

 Executive 29th July 2015		Agenda Item No. 6
Title	Proposed exemption to the Code of Procurement Practice – Cost Management Services	
For further information about this report please contact	Matt Jones/Andy Thompson	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive 12 th March 2014 – Agenda Item 13 – Housing & Property Services: Contracts Update Report	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive	15.07.2015	Bill Hunt
Head of Service	15.07.2015	Andy Thompson
CMT	15.07.2015	Chris Elliott, Andrew Jones, Bill Hunt
Section 151 Officer	15.07.2015	Mike Snow
Monitoring Officer	15.07.2015	Andy Jones
Finance	15.07.2015	Sue Simmonds/Mark Smith
Portfolio Holder(s)	16.07.15	Cllr. Phillips
Consultation & Community Engagement		
n/a		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 This report seeks an exemption from the Code of Procurement Practice to extend the contract with Impart Links for open book cost management services to support the Council's housing repairs and maintenance service. While the Council does have the time to re-procure this service before the current arrangements end, to do so is not deemed to be in the best interests of the Council.

2. RECOMMENDATIONS

- 2.1 That the Executive approves the recommendation for an exemption to the Code of Procurement Practice under item 6.2.3 of the Code, to extend the Contract for open book cost management with Impart Links to 16th October 2016, to cover the reconciliation and final account of the 2015/2016 open book contracts.
- 2.2 That Executive notes that Housing & Property Services are currently undertaking a review of contract pricing models that will determine the future of the open book contracts. The review is programmed to be completed in November 2015.

3. REASONS FOR THE RECOMMENDATION

- 3.1 In 2012 the Council re-procured its principal housing repair and maintenance contracts. Partnering contracts, using an open book cost model, were procured for an initial five year term commencing on 1st April 2013 and expiring on 31st March 2018 with options to renew for two further five year periods.
- 3.2 To facilitate the development and mobilisation of the open book cost model, and train staff in its operation, the previous Head of Service recruited the services of a consultancy firm. However, the service was suspended because the consultants had not been procured in accordance with the Council's code of procurement practice. The resulting hiatus in cost management services severely disrupted the mobilisation, staff training and management of the contract for the first year of the term.
- 3.3 To limit the disruption to the management of the partnership contracts and to enable training of staff, Housing & Property Services procured a contract for cost management services based on a twelve month call-off arrangement with an estimated value of £100,000.
- 3.4 The contract coincided with the redesign of Housing and Property Services in which the Asset Management team was subject to review and restructuring. This meant that it was not practicable, due to the availability of resources and the uncertainty over which posts would inherit responsibility for the partnership contracts, to take forward comprehensive training of staff in this approach to cost management.
- 3.5 The contract with Impart Links expired on 17th May 2015. However, the contract allowed for call offs made before this date to continue until the services requested have been completed. This means that the audit and production of final accounts for the 2014/15 financial year contracts and the completion of the first quarterly reconciliation of the 2015/16 contracts can be completed under this contract. The current programme allows for this work to be completed in October 2015.

