.

16.2.4 The Lead Officer and an appropriate witness may open quotations with an estimated value below £60,000 and must keep a record of all bids received.

16.2.5 Tenders and quotations must be opened and results recorded simultaneously. A record of all bids must be maintained by Corporate Procurement or the Lead Officer, as appropriate, if submitted in hard copy format or by email. Details of prices received must be kept confidential until after the contract has been awarded.

16.2.6 No Officer or Councillor who has a direct or indirect pecuniary interest may attend the opening of tenders or quotations.

Officers should note that hard copy tenders should not be sought other than in exceptional circumstances. Where tenders for Above-threshold Contracts may not be submitted electronically, section 54 of the PA sets a longer minimum period for tenders to be submitted.

## **17 Amending Tenders and Quotations**

A tender or quotation can only be amended after it has been received and before it has been accepted to correct an error made in good faith provided that documentary evidence to justify the amendment to the tender or quotation is retained for audit purposes.

## **18 Late Tenders and Quotations**

Any tender or quotation submitted in competition and received after the specified time and date shall be opened by the Monitoring Officer only to ascertain the name of the sender. Advice should be sought from the Monitoring Officer where there is any concern by an officer that the tender or quotation should not be disqualified.

## **19 Tender/Quotation Clarification**

- 19.1 Bidders may request clarification on aspects of the Tender/Quotation documentation prior to submission by submitting a clarification question through MyTenders. The Lead Officer must ensure the same treatment of all bidders, and where relevant should anonymise the question and publish that together with the response to all potential bidders through the MyTenders portal. Care should be taken not to reveal the identity of the Supplier or any information which may be deemed to be commercially confidential to them during the clarification process.
- 19.2 During the evaluation process, Lead Officers may clarify aspects of a submitted Tender or a Quotation which are unclear, lacking in detail, ambiguous or appear to show a misunderstanding of the requirements. The areas requiring clarification should be set out in writing by the procurer and a written response requested from the bidder. All such communications should be issued and recorded through MyTenders portal where possible, to ensure a full audit trail of the procurement.
- 19.3 For more complex service procurements where officers want to obtain a fuller understanding of bidders' proposals and method statements it may be appropriate to hold a clarification meeting. In such circumstances a formal written record of the meeting shall be completed and agreed by all parties. Minor points of clarification and obvious errors (e.g. mathematical error) should be dealt with in accordance with Clause 20.2 above and should not require a meeting.

## **20 Errors in Tenders/Quotations**

- 20.1 Errors in Tenders/Quotations must be dealt with by asking the Supplier to confirm the Tender as submitted or withdraw their bid. However, where a Supplier has made a visible and genuine arithmetical error, they may be given an opportunity to correct that error. Suppliers may not, however, modify their tenders after the deadline for submission has passed (except as provided for in any procurement documents related to a Competitive Flexible Procedure).
- 20.2 Tenders/Quotations must state how errors in Tenders/Quotations must be dealt with.
- 20.3 Careful consideration must be given to the effect of any procedure adopted when dealing with errors in Tenders and the reflection which any such procedure may have on the integrity on the officers and members of the Council. It is essential that the procedure adopted is transparent, bidders are treated the same and the integrity of the Council is upheld.

## **21 Negotiations and Discussions**

- 21.1 Negotiations with bidders must not take place unless the appropriate procurement route was adopted at the outset in accordance with the PA. Where permissible, negotiations must be accurately recorded and conducted in an open, fair and transparent way.
- 21.2 Discussions may be held following submission of tenders or quotations for the purpose of clarifying or supplementing the content of the bid and/or the requirements of the contracting entities only.

## **22 Evaluation**

- 22.1 Tenders subject to the PA shall be evaluated in accordance with the evaluation criteria set out in the Tender Notice and invitation to tender, which determine the Most

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

Advantageous Tender. All other tenders and quotations shall be evaluated in accordance with the evaluation criteria notified to Suppliers in the Tender Notice and/or Invitation to Tender/Quote.

