

Executive – 4 March 2010

EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS AND FINANCIAL INSTRUCTIONS

Report of the Strategic Director (Resources)

Statutory Powers: s.135(3) Local Government Act 1972.

Financial Implications: This report details exemptions to the Standing Orders Relating to Contracts and Financial Instructions, the financial details of which are set out in the Appendices.

Purpose

The purpose of this report is to inform members of the exemption(s) to the Standing Orders Relating to Contracts and Financial Instructions since the previous Executive meeting, in accordance with the procedure approved by the Council: Minute references 70/07 and 49/07 refers.

Link to Council's Priorities – CP6 Improving core service performance in a cost effective way.

RECOMMENDATION

That the Executive RESOLVES to note the exemptions to the Standing Orders Relating to Contracts and Financial Instructions attached at Appendix A and B.

Background

1. The Council and its Executive have power to authorise exemptions from the requirement to adhere to the Standing Orders Relating to Contracts and Financial Instructions approved by the Council in December 2007 (Minute references 70/07 and 49/07).
2. These documents state that in certain circumstances, with approval, an officer may seek an exemption from the need to invite tenders or quotations for the purchase of goods, works, or services without a detailed written report to members.
3. The intention is to make the Exemption process more flexible and less time consuming than that requiring a full report to the Executive in all cases.

Exemptions to Standing Orders Relating to Contracts – Appendix A (Amounts between £30,000 and the relevant EU Limit)

4. Appendix A summarises the applications for exemption to Standing Orders Relating to Contracts approved through the exemption process since the last Executive meeting.

Exemptions to Standing Orders Relating to Contracts – Appendix B (Amounts between £3,000 and £30,000)

5. Appendix B summarises the applications for exemption to Financial Instructions approved through the exemption process since the last Executive meeting.

Risk Assessment

6. The following are the significant risks and opportunities identified:

| Opportunity | Issues / Obstacles | Benefits |
|--|--|--|
| <p>The process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provides more flexibility and the ability to react promptly to situations that arise. This less bureaucratic approach, compared with a formal report to members in all cases, saves time for both members and officers. It retains the control elements needed within a procurement process.</p> | <p>There is a risk that controls within the procurement procedures are undermined if the process is inflexible, bureaucratic, and time consuming. If the above situation was allowed to persist, the Council may not achieve best value for money in the purchase of goods, works, and services.</p> | <p>The key benefits of the process are: <i>Greater flexibility:</i> managers are able to react quickly to procure services etc. that may reduce the risk of harm to the public or staff, save time, money, and/or embarrassment. <i>Increased openness:</i> a less bureaucratic approach, in certain circumstances, will encourage managers not to 'take a chance' and ignore procurement rules in high pressure situations.</p> |

Conclusion

7. The process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provides more flexibility and the ability to react promptly to situations that arise. It is also a more efficient and less bureaucratic approach than that previously in place.

Allan Goodman
Internal Audit Manager

Executive
 4 March 2010

Mark Seymour
Strategic Director (Resources)

List of Appendices:

Appendix A: Summary of Exemptions to Standing Orders Relating to Contracts

Appendix B: Summary of Exemptions to Financial Instructions

Background Documents:

Signed exemption application pro-formas are available to view upon request from Member Support Services.

**SUMMARY OF EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS
(AMOUNTS BETWEEN £30,000 and the EU LIMIT), APPROVED SINCE THE LAST EXECUTIVE**

