

Council

18 April 2024

Contract Letting – Exceptional Circumstances

Portfolio Holder: Councillor Zoë Van Dyke, Business Management

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 Rule 12 of the Contract Procedures Rules.

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. Recommendation

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

2. Budget and Policy Framework

2.1 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 12.

3. Background

3.1 In accordance with Rule 12 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.

3.2 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 most of the year this report covers, these values are as follows.

3.2.1 Good and services: £213,477

3.2.2 Works £5,336,937

3.3 Note the thresholds were marginally updated on 1 January 2024.

4. Exemptions Granted

4.1 The previous exemption report covered the period of 1 April 2022 to 31 March 2023. This report covers the period of 1 April 2023 to 31 March 2024.

Exemption 1 – CIPFA Governance and Financial Review

Value: £45,000

Project Summary:

- Medway Council was forecasting a overspend that exceeded its budgets and reserves. An independent review was therefore required to challenge any decisions and prevent the issuing of a potential S114 notice.

Rationale:

- The organisation required an independent review from CIPFA regarding budget spend to support future budget setting process and any potential request for financial support.

Directorate seeking Exemption Request: Business Support

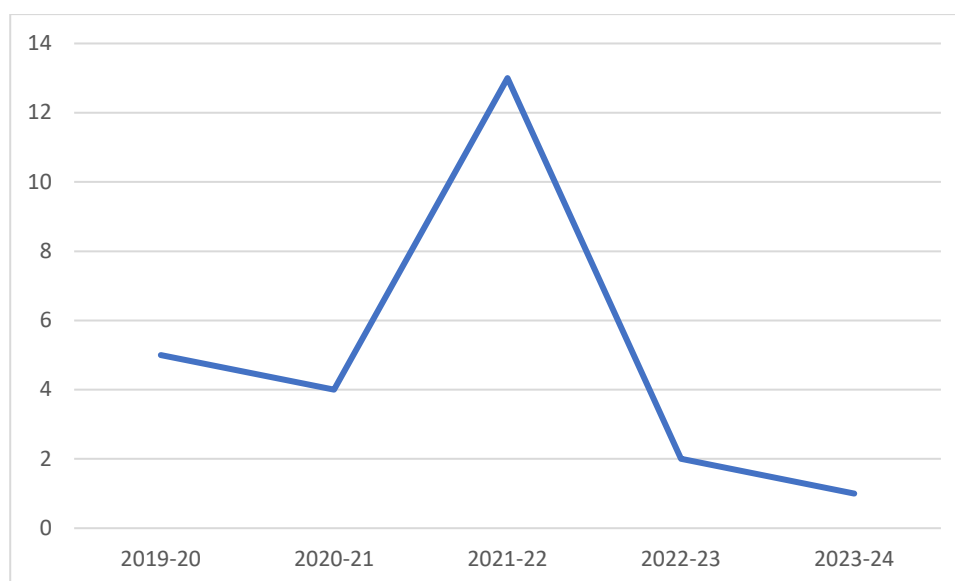
Month Exemption Approved by the Monitoring Officer: November 2023

5. Analysis

5.1 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 have 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.

5.2 The graph below represents the annual trend for the past 5 years.

- 5.3 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.



6. Risk Management

- 6.1 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.

7. Financial and legal implications

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

Lead officer contact

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Appendices

None

Background papers

None