- 22.2 All contracts, except where lowest price is predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous Tender to the Council.
- 22.3 Determining the Most Advantageous Tender involves scoring tenders objectively using scoring criteria which should:
- 22.3.1 be pre-determined and listed in the Invitation to Tender/Quote with their specific percentage weightings;
  - 22.3.2 be weighted according to their respective importance. This is mandatory for High Value Contracts and recommended for Intermediate Value Contracts. Lead Officers must consult the Senior Officer (Procurement) where it is intended not to follow this recommendation for Intermediate Value Contracts and provide a valid justification for this;
  - 22.3.3 be strictly observed at all times throughout the tender process;
  - 22.3.4 reflect the objective of securing Value for Money;
  - 22.3.5 include price evaluation;
  - 22.3.6 adopt whole-life costing where appropriate, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account. Additionally, the use of energy efficient products or the use of sustainable materials with a longer life span may impact on the whole life cost;
  - 22.3.7 be capable of objective assessment;
  - 22.3.8 include, where applicable, the quality of the Supplier's proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
  - 22.3.9 avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies or the PA.

Where this evaluation methodology is used, any resulting contract must be awarded to the Supplier which submits the Most Advantageous Tender, i.e. the tender that achieves the highest score in the objective assessment.

- 22.4 The evaluation criteria must be consistently and strictly observed at all times through the contract award procedure by any officer involved in the quotation/tender evaluation process. The Lead Officer must keep comprehensive records of the evaluation exercise including the scores and comments and justification for those scores and shall sign the final selection record. This information should be supplied to Corporate Procurement to enable formalities to be concluded. A Bid Acceptance Form should be completed to confirm instructions to enter into a contract.



**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 22.5 For each contract with a value of £60,000 or greater, the Lead Officer shall form an Evaluation Team with responsibility for evaluating tenders. The Lead Officer shall keep comprehensive written records of the evaluation exercise including the scores and comments and justification for those scores, and the lead officers of the evaluation team shall sign the final selection record.
- 22.6 The Council may, in Competitive Flexible Procedures, refine the award criteria and/or the weightings, provided that it has given notice of its intention to do so in the tender notice or the tender documents. Any decision to give notice of the intention to refine shall require the agreement of the Lead Officer and the application of any refinement to the criteria or waiting to a procedure shall be carried out after consultation with the Lead Officer.
- 22.7 If the Council suspects that a tender received is abnormally low for performance of the contract, it must raise with Senior Officer (Procurement) before proceeding with evaluation. The PA requires that before a tender is disregarded/excluded for being abnormally low, the Supplier must be notified that the Council considers the price to be abnormally low and gives the Supplier reasonable opportunity to demonstrate that it will be able to perform the contract for the price offered.

**23 Standstill Period**

For Above-threshold Contracts (except where related to light touch social and other services), publication of the contract award notice on the Central Digital Platform commences an eight working day standstill period. For Above-threshold Contracts for light touch contracts, call-off contracts awarded pursuant to framework agreements or Dynamic Markets and some contracts awarded pursuant to section 41 of the PA (direct award), there is no mandatory standstill period. However, the Lead Officer should consider a voluntary standstill period.

- 23.1 The PA does not require a mandatory standstill period to be observed in the award of a Below-threshold Contract.
- 23.2 Lead Officers should consult Corporate Procurement for advice on the specific detail which must be included in assessment summaries and contract award notices under the PA.

**24 Contract Details Notice and publication of contracts with a value exceeding £5 million (inclusive of VAT)**

- 24.1 The Contract Details Notice is a new notice under the PA and is published on the Central Digital Platform following execution of either a Below-threshold Contract or an Above-threshold Contract. This replaces the requirement under the PCR to publish a contract award notice on Contracts Finder and applies regardless of whether a contract has been advertised or not. As there is not always a requirement to publish a Tender Notice for a Below-threshold Contract, this may be the first and only notice published in a procurement for a Below-threshold Contract.
- 24.2 The PR set out the information to be included in a Contract Details Notice.
- 24.3 If a contract has a value exceeding £5 million inclusive of VAT, the Council must publish a copy of the contract within 90 days of execution (or 180 days if the contract is for light touch services).

