

**Report: Exemption Form - Contract Procedure Rule 6:**

**Date:** 29 January 2019

**Report of:** Chief Finance Officer (s151 officer)

**To:** Audit & Governance Committee

**Contract:** Details and Location of Project – 1 Year extension to banking contract

**Name:** Lloyds Bank plc

**Description:** Banking Services

**Contract Value: Estimate** £9,000 - £12,000

**Budget Head:** Banking Services

**Details of Exemption Requested & Background:**

The Council's current banking services contract with Lloyds Bank plc comes to an end after 5 years on March 31<sup>st</sup> 2019. The current contract was let from April 2014 for 3 years plus a 2-year extension option which was exercised in 2017. Under the contract procedure rules this service is now due to be retendered. Ideally this would have commenced just before Christmas.

The council uses the Easternshires banking framework to tender for its banking services. This framework was put out to tender in the autumn last year and is not currently available for us to use as the results are still being analysed.

It was expected that the framework would be in place in time for the Council to tender for its banking services provision but this is not the case.

The Council's procurement advisor recommends that in order to secure the best value for money for our banking service we would be wise to defer tendering our banking contract until the outcomes of the Easternshires exercise are known and the framework is back in place.

The Council's banking relationship manager has confirmed that Lloyds are happy to extend the contract for a year on the terms that the Council currently has.

In order for us to defer procurement and to ensure that we have banking services post March 31<sup>st</sup> an exemption is sought from procurement rules in order to extend the contract for a further year.

The total spend on the contract since April 2014 to date has been about £31,000

The exemptions under Contract Procedure Rules CPR6 that best fit the situation are:

6(b) that time limits required for tendering cannot be met for reasons of extreme urgency and which (in EU cases) were unforeseen and not attributable to the Council.  
and

6(d) That goods are required as a partial replacement for or in addition to existing goods or installations and obtaining them from another Provider would result in incompatibility or disproportionate technical difficulties in operation or maintenance.  
and

6(e) That where the technical characteristics of the goods are only compatible with an existing supply or installation, such that procurement of another product other than one available from the original contractor would result in

- disproportionate technical difficulties
- diseconomy
- significant disruption to the delivery of Council services.
- incompatibility

Due to timing an urgent decision is required from Audit & Governance Committee.

A copy of the Exemptions from Contract Procedure Rules CPR6 is attached for reference.

Signed:.....

Chair of Audit & Governance Committee

Date approved: 29 January 2019

**NB: Copy of Exemption Form to be sent to Finance as details are required to report to Committee and copy also to be retained on Project File.**

## **Contract Procedure Rules Extracts**

### **CPR 6 EXEMPTIONS FROM CONTRACT PROCEDURE RULES**

- 6.1 Exemptions from the requirements of these Contract Procedure Rules are to be the exception and not the rule. They must not be granted as a matter of administrative convenience and must be supported by documented and evidenced reasons as to the legitimate need for the exemption to be granted.
- 6.2 When an exemption is sought from tendering or the requirement to obtain written quotations, the Responsible Officer will need to justify the use of an alternative method of selection so that propriety, value for money and compliance with EU and domestic legislation can be demonstrated. It will also include reasons such as:
- (a) that only one Provider is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive or proprietary rights;
  - (b) that time limits required for tendering cannot be met for reasons of extreme urgency and which (in EU cases) were unforeseen and not attributable to the Council;
  - (c) that additional goods, works or services are required which, through unforeseen circumstances, were not included in the original contract and which are either strictly necessary for the completion of the Contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience/additional costs;
  - (d) That goods are required as a partial replacement for or in addition to existing goods or installations and obtaining them from another Provider would result in incompatibility or disproportionate technical difficulties in operation or maintenance.
  - (e) That where the technical characteristics of the goods are only compatible with an existing supply or installation, such that procurement of another product other than one available from the original contractor would result in
    - disproportionate technical difficulties
    - diseconomy
    - significant disruption to the delivery of Council services.
    - incompatibility
- 6.3 The Responsible Officer must keep a written record justifying any exemption(s) under paragraph (a) to (e) above. The Responsible Officer must complete the appropriate exemption form and seek the prior approval of the Chief Financial Officer and the Solicitor to the Council & Monitoring Officer. Once the exemption has been approved and signed off, the Responsible Officer must submit a copy to the Procurement, Payments and Risk Manager who will keep a central record of all exemptions granted.
- 6.4 Exemption (on grounds other than 6.3 (a) to (e)) from any of the following provisions of these Procedure Rules may be made only by the direction of the Audit & Governance Committee where such Committee is satisfied that the exemption is justified in special circumstances.
- 6.5 No exemption may be granted:
- (a) which would result in a breach of European or UK law;
  - (b) from CPR 17 (Acceptance of Tenders) unless on grounds of extreme urgency (e.g. during civil emergency); from CPR 20 (Form of Contract); or from CPR 7.9 and CPR 7.19 (Execution of Contracts).

- 6.6 The use of eProcurement technology does not negate the requirement to comply with these Contract Procurement Rules
- 6.7 Exemptions granted under section 6.3 will be reported to Audit & Governance Committee on a 6 monthly basis by the Chief Finance Officer.

## **CPR 7 REQUIREMENT TO OBTAIN QUOTATIONS OR TENDERS (extract)**

### **General Rules applying to Contracts valued at £50,000 or less**

- 7.1 Contracts or sub-contracts valued at £50,000 or less need not be tendered (unless required by EU law) PROVIDED that such contracts are effected in compliance with the Council's Financial Procedure Rules and all appropriate internal controls.
- 7.2 An official order shall be placed under a Corporate or Departmental Contract using the Council's approved Order Form and will be issued by authorised officers. A list of authorised officers will be submitted by each Head of Service to the Responsible Officer on an annual basis.
- 7.3 A Contract/or sub contract made under CPR 7.2 where the estimated value is:
- (a) £5,000 or less may be made without written competitive quotations as long as the contract is not part of a larger contract and the responsible officer maintains a written record of any quote received;
  - (c) Over £5,000 but not exceeding £30,000 may be made after obtaining two written competitive quotations as long as the Contract is not part of a larger Contract;
  - (d) Over £30,000 but not exceeding £50,000 may be made after obtaining at least three written quotations;
  - (e) Over £50,000 must go out to tender

## **CPR 8 AWARD OF CONTRACTS WITHOUT TENDERING**

- 8.1 A contract may only be awarded without tendering in the following circumstances
- Where a relevant exemption from the Contract Procedure Rules applies under section 6.
  - Where a Contract for the execution of work, forms part of a serial programme the terms having been settled with the Contractor on the basis of the application of a stated addition or deduction to the rates and prices contained in an initial Contract awarded competitively following an invitation to tender in accordance with contract procedure rules subject to a maximum extension under this Rule not exceeding 100% of the original Contract value or £90,000 whichever is the lower.
  - Where the supply of goods, services, purchase of goods or provision of information technology or execution of work is such that an existing in-house contract could be reasonably extended to include it then the in-house contractor can be awarded the work. The Responsible Officer shall ascertain whether the relevant department wishes to submit a quotation in addition to those invited under the preceding provisions.