

Executive – 5 March 2009

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.

RECOMMENDATIONS

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
 5 March 2009

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
	None.		

**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 Community Regeneration, and Head of Landscape and Leisure</p>	<p>Procurement: Specialist External Funding Services Following the resignation of the External Funding officer and given a range of uncertainties that members will be familiar with, it is not possible to anticipate whether the post will be retained in the longer term or if the Council will at some stage wish to recruit a replacement officer. It will be necessary to put in place some shorter-term arrangements to cover key aspects of the job that should continue to function seamlessly for strategic and financial reasons. One of these aspects relates to maintaining impetus in all matters relating to external funding. Options considered: - Recruit and select to fill the post – given a range of uncertainties, this is not an option for the short-term. - Seek existing capacity within the organisation – no sufficient capacity can be identified, nor an appropriate current level of expertise. - Commission / externalise work to the private sector – deemed time-consuming to project manage and potentially a costly alternative. - Outsourcing to a specialist agency (or agencies) that have the capacity, expertise and record of accomplishment in this specialist field – considered the most cost-effective option that enables expertise to be brought in on an ad-hoc basis. Officers are satisfied that the 3 organisations identified (Devon Renaissance, Groundwork Trust, West Devon Business Information Point) are each competent, with a track record of achievement, to undertake the type of work previously undertaken in-house.</p>	<p>Limited Markets/Increased Cost: The supply of affordable specialist external funding services is limited and effectively restricted to a few quasi-public / part publicly-funded organisations. These bodies are familiar with the development of rural projects and understand the often complex relationships with key network partners (eg: SWRDA). The most appropriate of these organisations will be used depending upon the source of funding. Embarrassment: If existing funding conditions are not monitored / complied with, or if new funding milestones are missed, the Council could incur a loss of opportunity or a claw-back situation at worst.</p>	<p>A daily rate of £275.00 has been obtained although it is not possible to determine precisely how many days will be required or over what period. Maximum £30k. Budget in place: Economic Initiatives Reserve.</p>

**SUMMARY OF EXEMPTIONS TO FINANCIAL INSTRUCTIONS
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Appendix B

Lead Officer	Summary of the Application	Reason for the Exemption	Value and Budget
<p>Head of Community Regeneration</p>	<p>South Hams LDF – Strategic Flood Risk Level 2 Additional Work</p> <p>The proposed appointment of flood risk consultants Scott Wilson (SW) relates to the South Hams Local Development Framework (LDF).</p> <p>Additional specialist knowledge and expertise is required to carry out a Level 2 Strategic Flood Risk Assessment (SFRA) of a number of sites to inform the site allocation Development Plan Documents (DPD) for Dartmouth, Ivybridge, Kingsbridge, and the Rural Areas. It will form part of the evidence base for the LDF and meets the requirements of Planning Policy Statement 25: Development and Flood Risk (PPS25). Broadly, the remit of the consultants is to prepare a Level 2 SFRA to meet the requirement of PPS25; provide details of the sources of flood risk, notable flood events and demonstrate flood extent and depths and a subjective review of existing flood defences and consider the affects of climate change.</p> <p>The purpose of the appointment of consultants is to bring in additional resources and importantly, expertise, which if not procured will impact on the delivery of “sound” LDF documents. Failure to secure sound rated LDF documents will impact on the timely delivery of needed developments for affordable homes and job opportunities.</p> <p>The Council previously commissioned the selected consultants (SW) to undertake a district wide Level 1 SFRA (completed in June 2007) and a Level 2 SFRA for Totnes/Dartington (which is nearing completion).</p>	<p>Limited Markets: There are a limited number of flood risk consultants within the region who have the range of experience and expertise required.</p> <p>SW has considerable experience in undertaking SFRA and has been retained by the Council since 2006 to undertake SFRA work the LDF. They have undertaken over 25 SFRA for more than 50 Local Authorities.</p> <p>SW has a good knowledge of the district and the catchments within it and has forged a good tripartite working relationship with the Council and the Environment Agency.</p> <p>The Council is working to a tight timescale of preparation of LDF documents and progress will be delayed if this additional support from consultants is not secured.</p>	<p>The cost of the additional Level 2 SFRA work is within the £30,000 limit although expenditure will be capped at that level. Any additional services beyond the limit will be sought through formal quotes or tenders and in accordance with the Council’s procurement procedures.</p> <p>At this stage, the level of expenditure is anticipated to be £10,200 (excluding VAT) which will be attributed to the Council’s Local Plan Reserve.</p>

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Appendix B