## **25 Extending Contracts**

- 25.1 Any Below Threshold Contract which has been procured in accordance with these Rules may be extended in accordance with its terms (subject to financial resources) by the Senior Officer provided an extension clause was included for within the contract terms and conditions
- 25.2 Other existing Below Threshold Contracts which have been procured in accordance with these Rules may be extended by the Senior Officer, provided that the total period of this and any previous extension will not together exceed 1 year and the total value of the contract, including the extension, will not make the contract an Above-threshold Contract. The Lead Officer must keep a record of the reason for the decision to so extend. A formal Waiver of the Rules must be obtained if the proposed extension will add more than £30,000, or more than 20% (whichever is the higher) to the original total contract value and advice should be sought from Corporate Procurement.
- 25.3 Any extension exceeding £100,000 in value shall require the approval of the Executive Cabinet or relevant Executive Cabinet Portfolio Member.
- 25.4 If the original contract was subject to the PCR/PA, the contract may only be extended within the parameters identified in the original Tender Notice and/or as provided for within the PCR/PA. If the contract was not subject to the PCR/PA, any extension must not take the total value of the contract above the relevant threshold to make it an Above-threshold Contract.
- 25.5 If the contract was awarded as a framework agreement, the total framework period, including any extensions, cannot exceed four years, except where the Senior Officer considers the nature of the goods, services or works to be supplied under contracts awarded in accordance with the Framework Agreement means that a longer term is required.
- 25.6 When negotiating a contract extension, the Lead Officer must make every effort to negotiate improved contract terms with regard to the cost and quality and shall always be satisfied that the extension will achieve Value for Money and is reasonable in all the relevant circumstances.
- 25.7 All extensions to any Council contracts must be in writing and reported to the Senior Officer (Procurement) in order that contractual formalities can be completed and the Contracts Register can be updated accordingly.
- 25.8 Once a Contract has expired it cannot then be extended.

## **26 Modifications**

- 26.1 Modifications to a contract shall be in accordance with these CSOs and the Council's Financial Regulations.
- 26.2 All contract modifications must be carried out within the scope of the original contract. Contract modifications that materially affect or change the scope of the original contract are not permitted.
- 26.3 All contract modifications must be in writing and signed by both the Council and the Supplier except where different provisions are made within the Contract documentation. The value of each modification must be assessed by the Lead Officer and all necessary approvals sought prior to the modifications taking place including registration on the Council's Forward Plan if applicable.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

26.4 Contracts procured under the PA **must not** be extended or varied without first consulting Legal Services and the Senior Officer (Procurement). Contracts subject to the PA which are modified must be accompanied by a “contract change notice” published on the Central Digital Platform before the change may be executed; and must fall within the permitted contract modifications listed at Schedule 8 of the PA.

26.5 The Lead Officer shall always be satisfied that the variation will achieve Value for Money for Money and is reasonable in all the relevant circumstances.

**27 Termination of a Procurement or a Contract**

27.1 If the Council decides to abandon the procurement of an Above-threshold Contract procurement without making an award, it must publish a procurement termination notice on the Central Digital Platform as soon as reasonably practicable.

27.2 Termination of any High Value Contracts must be approved by the Executive Cabinet or Executive Cabinet Portfolio Member. In emergency situations, the relevant Senior Officer may authorise termination of High Value Contracts. The Senior Officer shall report full details including the reason for the contract termination to Council at a later date.

27.3 When an Above-threshold Contract is terminated, whether by discharge, expiry, termination by another party than the Council, rescission or set aside, the Council must publish a contract termination notice on the Central Digital Platform within 30 days of the contract termination.