Appendix A

| Lead Officer | Summary of the Application | Reason for the Exemption | Value and Budget |
|-------------------------|--|--|---|
| Salcombe Harbour Master | <p>Maintenance Dredging of the Kingsbridge Basin Salcombe Harbour requires regular maintenance dredging in order to maintain the navigational channels. A competitive tendering exercise was conducted in 2008 for the dredging of the Batson Channel. This returned quotes of between £159,495.00 and £422,995.00 to dredge approximately 6,000 M3 of silt by traditional back hoe dredging with disposal to a licensed disposal site in the English Channel.</p> <p>Following some research of different dredging techniques the dredging was eventually conducted by Van Oord utilising a technique known as Water Injection Dredging (WID). Water is pumped into the silt at High Volume and Low Pressure which changes the silt into suspension then it moves out of the estuary on the ebb tide. This dredging cost £35,000.</p> <p>Because of the fact that the Estuary is a Site of Special Scientific Interest (SSSI), Natural England was consulted before this method of dredging was employed. They gave their assent for the dredging with a range of stipulations and conditions. These conditions were implemented.</p> <p>In the final analysis, the actual outcome was as predicted by a model and there was no adverse environmental impact on the estuary.</p> <p>The overall cost of the maintenance dredging of the Batson Channel including the exhaustive environmental monitoring was £75,000, which was less than 50% of the cheapest quotation for traditional dredging.</p> <p>It is considered that the Water Injection Dredging technique provides both an environmentally sustainable and economically viable way forward for regular maintenance dredging within Salcombe Harbour.</p> | <p>Increased Cost: Van Oord is the only company currently operating the Water Injection Methodology where High Volumes of water at low pressure are used. As this methodology has been proven to work, to not adversely affect the health of the estuary and a considerable sum of money was invested in 2008 to prove these factors, it is proposed to use the same methodology and the same company to conduct the proposed dredging in 2011.</p> <p>Water Injection Dredging has been proven to be at least 50% less expensive than traditional dredging with less adverse environmental impact. Because of the investment in 2008 the proposed dredging in 2011 will make even further savings on the traditional dredging method because of the knowledge and investment in the silt deposition model, which now simply needs topping up rather than constructing from first principals.</p> | <p>The outline budget cost for the maintenance dredging project is estimated to be £75,000. These costs would be shared £50,000 for SHDC and £25,000 for Winters, based on the quantities of silt and the level of environmental monitoring required. The breakdown of the SHDC costs would be £35,000 for the actual dredging and £15,000 for pre and post dredge surveys and for additional data to be loaded to the pre-existing model to give more detailed predictions of the expected silt deposition from the Kingsbridge basin. The dredging would be cost a fixed price of £15,000 for mobilisation and demobilisation and then £1,500 per tide.</p> |

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| Salcombe Harbour Master | <p>Maintenance Dredging of the Kingsbridge Basin (continued)</p> <p>Having proven the WID method works in Batson, there are two other areas of the Harbour that require maintenance dredging. Kingsbridge basin and the access to Winters Marine Ltd Boatyard at Lincombe.</p> <p>It is proposed to dredge these two areas in the winter of 2010/11 utilising the WID methodology. As Winters Marine now leases the fundus of their Boatyard directly from the Duchy of Cornwall, it is proposed that the costs of the dredging are shared between SHDC and Winters Marine on a Pro Rata basis.</p> <p>The Harbour Board have directed the Harbour Master to investigate the viability of the dredging works in Kingsbridge, Lincombe and Batson for 2011.</p> <p>After initial meetings with the Dredging Company they confirm that they could fulfil the contract. Natural England have indicated that if the silt deposition model is re-run with updated information for the upper estuary, Kingsbridge Basin, so long as the model does not predict and unforeseen problems, they are likely to have no problem with issuing the necessary assents to undertake the work using this methodology.</p> <p>Without regular maintenance dredging the navigable channels within the harbour, which are tidally constrained in the upper estuary, will in a very few years silt up completely and will be unusable in all but high water spring tides.</p> | See above. | <p>It is estimated that the dredger will remove approximately 350M3 of silt on each tide. The exact quantities will not be known until the pre-dredge surveys are completed, but the overall cost of the project will be contained within the budgeted amount by, if necessary restricting the extent of the works undertaken.</p> |

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| <p>Head of Property Services Head of Environment Services</p> | <p>Consultants Fees for Lower Ferry and Lower Ferry Workshop Asset and Infrastructure Report Members have requested a comprehensive report on the Lower Ferry Service. The associated assets and infrastructure will form a major part of the report and consultants are required to</p> <ul style="list-style-type: none"> • review previous inspection reports, site inspection of current condition, discuss operational issues with ferry staff £2500 • advise on options to keep ferry operations away from retaining walls alongside both slipways £4200 • supervise the structural investigations on the slipways £3500 • advise on options and estimated costs for alternative modes of operation £19150 • preparation of method statements and risk assessments for working practices at Old mill Workshops £7400 • advise on the structure of an adjoining property at Kingswear £1950 <p>Scott Wilson has previously carried out investigations and structural analysis of the slipways and workshops. From these reports it is clear that significant expenditure will be required on both assets. The erosion of the retaining walls and slipways is now accelerating, it is essential that we understand the life of the current floats and tugs and fully consider the options for motorised floats and new infrastructure, before committing to any major works.</p> | <p>Engaging Scott Wilson has several advantages</p> <ul style="list-style-type: none"> • comprehensive brief for competitive fee proposals not required • cost savings, as any new consultant will have to duplicate Scott Wilson's previous work • economic use of knowledge previously gained by Scott Wilson • officers not required to build new working relationships with another consultant | <p>Total cost £38,700 (funded from capital programme)</p> |

