

Exemptions from Procurement Procedure Rules

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Purpose of the Report

This report updates members of the Audit Committee on any requested exemptions from the Procurement Procedure Rules during the last financial year. Under the revised rules officers are required to advise the Procurement and Risk Manager of the use of any exemption from those rules. The new rules gave greater freedoms in terms of financial limits under which officers can place business. As per previous formats I have attempted to give a further summary on any procurement issues that may have required the awarding officers to seek clarification from me. I have only included commentary on the significant ones in this report but many other smaller items do get discussed in the course of day to day activities.

In accordance with the statements above I have continued to make the report reflect a more end of year type report on all things procurement wise rather than a limited view of exemptions requested, which as previously reported to committee. I do not, now see many of.

Recommendation

1. That members of the committee note the report.

A considerable amount of procurement advice was provided during the year.

The following is an extract from the current Procurement Procedure Rules. As can be seen from the above, officers are in the main seeking my advice and input into the procurement decisions they are making. This is a positive improvement – the rule is outlined below:

Officers claiming exemption from the rules under any clause under section 3 must ensure that they have obtained clarification and agreement from the Procurement and Risk Manager prior to proceeding. Failure to do so will be deemed to be a breach of these rules. The exemptions given will be evidenced to Audit committee and they will act as advisors in this regard and advise the Procurement Manager if any actions taken concern them.

- (a) The following exemptions may be given with the written approval of the Procurement and Risk Manager who will record each approval with reasons for it being granted: -
 - (i) Where a contract for the execution of works or the undertaking of services or the supply of goods involves highly specialised technical, scientific or artistic knowledge such that it is not possible to achieve competitive tenders;

(ii) Where the work to be executed or the goods or materials to be supplied consists of repairs to or the supply of parts for existing machinery or plant or are additions to an existing style or design which would involve the council in greater cost and additional work in trying to harmonise two differing systems, designs or solutions;

(iii) Where the purchases are of patented or proprietary items and any form of tendering would not be appropriate.

(iv) Where best value is more likely to be achieved by approaching one contractor or consultant.

Report

As per previous reports on this subject I have remained with the style and content on reporting exemptions to aide understanding and consistency going forward. Outlined below is an overview of procurement activity as well as any exemptions that officers have used under the Procurement Procedure Rules. I have listed any exemptions, advice on procurement processes, and procurements where officers needed clarification on procedure and direction.

Major: - Exemption request or clarification sought.

Members of the committee will be aware that not only is procurement at the council covered by our own Procurement Procedure rules but other external regulations affect the way we do business with commercial partners.

The latest Procurement Regulations set out that for the following it is not necessary to issue an OJEU notice and contracts can proceed without the need for open advert:

Regulation 72. (1)

b) For additional services or supplies that have become necessary and were not included in the original procurement where a change of contractor can't be made because:

i) Economic or technical reasons such as requirements for interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement or

ii) Would cause significantly inconvenience or substantial duplication of costs for the contracting authority;

Provided the increase in price does not exceed 50% of the value of the existing contract

A request was made by the manager in Revenues and Benefits to renew the maintenance and support contract for the Northgate software applications we currently run with in that service. As we have only just completed a migration to a later form of the software to enable us to comply with new regulations it would have been costly and time consuming to have considered a change of supplier.

I therefore researched ways in which the manager would be safe to proceed in signing up to a longer term support agreement under the existing rules and concluded that regulation 72 gives an adequate assurance that he can proceed without running a full EU Procurement process.

Other procurement exemptions/guidance given:-

- Worked with the Environmental Protection services to secure funding for land reclamation works at Langport. This necessitated working with the Environment agencies approved list of contractors to secure details of technical submissions for the works. It's taken many months of detailed negotiation with contractors, bidders and landowners to get this far. It has proven very difficult to get any of the EA list of approved bidders interested in the works with only one bidder showing any interest in the project so far.
- Assisted the planning department in sourcing and selecting a wide screen plotter scanner to replace an old and deteriorating OCE Cannon machine. As SSDC already had a single source agreement in place we asked Ricoh to quote for a replacement machine. This was in accordance with our PPR; however it was a single supply so mentioned here. It does show the benefit of large volume procurement over small placements with single suppliers as we are able to secure the correct equipment at considerable financial savings compared to the Cannon equivalent machine.
- Using Queensbury Shelters, although not a high spend (circa £6K) the officer requested dispensation to use only one company. This was given on the basis that current shelters already existed within the district from this supplier and any change could have made the look and feel of street furniture look odd and out of place.
- CASH FOR YOUR COMMUNITY – SOUTH SOMERSET DISTRICT COUNCIL
Although not strictly a procurement as such we were approached by the local paper (Western Gazette) to sponsor a competition for local community groups to bid for ? cash prizes forming an assistance package in affect for community groups. In return for sponsorship, SSDC was awarded a significant amount of FOC advertising space.

Current Projects.

- Assisting Sports, Arts and Leisure in the disposal of the community bus that is currently on lease to Yarlinton Housing association.
- Running an EU tender for Careline monitoring services
- Assisting with Tender for Electrical contractors for SSDC property estate.
- Print room lease extension on current printing equipment to allow time for a service review.
- Working with Innovation centre on new faster Internet connectivity.
- Numerous ICT projects and applications

In Summary

These are a summary of the more significant issues I have seen over the previous 12 months, many other lower scale financial examples exist, however I have tried here to appraise members of the shape, size and type of exemption opportunities officers are presenting to me for clarification on.

In accord with members wishes SSDC procurement actively seeks out opportunities to collaborate with others to save money, effort and time and to gain from others experiences.

Further we will be tendering for a whole range of services over the next year and accessing existing frameworks to facilitate better pricing and a wider pool of suppliers, examples are Careline provision, Central print and mail contract, printer and copier supply, plus vehicle purchase and leasing.

I believe the changes we have made to the Procurement Procedure Rules continue to be effective and officers are now more able to act with freedom and responsibility and manage the business as they see fit whilst maintaining a high degree of transparency in day to day

purchasing activity. However, I will be carrying out some further awareness training this year to ensure officers continue to seek my involvement in the process.

Further to this the current European Procurement rules were updated in February of this year and whilst it is true some aspects of the rules were changes, these were in the main minor tweaks to the existing 2006 regulations. However central government took the opportunity to introduce a number of enhancements to the Transparency agenda and the aspects of the “Lord Young” report on engaging with SME and local suppliers more.

One key change the EU brought in was the requirement for all Procurement to be online or Electronic within 2 years of the new regulations coming into effect. To accommodate this, the council will need to make a small investment in online procurement tools and train key staff in the use of the application.

Background Papers: Procurement Procedure Rules