27.4 Low Value or Intermediate Value Contracts may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

**28 Payments Compliance Notice**

The PA requires the Council to publish a payments compliance notice, every 6 months, setting out its compliance with the requirement in the PA to pay Suppliers within 30 days of receipt of valid invoices. These notices must be published by 30 April and 30 October.

**29 Concession Contracts**

These CSOs apply to Concession Contracts (please refer to the Definitions at the back of this document). A simple example would be a concession to pitch an ice cream van and sell ice cream on Council land. Please note that specific rules and exemptions apply to Concession Contracts in the PA so advice from legal should be sought in respect of any procurement of a Concession Contract.

**30 Contract Management**

30.1 Contracts must be managed and monitored by the Officer as designated by the Senior Officer. The responsible Officer will keep complete records during the lifetime of the contract and should monitor, as a minimum:

- 30.1.1 performance/KPI's (including Social Value);
- 30.1.2 compliance with specification and terms and conditions;
- 30.1.3 cost (keeping within budget and identifying savings); and

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

30.1.4 user satisfaction and continuous improvement.

**31 Contract Formalities**

- 31.1 Contracts with a value at or greater than £100,000 must be in writing and executed under seal or signed and delivered as a deed.
- 31.2 Contracts with a value below £100,000 must be signed by a duly authorised Lead Officer.
- 31.3 Every contract will:
  - 31.3.1 be governed by English Law;
  - 31.3.2 clearly specify the goods, works or services to be supplied;
  - 31.3.3 state the total price to be paid with a statement of discounts or other deductions together with the arrangements for payment including any retentions;
  - 31.3.4 state the time or times within which the contract is to be performed including any options to extend the contract;
  - 31.3.5 penalties for non-compliance/KPI's, liquidated and ascertained damages (to the extent that this may apply);
  - 31.3.6 state the method of dispute resolution; and
  - 31.3.7 state any other relevant matters relating to the due performance of the contract.
- 31.4 The original copy of all signed/executed contracts must be stored in a Deed Packet in Legal Services.

**32 Bonds and Other Security**

- 32.1 Performance bonds are not mandatory and should only be sought if proportionate to the demonstrable risks, nature and value of the contract.
- 32.2 Where necessary, risk may be managed by holding a bond deposit or increasing retention sums held. Risk to the Council of default shall be mitigated by prudent pre contract contractor due diligence and selection, and whilst in contract applying clear and robust performance monitoring.
- 32.3 A parent company guarantee may be considered as an alternative to the provision of a performance bond subject to a risk assessment in accordance with the rest of CSO 22 above.

**33 Insurances**

- 33.1 All Suppliers must carry sufficient public liability, employer's liability, product liability and professional indemnity insurance appropriate to their business with the Council.
- 33.2 The Lead Officer must ensure that:

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 33.2.1 the Supplier provides documentary evidence of cover before the contract begins, and that evidence of renewal is supplied if the insurance expires during the contract period;
- 33.2.2 the level and type of insurance is sufficient to cover all the risks associated with the performance of the Contract;
- 33.2.3 the Supplier provides annual updates (including evidence of payment of premium for term contracts); and
- 33.2.4 advice is sought from the Senior Officer (Insurance) to ascertain the level and type of insurances required to protect the Council's risks.

**34 Retendering**

If, during the tendering exercise, a material change occurs in the value, duration or scope of a contract, formal re-tendering will be necessary to give all bidders an equal opportunity to consider the new requirements.

**35 Declaration of Interest**

Section 117 of the Local Government Act 1972 requires that any Officer employed by the Council who finds out that the Council has entered or is proposing to enter into a contract in which they have a "pecuniary" interest must notify the Council of that interest in writing, as soon as it is practicable. It is a criminal offence not to comply with this provision. The Monitoring Officer will keep a complete record.

**36 Freedom of Information Act (2000)**

The Council's Access to Information Policy must be adhered to where requests for information relating to procurement activity are received under the Freedom of Information Act (2000).

