Explanation of proposed amendments to CSOs

Definitions:

EC – This definition has been removed as the reference to EU in the context of procurement is sufficient.

EU Thresholds – These have recently been increased and are effective as of 1 January 2010. They are relevant as above those thresholds, contracts become subject to the EU Procurement Directive and UK Public Contracts Regulations 2006 (as amended) which contain strict rules regarding how contracts should be tendered.

Procurement Guidance – This definition has been extended to incorporate the more recent addition to Corporate Procurement's guidance documentation, the Procurement Toolkit.

Single Contract Lists - This definition has been removed from definitions (and CSO 7 removed completely) as it was our view that the process and definition of single contract lists described a standard procurement process, so did not need its own definition and section.

CSO 2.3 – The amendment to this clause confirms that the obligation for health and safety should be extended to include our contractors.

CSO 3.1 – The amendment to this clause reflects the change to a Cabinet system of governance.

CSO 6.2 & 6.3 - ConstructionLine is a public private partnership between the Department of Business Innovation & Skills (formerly BERR) and Capita Business Services established 11 years ago. As a national online database, it is the UK's largest register for pre-qualified contractors and consultants. Its aim is to improve efficiencies for buyers and suppliers in the construction industry, specifically by reducing the duplication of work and administration relating to the process of pre-qualifying suppliers for construction contracts. Over 8,000 buyers from 1,900 organisations throughout the UK already use the database to source pre-qualified suppliers in the construction sector. They range from public sector bodies such as the NHS, local authorities, police and universities, to private sector businesses such as major contractors, small construction firms and consultants. The OGC Common Minimum Standards and the Local Government Task Force also recommend using ConstructionLine as part of the pre-qualification and tendering process.

ConstructionLine will replace our existing approved lists meaning that we no longer need to continually check each contractor's compliance with our minimum standards – i.e. health and safety compliance (assessed through the CHAS scheme), financial turnover (to assess the value of work we can safely procure from each company), references (to assess the continuing quality of work) and insurance compliance. ConstructionLine continuously monitor these criteria and carry out an annual assessment. In addition

ConstructionLine carry out credit checks on each company providing an early warning of financial problems plus membership of other accreditation schemes such as SafeGas (formerly CORGI) and NICEIC, etc.

The list is open to any contractor or consultant (an annual fee is payable based on the size of the company) subject to them fulfilling the minimum criteria which are similar and compatible with our current standards – H&S, financial checks and references.

ConstructionLine will be used by Property & Design to source pre-qualified contractors for traditionally tendered works across the council up to the OJEU thresholds in much the same way as presently in accordance with CSOs. The value of work procured in this way has diminished over recent years with the introduction of framework and partnership working and this has reduced the cost-effectiveness of our current in-house lists which are difficult to maintain comprising over 500 companies (and growing) for a decreasing amount of work being procured.

We will initially set up our own suppliers list within the full database based on our existing lists. This will be open to any company wishing to work with the council who will be invited to apply direct to ConstructionLine.

Our aim is to support local contractors and consultants wherever we can for all works and particularly for works under £75,000 where we will produce tender lists comprising suppliers with a local postcode – either BN or the surrounding adjoining postcodes of PO, TN and RH. This will cover the majority of projects as approximately 70% of projects procured through our approved lists in the last 12 months were for works of less than £75,000. For projects in excess of this or where insufficient suppliers are available the full database will be used however, as local companies already represent around 50% of our approved lists, local suppliers will not be disadvantaged by this. ConstructionLine will also allow us to source pre-qualified specialist companies where we don't currently have a list. The ConstructionLine database will generate a random list of companies who meet the criteria we enter (i.e. location of work, type of work, value of work, specific needs, no. of companies required for our CSOs, etc..) which will form the tender list for each project.

Local contractors should benefit from the council using ConstructionLine as once they are registered on it, they could be selected for work by other customers of ConstructionLine (primarily the public sector) so should see a benefit from not having to continually apply for similar work.

The operation of the revised procedures will be monitored and any modifications necessary to protect local businesses implemented subject to compliance with the law and achievement of value for money.

CSO 7 – As stated above, this CSO has been removed as it described a standard procurement process which is covered by other CSOs.

CSO 9.1 – The amendment to this clause clarifies that where an EU public procurement process has been followed, that process takes precedence over the internal rules set out in the CSOs.

CSO 11 & 12 - Currently, under CSOs, if a compliant tender procedure is followed which results in either less than four / five companies being invited to tender, and / or only one compliant tender being received, a waiver of these CSOs would have to be sought. It is our view that waivers of CSOs should only be used where the rules cannot be complied with for some other reason, not where the market fails to respond to a proper process.

However, the occasions on which limited numbers are invited to tender, or return a tender, should be properly checked as there remains a risk to the council obtaining value for money if there is no effective competition. Therefore, the changes to the clauses 11.2, 11.3, 12.2 and 12.5 reflect the need to consult with the Corporate Procurement, rather than seek a waiver, in order to ensure that in these cases the procedure requires an element of safeguarding prior to contract award.

CSO 12.9 - This clause may be subject to change once clarification on the current ASC guidance is obtained.

CSO 13.4 – The previous drafting of this clause could have led to confusion over the two stages of a 'standard' procurement process: selection and evaluation. At each stage, there are defined criteria which should be used. The amendments to this clause were made in an effort to clarify this point, and to avoid confusion over the stages.