**SUMMARY OF EXEMPTIONS TO FINANCIAL INSTRUCTIONS
(AMOUNTS BETWEEN £3,000 and £30,000), APPROVED SINCE THE LAST EXECUTIVE**

Appendix B

| Lead Officer | Summary of the Application | Reason for the Exemption | Value and Budget |
|---|--|--|---|
| <p>Head of Property Services Head of Environment Services</p> | <p>Concrete Repairs to Dartmouth Side Slipway at Lower Ferry (excluded from previous Executive in error) There is a hole in the ferry slipway which needs urgent repair at the next suitable low tide in January. This is a two day job and will require shutting the service for a day. Complaints about the poor condition have been received from residents of Sunderland Terrace. South West Concrete is familiar with the patching works around the ferry operation.</p> | <p>Increased Costs/Health & Safety: There are limited contractors in the south west who can do this work reliably, as any error will mean further closures to the service; and, the hole represents a trip hazard to foot passengers.</p> | <p>Estimated at £6,830 Ferry Repairs and Maintenance budget</p> |
| <p>Head of Landscape and Leisure</p> | <p>Tree and Planting Accessories The Council co-ordinates the Parish Tree Warden scheme in the area. The Tree Wardens have been working with us in identifying parish tree planting opportunities for winter 2009/2010, and approximately 25 individual planting schemes have been drawn up. The intention is to place a single order for these trees with Perrie Hale Nursery, against which they will invoice SHDC for each of the individual planting schemes. The remit for this project lies within SHDC Public Space Strategy 2008-2012 (Action 3.4 – partnership working and community involvement). The individual schemes have been kept separate so that they can be collected by the individuals co-ordinating each of the planting projects. This is the most efficient way of handling this – it enables the Nursery to lift and bundle individual ‘orders’ for collection by the Third Party, rather than sending the bulk order to SHDC for our staff to sort and deliver. There is an extremely narrow window of opportunity for planting bare rooted tree stock between December and February, and the most efficient scheme possible is required to guard against delays.</p> | <p>Limited Market: Perrie Hale Forest Nursery (Honiton) are the only Nursery supplier for this type of bare rooted stock in the area who are actually near enough for individual ‘orders’ to be collected by the individual planting co-ordinators. A price comparison with other suppliers indicates that Perrie Hale is competitively priced. Increased Cost: Perrie Hale will thus take on the sorting of the trees to be collected in a more efficient way than SHDC could. The alternative would be a massive burden on SHDC staff time, leading to considerable extra costs. Embarrassment: The biggest embarrassment relates to not delivering the scheme on time.</p> | <p>Estimated at £6,400. £4,000 allocated from the Countryside management/community budget; and £2,700 obtained from the Tree Council to supplement the budget. (£300 is being held in reserve).</p> |