**37 Bankruptcies and Liquidations**

- 37.1 The Monitoring Officer must be notified if a Supplier ceases to trade as a result of bankruptcy or liquidation and the action to be taken shall be agreed with the Senior Officer of Legal and Democratic Services on:
  - 37.1.1 terminating the contract;
  - 37.1.2 appointing a new Supplier to complete the contract;
  - 37.1.3 negotiating with liquidator/receiver/administrator; and
  - 37.1.4 assigning the contract and novation.

**38 Disposal of Assets (including IT Equipment)**

- 38.1 Financial Regulations must be complied with when disposing of the Council's assets including the disposal of stores and equipment. The Lead Officer must seek the best value reasonably obtainable for the Council, using an auditable process and ensuring compliance with all relevant legislation and Council policies.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

38.2 The Lead Officer must retain a complete audit trail relating to any such disposals which shall be subject to consultation with the appropriate Senior Officer and the Director of Finance.

38.3 All disposals of ICT equipment must be undertaken by ICT Services.

**39 Corrupt Practices**

39.1 In relation to any contract with the Council, the Council will be entitled to give a Supplier notice that the contract has been terminated with immediate effect if the Supplier, or any person employed by the Supplier, or acting on its behalf, commits any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

39.2 Every contract with the Council will include a clause empowering the Council to cancel a contract and to recover from the Supplier the amount of any loss resulting from such cancellation if the Supplier has committed any of the offences described in CSO 39.1 of this Section 1 above.

**Contract Standing Orders (Part 2) Disposal of Land**

**0 Introduction**

0.0 Except where otherwise provided in these CSOs, the following rules must be followed every time the Council disposes of or enters into a contract for the disposal of land (including the grant of options to purchase land).

**1 Exceptions**

No exception will be made from this Section 2 of these CSOs, other than by Cabinet or Council after considering a report to which the Monitoring Officer, the Section 151 Officer and Senior Officer (Property) have contributed.

**2 Authority to Dispose of Land**

2.0 The Assistant Director has the authority to sell land:

2.0.1 with no development potential and an estimated market value of less than £10,000;

2.0.2 with development potential and a proposed sale price of less than £10,000 provided there are betterment provisions to realise the value of the development potential; or

2.0.3 with an estimated market value between £10,000 and less than £50,000 in consultation with the relevant Portfolio Holder and the Section 151 Officer.

2.1 The Senior Officer has the authority to lease land:

2.1.1 for a period of less than seven years at a rent at or above best consideration reasonably obtainable; or

2.1.2 for a period of seven years or more for an estimated aggregated rental value less than £50,000 in consultation with the relevant Portfolio Holder and the Section 151 Officer.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

2.2 The terms of any other land disposals must be agreed by Cabinet or Council.

**3 Entering into Contracts**

3.1 Except where otherwise provided in these CSOs, contracts for land disposals must be entered into by one of the following methods:

- 3.1.1 selective bidding following publication of an advertisement;
- 3.1.2 open competitive bidding following publication of an advertisement;
- 3.1.3 by Private Treaty;
- 3.1.4 by Auction; or
- 3.1.5 selective bidding by invited Housing Providers.

3.2 Methods of advertising are included in CSOs 12.2, 13.3 and 14.1.2 of Section 1.

3.3 Where an intended land disposal involves a contract of a kind requiring the Council to comply with the PA, the scheme for the disposal shall ensure compliance with the PA.

**4 Selective bidding by advertisement (where the PA and PR do not apply)**

4.0 An advertisement stating the nature and purpose of the proposed agreement and inviting formal expressions of interest will be placed in an appropriate newspaper and industry journal and will give a closing date by which expressions of interest must be received. This will be at least 28 days after the date of publication of the advertisement.

