

COUNCIL

20 APRIL 2023

CONTRACT LETTING – EXCEPTIONAL CIRCUMSTANCES

Portfolio Holder: Councillor Adrian Gulvin, Portfolio Holder for Resources

Report from: Bhupinder Gill, Monitoring Officer

Author: Michael Kelly, Head of Category Management

Summary

This report details contracts awarded in accordance with the provisions of Contract Procedure Rule 1.8.2 of the Contract Procedures Rules which were effective for the period this report covers.

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 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.

2. Background

2.1 In accordance with Sections 1.8.2.1 and 1.8.2.2 of the effective Rules that cover the period of this report, 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 UK Directive, Statute or Regulation.

2.2 The Monitoring Officer can sign exemptions off up to the relevant financial value as set within the Procurement Directives. Exceeding this threshold would result in the requirement being subject to the Public Contracts Regulations 2015. For the year this report covers, these values are as follows:

2.2.1 Good and services: £213,477

2.2.2 Works £5,336,937

3. Exemptions Granted

3.1 The previous exemption report covered the period of 1 January 2021 to 31 March 2022. This report follows on from that and is applicable to exemptions granted between 1 April 2022 and 31 March 2023.

Exemption 1 – Supported Buses

Value: £1,315,988 – split across and awarded as 35 separate routes, with no single route value at more than £107,001 (Services contract)

Project Summary:

- Medway had procured its bus routes via the correct means but due to an administrative error, the routes were not awardable and there was no time to re-procure the opportunity.

Rationale:

- It was impractical to cease the operation of all supported buses in Medway with immediate effect. An exemption was granted to allow officers to re-procure the longer-term solution.

Directorate seeking Exemption Request: RCET

Month Exemption Approved by the Monitoring Officer: June 2022

Exemption 2 – Waste and Minerals Planning Support

Value: £42,550 (Services contract)

Project Summary:

- Through the preparation of the new Local Plan, and as a waste and minerals planning authority, Medway had to include policy and evidence for this specialist area of work.

Rationale:

- To pass the examination by the independent inspector, Medway had to progress this piece of work. The supplier awarded the contract had won the previous tender and using any alternative provider would have resulted in substantial duplication of cost.

Directorate seeking Exemption Request: RCET

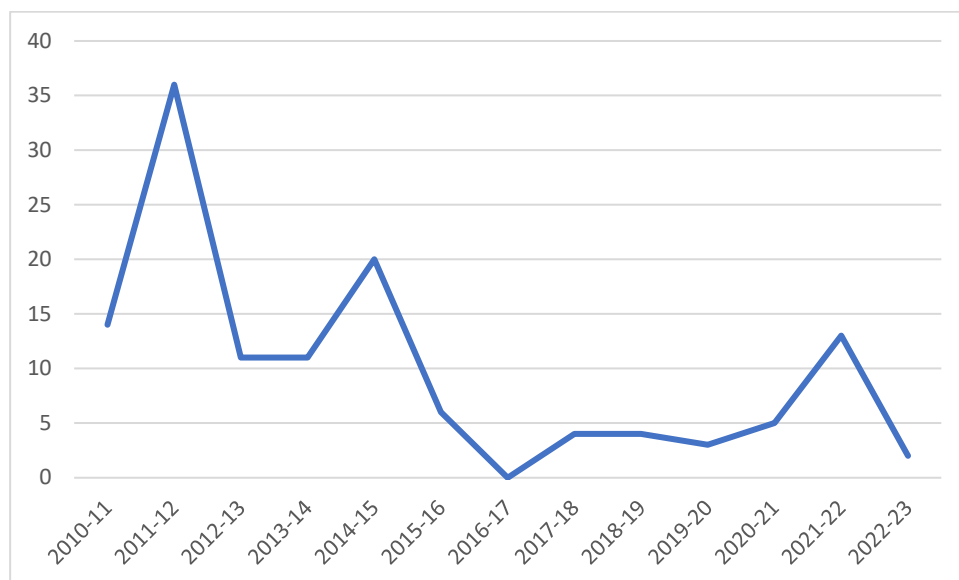
Month Exemption Approved by the Monitoring Officer: September '22

4. Analysis

4.1 A concerted effort has and continues to be 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. The Category Management team has worked hard with teams across the Council to better prepare for up-coming procurement exercises, under the oversight of the Procurement Board and through more proactive forward planning. Inevitably some service requirements occur that require a quicker response, than those that are planned and monitored.

4.2 The graph below represents the annual trend since 2010.

4.3 Due to the rationale of exemptions and their importance to the organisation's functionality, when they arise, unless the services can be varied into an existing contractual arrangement, there is a strong argument for them to be progressed.



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 It is recommended that the Council notes the contents of the report.

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Appendices

None

Background papers

None