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| <p>Head of Landscape and Leisure</p> | <p>Kingsbridge Recreation Ground Drainage Survey The SHDC Public Space Strategy 2008-2012 sets agreed principles for public space improvements in key parks. The Public Space Capital Programme provides a catalyst for this, and will fund key elements of work, with a current 'deadline' set at July 2010 for the programme as it stands. Kingsbridge Recreation Ground is the subject of a major master planning exercise, the aim of which is to upgrade the whole park as a vibrant accessible public space with high quality facilities available to the whole community. However, there are major elements of the park infrastructure that are currently in poor condition – the cottage (used by the bowls club), the boundary walls and the drainage system in the park are all major concerns, and understanding the actual condition is key to making informed decisions about future improvements. Whilst some elements of the masterplan are being advanced through the SHDC Public Space Capital Improvement Programme (tennis court rebuild, play space redevelopment etc), other elements require further investigation, including the drainage/water level controls. Specialist consultants are thus required to investigate the current situation with proposed new tidegates and overflow systems which can then be put to the Environment Agency with their requirement for added storage capacity. Procurement is particularly important given that we are on a short timeframe. The reason for engaging Hyder to do this work is not only because they are leading reliable specialists in this field, but also from the linking surveying and reporting that they have been doing for the Property Services Team at Kingsbridge Recreation Ground, focusing on the cottage and the boundary walls.</p> | <p>Increased Cost: This work is inextricably linked with other elements of the park infrastructure, and if an alternative consultant were to be used, there would be a considerable extra cost from officers having to brief them, whereas Hyder are already in possession of a lot of the background, significantly aiding swift delivery of the scheme thereafter. The risks will be extra costs, time delays and the embarrassment factor with the Kingsbridge community from not delivering within the proposed timescale.</p> | <p>A fee proposal of £4,400 has been obtained from Hyder Consulting (UK) Ltd to prepare outline sketches of the tidal control flap and float operated pumping arrangements, a report on what is proposed and how the system would work, prepared for the Environment Agency. Budget: Public Space Capital Improvement Programme</p> |

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| <p>Head of Landscape and Leisure</p> | <p>Heath's Garden Landscape Design Heath's Garden is a new community garden in Totnes, to be created on land owned by SHDC. The Wakefield Trust has indicated that up to £100,000 will be made available to create the new garden, and after several rounds of discussion with their representatives, SHDC has adopted the scheme to deliver as part of the Public Space Capital Improvement Programme. The Wakefield Trust representatives have produced concept drawings, however these require a professional landscape designer to move forward with some scheme design and detailing, in consultation with the community, before a plan acceptable to all is in place. A plan and schedule will then be prepared for contractors on our framework to quote against. The landscape designer will then take on a monitoring and clerk of works role, to oversee the building of the garden, whilst reporting regularly back to SHDC officers. SHDC Public Space Strategy 2008-2012 sets the context for improving the quality of public spaces in partnership with the community. The Public Space Capital Improvement programme provides the catalyst for the work, and the fact that we have an adjacent site – another new garden project at Leechwell – means that we combine elements of the process through the design, consultation and build to create efficiencies in time and financial resources. Without the proposed engagement of Rathbones to do this work, it is unlikely that the new garden will be built either within the timeframe of our own Capital Programme, nor in the timescale set by the Wakefield Trust for utilising their £100k allocation. The risks therefore would be potential loss of funding, and a potential embarrassment to SHDC within the community.</p> | <p>Increased Cost/Loss of Income: The project will require a quick turn around to meet the timescales from external funders and our own Capital Programme. Rathbone Partnership first had an input to this scheme more than a decade ago, and at various times have contributed to the concept design. So there would be significant advantages to SHDC to utilise this, and in so doing save time and money from the several rounds of briefing that would be required to find and engage somebody else from scratch. There are also very important gains to be made by SHDC from engaging Rathbone because they are also doing the landscape design on Leechwell Garden, adjacent. This means we get a vital continuity of design and implementation. Embarrassment: Not utilising a rare funding opportunity of this magnitude would be extremely embarrassing to SHDC. The Wakefield Trust has indicated that delays may jeopardise the funding.</p> | <p>A fee proposal of £8,250 has been received from Rathbone Partnership. Budget: Totnes 'general' Public Space Capital programme allocation of £27k.</p> |

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| Head of Financial Services | <p>Asset Management Computer Software</p> <p>The system is provided by Real Asset Management Plc and the module is called Asset4000 with a toolkit for Excel. The system is required to facilitate the introduction of new accounting requirements under the International Financing Reporting Standards.</p> <p>The Strategic Management Team have approved the project and the system needs to be operational by 31.03.10 for the closing of the 2009/10 accounts.</p> <p>Without the availability of the software we will not be able to properly close the accounts in accordance with the appropriate accounting regulations. Therefore our accounts would be in danger of being qualified and the Council receiving a Use of Resources score of 1.</p> | <p>West Devon Borough Council (WDBC) decided to buy it and we will be implementing it in partnership.</p> <p>In addition Dartmoor National Park and Devon County Council (DCC) have procured these systems.</p> <p>In view of the potential future links with DCC and NPC it is considered appropriate to use the same system.</p> | <p>Cost – Up to a maximum of £20,000 depending how much discount we get for procuring jointly with WDBC. This will be funded from Reserves.</p> |