4.1 After the closing date (subject to satisfactory outcome of a financial appraisal (and where considered appropriate) a technical appraisal) at least 4 of those persons expressing an interest will be invited to bid or (if the expressions of interest are less than four) all persons who expressed an interest and whose appraisal meets a satisfactory outcome will be invited to bid.

4.2 The invitation for bids will provide information about any criteria to be used in evaluating the bids.

4.3 Officers responsible for drawing up or agreeing criteria will record the criteria in their files and record when and by whom the criteria were agreed.

4.4 For the purposes of this CSO 4 of this Section 2 any successful bidder will be financially reappraised immediately prior to any award.

**5 Selective bidding by invited Housing Providers**

5.0 In the case of a proposed transaction falling within the scope of the Stansted Area Housing Partnership not less than two Housing Providers shall (subject to satisfactory outcome of a financial appraisal) be invited to bid in accordance with the terms of that partnership arrangement.

5.1 In all other cases, at least four Housing Providers will (subject to satisfactory outcome of a financial appraisal) be formally invited to bid.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 5.2 For the purposes of this CSO 5 of this Section 2 all Housing Providers will be financially reappraised immediately prior to any award.

**6 Best Consideration**

- 6.0 The Council has a duty to secure value for money and when disposing of land must normally ensure that it obtains best consideration. This will be the market value of the land as defined by the Royal Institution of Chartered Surveyors.
- 6.1 If the Council receives a higher bid prior to exchanging contracts, it must decide whether to consider that bid. In making this decision, the Council must explore as far as is reasonable the merits of the alternative bid, the level of uncertainty surrounding the bid and the risk of accepting that offer. All of these factors must be weighed in the balance against the value and certainty of the existing offer.
- 6.2 Interested parties must be invited to make a final offer by a specified time and date.
- 6.3 Acceptance of an offer should be subject to completion within a specified and limited timescale of no greater than 6 months.
- 6.4 Terms should not be finalised without a current valuation but the costs associated with delays in the sale (for example lost interest and remarketing must be considered).
- 6.5 Details of individual bids should not be disclosed to any other bidder or potential bidder.

**7 Sale At Less Than Best Consideration**

In certain circumstances the Council has a power to dispose of land for less than best consideration without receiving the specific consent of the Secretary of State. Legal advice should be taken before committing to any such disposal.

**8 Subsidy Control**

A disposal of land at an undervalue is capable of amounting to an unlawful subsidy. The subsidy control regime applies where public funds can be said to subsidise a private operator in some way, and subject to certain exceptions it is generally unlawful. Legal advice must be taken where a subsidy could be involved.

**9 Planning Permission**

Where it is intended to sell land with an expectation that it will subsequently be developed consideration should be given to securing planning permission prior to the sale or ensuring that the terms of any sale make provision (where appropriate) to recoup any associated increase in value (betterment).

**10 Marketing and Sale of Land – Choice of Procedure**

10.0 Private Treaty

- 10.0.1 A sale by private treaty occurs where negotiations are carried out between the Council and prospective purchasers privately and normally without a time limit for exchange of contracts. This is a flexible and straightforward approach to land sale, but its informality can increase suspicions of unfair dealing and cause difficulties in demonstrating that best consideration has been obtained.



**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

- 10.0.2 Sales by Private Treaty should only be accepted where the sale is within the delegated powers of the relevant Portfolio Holder, unless Cabinet or Council approval is granted. In such cases the Cabinet or Council report must set out the justification for the use of this procedure.

10.1 Sealed Tender

- 10.1.1 Tenders must be invited at the same time with a fixed closing date and time.

**11 Opening Tenders**

CSO 16 of Section 1 shall apply to the opening of tenders except in the case of tenders invited under CSO 5 of this Section 2 (selective bidding by invited Housing Providers) in which case (for tenders with an estimated value of £60,000 or greater) an officer of Corporate Procurement and either another officer from Corporate Procurement or an officer from the relevant service area shall open tenders.

