

## APPENDIX 6

### (Contract Exemptions Permitted: April - September 2017)

<b>Title</b>	<b>Start Date</b>	<b>End Date</b>	<b>Supplier</b>	<b>Total Contract Value</b>	<b>Extension Variation Value</b>	<b>Service Team</b>	<b>Reasons for exemption</b>
Web and E-mail Content Filtering Systems (Clearswift)	30/04/17	29/04/20	Foursys Ltd	£37,100	N/A	ICT	Exemption from formal quotation based on 6.5.1
CIVICA license and support for HCP, NS and Housing	13/06/17	12/06/20	Civica UK Ltd	£403,000	£93,000	Health and Community Protection	Exemption under 6.5.1 to allow review process with procurement
Intend procurement system	01/09/17	31/08/22	In-Tend	£10,000	N/A	Finance	Exemption from formal quotation based on 6.4
TOTAL system with Totalmobile Ltd	01/05/18	31/04/21	Totalmobile	£181,200	£67,950	Finance	Exemption under 6.5.1 to allow review process with procurement
Parking meters support contract	01/08/17	31/07/18	Metric Group	£119,151	£13,239	Neighbourhood Services	Exemption under 6.5.3 and 5.5.4 due to Intellectual Property rights.
Valuation consultancy for 94-96 Parade	01/08/17	31/08/17	Lambert Smith Hampton Ltd	£6200	N/A	Development Services	Exemption under 6.5.8
CAPITA payment system	01/07/18	30/06/21	CAPITA	£1,096,782.00	£303,832.95	Neighbourhood Services	Exemption under 6.5.1 to allow review process with procurement

- 6.5.1 - Renewal of software licenses or other IT commodity items where the supply is restricted to either the original supplier or their selected re-sellers, and competition does not affect the price paid owing to way the market operates and/or the need for compatibility.

- 6.5.3 - In a single source situation where we are restricted to using a particular supplier.
- 6.5.4 - A situation where you need to go to the original equipment manufacturer (OEM)
- 6.5.8 - If there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure or another Rule for Contract;

## **Summary of Code of Procurement Practice Exemption Rules :**

### **6. Exemptions**

#### 6.1 Exemption to Code of Procurement Practice Rules

- An exemption to the Code of Procurement Practice Rules is a permission to let a contract without complying with one or more of the Rules. An exemption to Rules for Contracts may be granted subject to conditions. **An exemption cannot be granted where a breach of any UK or EU legislation would be incurred.**
- An application for an exemption to Rules for Contracts to allow a contract to be let without genuine competition will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exemption to Rules for Contracts. If an application is granted, the head of service responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value for money.

#### 6.2 Authorising Exemptions

- An Exemption request form must be completed for every instance of an exemption. The template must clearly document the exemption to be applied, along with the justifications and all necessary procurement, legal and financial risks.
- Where the total contract value is up to £20,000, the Head of Finance may agree the exemption with the exemption retrospectively reported to the Executive.
- Where the total contract value is £20,000 and above. The Exemption request form must be completed by the Sponsoring Manager and agreed by the Procurement Manager and Executive, prior to any work being carried out.
- Exemptions under paragraph 6.5 need to be agreed by the Head of Service and the Procurement Manager.

#### 6.3 Exemptions **requiring** approval by Executive (**after** work is carried out):

Goods, Services or Works procured in an emergency because of a need to respond to events that were beyond the control of the Council (e.g. natural disasters such as flooding or fires or circumstances likely to involve risk of injury, or danger to health or life to or destruction of property. Any contract entered into by the Council must not be for a term longer than **6 months** .For E.U. contracts, the urgency must be unforeseen and not attributable to the actions of the Council.

6.4 Exemptions **requiring** approval by Executive ( **prior** to work is carried out):

- The supply of goods and / or services is required for an interim period (**no longer than 12 months**) to enable the alignment of contract dates with a public sector partner, and where to do so enables a collaborative procurement to be completed which, it can reasonably be anticipated, will deliver savings
- Where additional works or services are required which were not included in the original contract and which either are strictly necessary for the competition of the contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience. For E.U. contracts, the urgency must be unforeseen and not exceed 50% of the total value of the original contract attributable to the Council.
- Where new works or services are required which are a repetition of works or services carried out under the original contract. For E U contracts, the new works or services must be required within 3 years of the original contract, and the contract notice must have stated that a new contract might be awarded by negotiation.
- Where goods are required to partially replace or add to existing goods or installations, and obtaining them from another contractor would result incompatibility or disproportionate technical difficulties in operation or maintenance.

6.5 Exemptions **not** requiring approval by Executive are:

- Renewal of software licenses or other IT commodity items where the supply is restricted to either the original supplier or their selected re-sellers, and competition does not affect the price paid owing to way the market operates and/or the need for compatibility.
- Memberships, publications and subscriptions that are only available to purchase from a single organisation e.g. membership of a housing advisory organisation.
- In a single source situation where we are restricted to using a particular supplier.
- A situation where you need to go to the original equipment manufacturer (OEM)
- Where using an alternative supplier will invalidate warranties.

- Where it is agreed that an external provider uses our facilities to provide a service i.e. stage performance and as part of providing this service agree to pay the council a commission.
- The Council has followed the procedures but the process has not resulted in a suitable supplier being engaged due to reasons beyond officers' normal control and defined responsibility resulting in an interim supplier being appointed to ensure continuity of service while the procurement process is reviewed.
- If there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure or another Rule for Contract;
- When the current contracted supplier goes into liquidation and time limited short term emergency measures need to be put in place to maintain services until a new tendering exercise has been completed.
- Grants, payments to parish councils or similar bodies (where the Council is body responsible for collection of funds via council tax), payments to BID's (Business Improvement Districts, where the Council is the body responsible for collection of funds via business rates), staff salaries and any statutory taxes are not covered by this code as they are not considered to be the procurement of goods, works or services.