

COUNCIL

25 JANUARY 2018

CONTRACT LETTING – EXCEPTIONAL CIRCUMSTANCES

Portfolio Holder: Councillor Adrian Gulvin, Resources
Report from: Perry Holmes, Monitoring Officer
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Summary

This report details contracts awarded in accordance with the provisions of the current Contract Procedure Rule 1.8.2.

Exemptions to Contract Procedure Rules, to deal with the letting of contracts in exceptional circumstances where it is considered to be in the best interests of the Council to do so, can be approved by the Monitoring Officer provided that the exemption does not breach any EU or UK Directive, Statute or Regulation.

1. Budget and Policy Framework

- 1.1 The constitution requires that the Monitoring Officer reports to Council the number of contracts recommended by Directors for award and approved by the Monitoring Officer under delegated powers and reliance on the exceptional circumstances permitted by Contract Procedure Rules 1.8.2.
- 1.2 Contract letting under exceptional circumstances is provided for within Medway Council's Contract Procedure Rules. This report is prepared in accordance with paragraph 1.8.2.3 of the Contract Procedure Rules.

2. Background

- 2.1 In accordance with Sections 1.8.2.1 and 1.8.2.2, individual provisions within the Contract Procedure Rules may be exempted in exceptional circumstances where it is considered to be in the interests of the council to do so, provided that the exemption does not breach any EU or UK Directive, Statute or Regulation.

2.2 The Monitoring Officer, further to requests from Medway Directors, has approved the following exemption requests since the matter was last reported to Council on 21 January 2016.

3. Exemptions Granted

3.1 The Exemptions granted during 2017 were as follows:

Exemption 1 – Strood Flood Defences Designer

Value: £110,000

Project Summary:

- Medway has worked with JBA (Jeremy Benn Associates) consultants on the design of the Strood flood defences since 2015 when they carried out initial an options study, and then with Balfour Beatty (employed by Balfour Beatty) via the Scape framework in 2016 – 2017 for the preconstruction detailed design phase. By changing contractor at this stage would have incurred the Council a degree of cost associated to familiarisation.

Rationale:

- As we have now achieved best value for the construction phase with Volker, rather than continuing with Balfour Beatty, we would like JBA to continue on the project as part of Medway's design team during the construction phase of the project to maintain continuity on the design

Directorate seeking Exemption Request: RCET

Date Exemption Approved by the Monitoring Officer: November 2017

Exemption 2 – Temporary ramps at polling stations

Value: £12,800

Project Summary:

- Medway Council needs to ensure that every polling place, for which it is responsible, is accessible to electors who are disabled.

Rationale:

- 115 polling stations were being used for the General election on 8 June 2017. The returning officer who is personally responsible for the conduct of elections and must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled. Some stations were not accessible and the timetable did not accommodate the conventional tendering procedure so an exemption was sought.

Directorate seeking Exemption Request: BSD

Date Exemption Approved by the Monitoring Officer: May 2017

Exemption 3 – Print Contract for Medway Matters

Value: £15,083

Project Summary:

- Medway Council had a contract to deliver the print services for Medway Matters and through exceptional circumstances the contractor went into liquidation and was no longer able to provide the service.

Rationale:

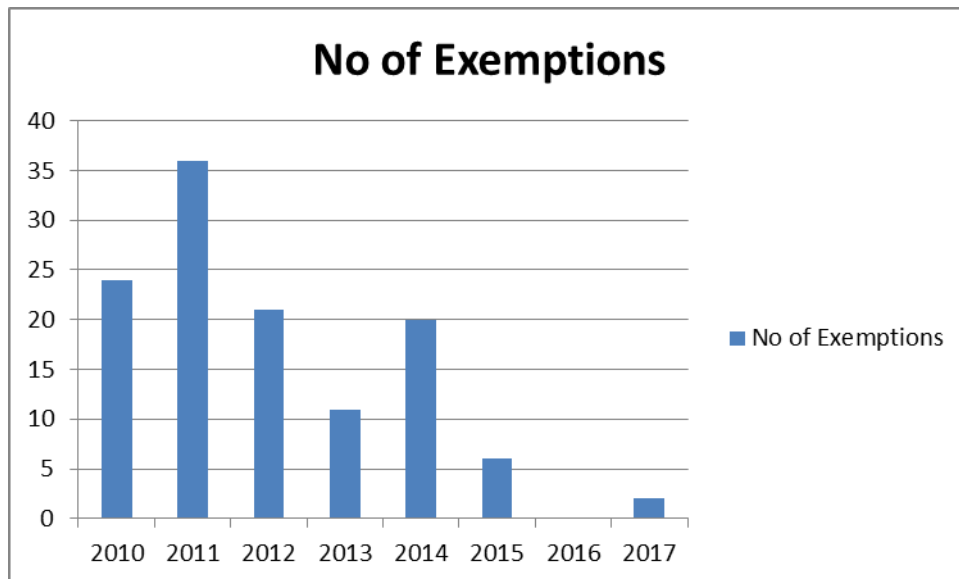
- To be able to provide the final print run of the contract, it was agreed to sign an exemption request as there was no time to approach the market in the conventional manner. Instead, the quotes received were in line with the contracted rates and therefore the Council could illustrate value for money.

Directorate seeking Exemption Request: BSD

Date Exemption Approved by the Monitoring Officer: December 2017

4. Analysis

- 4.1 A concerted effort has been made over recent years to reduce the number of exemptions to a minimum although it has been accepted that in an authority of this size some exemptions may be necessary.
- 4.2 In 2017 this report was not presented as the Council did not approve any exemption requests. However, due to the unforeseen circumstances mentioned under each exemption approved in section 3, three have been approved this year.
- 4.3 Previously members asked for spend in the years when exemptions were granted and it was seen that there was no correlation between the amounts contracted in a given year by the Council which have ranged from £200 million to £300 million and the number of exemptions granted.



5. Risk Management

- 5.1 The Category Management team review each exemption request and provide quality assurance before recommending approval to the Monitoring Officer. As part of this review, risks are identified and managed and any exemptions, which do not conform to Contract Procedure Rules, are declined. The risks of accepting/rejecting all exemptions are identified and communicated to the Monitoring Officer to make an informed decision.

6. Financial and legal implications

- 6.1 The legal implications are set out in the report. The costs associated with the contracts were met from approved budgets.

7. Recommendation

- 7.1 To note the contents of the report.

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Appendices

None

Background papers

None