**12 Negotiations with Developers/Purchasers**

- 12.0 Negotiations with prospective developers or purchasers must wherever reasonably practicable take place at the Council's offices or those of the prospective developer or purchaser within normal office hours. At least 2 officers or one officer and an external consultant appointed by the Council to act on its behalf must be present and signed and dated Minutes must be kept for audit purposes.
- 12.1 Meetings and telephone conversations must immediately be followed by an exchange of correspondence to confirm the position.

**13 Accepting Bids/Offers**

- 13.0 No contract with a value at or above £60,000 will be entered into and no disposal shall take place without the consent of Cabinet or Council (as appropriate) in accordance with CSO 11 of this Section 2 above. Market conditions and the estimated period for completion of the transaction must be included in any Cabinet report.
- 13.1 The Cabinet report must include a recommendation as to what legal interest the Council would be best advised to dispose of, and the most effective way of disposing of an interest in order to secure the best terms reasonably obtainable.
- 13.2 Any proposal to dispose of land for less than the best consideration reasonably obtainable will require the consent of Cabinet or Council and any report for this purpose will advise Councillors of the requirement or otherwise to obtain the consent of the Secretary of State.
- 13.3 Any decision to dispose of land at less than the best consideration reasonably obtainable or at less than market value will be supported by recorded evidence.
- 13.4 In the case of disposal by auction, the proposed sale will always be subject to a reserve price of not less than a current valuation.
- 13.5 The terms of any contract will not be finalised without the benefit of a current valuation of the land in question.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

#### **14 Revised Bids/Offers**

Should a preferred developer or the highest bidder or a person making the highest offer seek to substitute a lower offer or bid, Officers will on every occasion give to all making bids or offers the opportunity of making a further bid or offer by a specified date and time.

#### **15 General Requirements**

15.0 Following the decision of Cabinet to give its consent under CSO 13.0 of this Section 2, Officers will take all practicable steps to secure an early exchange of contracts.

15.1 If contracts have not been exchanged within 6 months of the date of Cabinet consent, Officers will be required to invite fresh bids from all the bidders and any other person who originally expressed a formal interest.

15.2 The valuation of best consideration can change quickly and a prompt completion will be necessary to avoid selling at an undervalue.

15.3 An appropriately qualified or experienced officer shall always be present when bids are being evaluated.

#### **16 Exemptions and Special Cases**

##### **16.1 Right to Buy**

16.1.1 Disposals pursuant to the Right to Buy will not be subject to these CSOs but shall be conducted in accordance with the relevant provisions of the Housing Act 1985 or any modification or re- enactment of the same.

##### **16.2 Sale of Additional Land to Owner Occupiers**

16.2.1 The disposal of land to owner occupiers which does not exceed in extent on half of the garden land then currently owned by the owner occupier at the property in question, shall only be subject to approval of the Senior Officer.

##### **16.3 Commercial Portfolio Leases**

16.3.1 Applicable to the grant, assignment or sub-letting of leases comprising any part of the Council's Commercial Portfolio, as managed by the Property and Facilities Management Service. These transactions will only be subject to the approval of the Senior Officer.

16.4 For the avoidance of doubt the Commercial Portfolio includes "community lettings".

16.5 Any matter or authority delegated to any officer from time to time by the relevant Portfolio Holder or Cabinet or Full Council.

**Council Contract Standing Orders Definitions**

Unless the context otherwise requires, in this document the terms below shall have the meanings ascribed to them:

**0 Accredited Supplier List**

means an accredited source such as Constructionline, Exor, a purchasing consortium, framework agreement, Housing Providers (for land disposal only) or other similar sources as may be approved by the Monitoring Officer.

**1 Agency Staff**

means a person(s) sourced through Recruitment/Employment agencies to cover short term vacancies, temporary increases in workload or where it has not been possible to fill positions through normal Council recruitment policies.