- 3.6 The Council needs to retain the specialist skills of a commercial cost consultant with specific experience of open book target cost models if it is to effectively complete the remaining three quarterly reconciliations for 2015-2016 and the annual final accounts of the open book contracts.
- 3.7 The Council has two options to make sure that these skills are available to it. These are considered below.
- 3.8 Re-procurement
- 3.8.1 If the contract were re-procured it would need to be awarded to commence in the first week of October. There is sufficient time from the date of this report to do this in a way that is fully compliant with the Council's Code of Procurement Practice. The implications of re-procuring are set out below.
- § If the contract is re-procured and a new consultant is awarded the contract it is likely that this will disrupt progress on several other corporate priorities. Officers engaged on other organisational priorities, including the review of the way the Council can most effectively procure its repair and maintenance services, would need to be re-assigned to mobilize the new contractor.
 - § The Council now benefits from a discounted day rate that came into effect after 50 days of service had been received, which was secured as part of the previous procurement exercise. If the Council were to re-procure the service it is likely that costs would increase as the Council would no longer benefit from this discounted rate.
 - § Housing and Property Services are currently reviewing the suitability of the current partnering contracts. It is possible that the service area may elect to adopt a more traditional procurement strategy and move away from open book cost models. While a timetable for this change would need to be confirmed it may render the need for long term cost management services and the development of open book accounting skills redundant. The Council would therefore be wise to defer any re-procurement of cost management services until the future need for these services is fully understood and agreed.
- 3.9 Extending the Current Contract
- 3.9.1 Extending the current contract would allow the Council to mitigate the risks and problems detailed above in section 3.8.1. This is why officers believe that under the terms laid out in paragraph 6.2.3 of the Code of Procurement Practice that an exemption should be made from the Code of Procurement Practice to allow the current contract with Impart Links to be extended to allow the completion of remaining quarterly reconciliations and final accounts for 2015-2016 contracts.
- 3.9.2 Paragraph 6.2.3 states that an exemption to the Code of procurement practice can be made if: "there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure".
- 3.10 It is therefore considered that the re-procurement of Cost Management Services is not considered to be in the Council's best interests, and that exceptional circumstances exist to justify the exemption proposal.

4. **POLICY FRAMEWORK**

- 4.1 The partnering contracts are key service contracts which support the delivery of the Council's statutory obligations and ensure its housing stock remains fit for purpose, directly contributing to the Council's unifying vision of making Warwick District a great place to live, work and visit.
- 4.2 The Code of Procurement Practice is an integral element of the Council's policy framework. The Code provides for an exemption to be sought when:

"There are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure"

5. **BUDGETARY FRAMEWORK**

- 5.1 The table below illustrates actual expenditure to date and forecasted expenditure based on current and future service requirements to 16th October 2016:

Description	Value
Contract Expenditure to June 15	£86,000
Forecasted Contract Expenditure July 15 to Oct 15	£10,000
Forecasted Extension Value Oct 15 to Oct 16	£40,000
Total	£136,000

*Periods reflect the requirements of the open book accounting process

- 5.2 No additional budget is required to support the extension which will be funded from the existing HRA budget.

6. **RISKS**

- 6.1 The Council could be challenged regarding the extension of the Contract by third parties. Following discussions with procurement it is unlikely that such a challenge will be received given the value of the extension and the overall value of the contract being less than the Public Contract Regulations procurement threshold for service contracts.
- 6.2 The Council may need to re-direct its resources to mobilise a new cost management contractor if the Council were to opt not to extend the current arrangements and re-procure the contract. This could delay the progress of other corporate priorities.
- 6.3 The Council would be exposed to the risk of increased costs resulting from the inability to undertake quarterly reconciliation and annual final account audits in to the same detail as a commercial cost manager if it were to opt not extend or re-procure the contract.
- 6.4 The recommendations of this report are made directly to minimise to the lowest possible level the risks detailed above.

7. **ALTERNATIVE OPTION(S) CONSIDERED**

- 7.1 The option of undertaking a procurement exercise has been considered. For the reasons offered in Section Three of this report this option is not recommended.
- 7.2 The Council could decide not to extend the current contract and also not to re-procure the service, discontinuing the cost management support services. This would expose the Council to the risk of increased costs resulting from the inability to perform reconcile and annual account audits. If this is the preferred option, the Council would need to accept this risk and acknowledge that there may be increases in costs for repairs and maintenance that may not be justifiable.
- 7.3 Housing & Property Services are currently undertaking a review of contract pricing models that will determine the future of the open book contracts. The review is programmed to be completed in November 2015. If this review concludes that open book cost models should remain in place either for the remaining duration of the repairs and voids contracts or for a period of transition to a different cost model, then re-procurement of cost management services for the appropriate period will be undertaken at that time, to cover works ordered from April 1st 2016 onwards until such time as the open book cost model comes to an end.