**2 Bond**

means a legally enforceable financial guarantee given by a third party (the guarantor) to the Council to guarantee the obligations of a Supplier under a contract. (This is commonly referred to as a performance bond)

**3 Central Digital Platform**

Means the online platform supplied by Government and mandated in the PA as the place to publish all notices relating to a contract award, including before and during the tender process.

**4 Consultant**

means a person(s) or body that supplies professional, technical advice or expertise but does not include workers engaged through a recognised staff agency agreement, interim arrangement and/or the supply of a management role in addition to professional/technical advice or expertise. A consultant is supernumerary and would carry out a one-off project that is time-limited

**5 Council**

means Harlow District Council.

**6 Councillor**

means an elected member of the Council.

**7 CSOs**

means the Council's Contracts Standing Orders which form part of the Constitution and set out the rules for the procurement of goods, works and services and the disposal of land/land transactions.

**8 Emergency**

means a requirement which could not reasonably have been foreseen and cannot be delayed or deferred.

**9 Financial Regulations**

means the Council's Financial Regulations that set out the rules and procedures for financial management and the conduct required of Council staff in dealing with financial matters. This document is issued by the Director of Finance and forms part of the Constitution.

**10 Framework Agreement**

is a non-binding agreement that may be entered into with a single Supplier or several Suppliers, setting out the terms and conditions and scope of the goods, works or services under which future purchases (or call offs) can be made throughout the term of the agreement.

**11 Goods, Works and Services**

should be taken as defined in the PA.

**12 Housing Provider**

means a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 or any statutory modification or re- enactment thereof.

**13 Interim Staff**

means a person(s) sourced through Recruitment/Employment agencies to cover short term vacancies, temporary increases in workload or where it has not been possible to fill positions through normal Council recruitment policies.

**14 Lead Officer**

means a named officer delegated by an Senior Officer to be responsible for the procurement of specific supplies, services or works including the disposal of land and where appropriate, the Lead Officer shall be a Corporate Procurement Officer. The Lead Officer will seek advice, guidance and support from Corporate Procurement when seeking to invite tenders and quotations, issue orders and let contracts within the scope of these CSOs.

**15 Leaseholder Properties**

means those flats or maisonettes sold in respect of which leases have been granted pursuant to Part 5 of the Housing Act 1985.

**16 Local Supplier**

means any contractor, consultant, Supplier of goods, works or services that is based within a radius of 20 miles of Harlow.

**17 Monitoring Officer**

means the officer designated pursuant to Section 5 of the Local Government and Housing Act 1989.

**All values in these CSOs are inclusive of VAT. Valuation of all contracts must be inclusive of VAT to comply with relevant legislation**

**18 Novation**

means the agreed transfer to another Supplier of the full obligations and rights under a contract.

**19 Portfolio Holder**

means a member of the Council's Cabinet with a designated set of responsibilities.

**20 Project Registration Form**

Can be found on the Corporate Procurement intranet page or by asking the Senior Officer (Procurement)

**21 Quotation**

means an offer or bid to supply or purchase land, goods, or materials, execute works or provide services including consultancy, at a stated priced based on terms and conditions agreed with the Supplier. For the purpose of CSOs, the Council uses the term Quotation for the simpler procurement process to be followed for estimated contract values less than £60,000.

**22 Section 151 Officer**

means an officer appointed in accordance with Section 151 of the Local Government Act 1972.

**23 Senior Officer**

means an officer at the level of Assistant Director or Executive Director or equivalent that has delegated responsibility within the Constitution for their area of service within the Council

**24 Supplier**

means the party or potential party to a contract who supplies goods, works or services or enters into a contract for the disposal of land.

**25 Tender**

means an offer or bid to supply or purchase land, goods, or materials, execute works or provide services including consultancy, at a stated priced based on terms and conditions agreed with the Supplier. For the purpose of CSOs, the Council uses the term Tender for the more complex procurement process to be followed for estimated contract values of £60,000 or greater.

**26 Third Sector**

means social enterprises, mutuals, charities, voluntary bodies, trusts etc.