

 Executive – January 13th, 2016		Agenda Item No. Urgent Item
Title	Proposed exemption from the Code of Procurement Practice	
For further information about this report please contact	Andy Thompson, Head of Housing & Property Services Tel: 01926 456403 Email: andy.thompson@warwickdc.gov.uk	
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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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	N/A	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	No
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Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive	07.01.16	Chris Elliott
Deputy Chief Executive	07.01.16	Bill Hunt
Head of Service	06.01.16	Andy Thompson
Section 151 Officer	07.01.16	Mike Snow
Monitoring Officer	07.01.16	Andy Jones
Finance	07.01.16	John Roberts
Portfolio Holder(s)	07.01.16	Cllr. Phillips
Consultation & Community Engagement		
The Leader and Scrutiny Chairs have been consulted on bringing this matter as an urgent report and have raised no objection.		
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 secure the prompt supply and installation of a generator at the Council's Oakley Wood crematorium.

2. RECOMMENDATIONS

- 2.1 That the Executive approves an exemption to the Code of Procurement Practice to accept the most cost effective price received for the supply and installation of a generator at the Council's Oakley Wood crematorium.
- 2.2 That the Executive approves acceptance of the quote of £22,981.70 from Company A for the supply and installation of a 33kVa generator set and ancillaries at the Oakley Wood Crematorium.

3. REASONS FOR THE RECOMMENDATION

- 3.1 The Council's bereavement services include the operation of a crematorium at Oakley Wood Crematorium. The crematorium relies upon a constant electrical supply for it to be able to operate effectively, ensuring both the proper conduct of services within the chapels and the functioning of the cremators and other process-plant in accordance with environmental legislation. The site does not currently have a 'fixed' stand-by generator installation, with a facility to automatically start in the event of a power supply failure and provide a steady supply of power for prolonged period of power loss from the main grid.
- 3.2 Funding for the supply of a suitable generator to remedy this lack of a back-up was approved by the Council for the base budget for 2015/16.
- 3.3 However, the approval for the funding coincided with the beginning of the refurbishment works scheduled during 2015/16 for the Oakley Wood facility. In December 2014, it was agreed by the project team managing this project to schedule the installation of the generator to the third quarter of 2015/16, with works at the site set to conclude at the end of October 2015. This decision was taken for a number of technical reasons, including the need for a continuity of mains electrical supply for the works, access to the site and the need to keep noisy and intrusive works to a minimum to avoid unnecessary disruption to the core activity of the facility.
- 3.4 The contract documents for the main works had by this time been sealed and were awaiting signature. To have amended the contract at this time to include provision for the installation of the generator would have delayed the overall refurbishment project and incurred additional costs.
- 3.5 In August 2015, officers from Housing and Property Services and Finance discussed how best to procure the generator, with the Procurement Team advising the use of a procurement framework. In November, the Procurement Team advised that they had been unable to identify a suitable framework open to the Council from which it could secure the supply of a suitable generator. On the advice of the Procurement Team, three quotes were then sought for the supply of the generator. The last of these arrived on January 5th, 2016.

- 3.4 All three quotes were however above the Council's £9,999 threshold under which a Head of Service, after obtaining at least three quotations and paying due regard to best value can accept a quote and agree the supply of the relevant goods or services.
- 3.5 To expedite the installation of a generator at Oakley Wood, the Council therefore has two options:
- Progress a formal procurement process, including a formal quotation exercise to be advertised extensively via the e-tendering portal using the 'quick quote' function and through advertising on Contracts Finder. This could take between one month and six weeks, followed by a six to eight week installation timetable from the date the order is finally placed and agreed
 - Secure an exemption from the Council's Code of Procurement Practice under the following grounds, as detailed in the Council's Code of Procurement Practice:
 - 6.2.1 *It is not practicable or advisable by reason of emergency to seek competitive tenders;*
 - 6.2.3 *There are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure.*
- This approach, if approved, would allow an order to be placed within a week, and so shorten the total installation period from order to commissioning by between three and five weeks.
- 3.6 There have been over the years frequent, often short interruptions to the electricity supply to Oakley Wood, hence the decision to install a stand-by generator. However, the risk of such power outages is likely to be higher during winter months when the weather is such that power lines and other electrical facilities are more prone to failure. The weather this winter has been exceptionally windy and wet, suggesting an increased risk of power supply failures.
- 3.7 The Council has just completed a well-received refurbishment of the Oakley Wood facility to help it provide both a better service to local people and to maintain and increase its share of the bereavement market. If it were to endure further power outages, the benefits of this investment may be negated. In addition, any further power outages during funerals will cause undue distress to bereaved families and friends.
- 3.8 Securing the ability to order within a matter of days a suitable generator will help mitigate and reduce these risks. This can be achieved by the Exemption to the Code of Procurement Practice, recommended in this report.

4. **POLICY FRAMEWORK**

- 4.1 The provision of an emergency stand-by generator at the Oakley Wood crematorium contributes to the Council's unifying vision of providing or enabling the full range of services needed to allow people in Warwick District to have a good place in which to make a home for all their family.

5. BUDGETARY FRAMEWORK

5.1 The value of the three quotes received is as follows:

- £22,981.70 (Company A)
- £23,488.00 (Company B)
- £24,200.00 (Company C)

5.2 Quote One – £22,981.70 (Company A) offers the best value for the Council.

5.3 No additional funds are necessary as a budget of £35,200 was approved in the base budget for 205/16.

6. RISKS

6.1 With regard to the procurement of a generator, the Council could be challenged by third parties regarding the lack of a full tendering exercise. It is unlikely that such a challenge will be received given the relatively modest value of the procurement and the limited number of suitable suppliers. In addition the Council can provide evidence that it has sought prices from three suppliers.

6.2 Officers consider the greatest risk in this area is however the risk of failure to comply with the duties placed on the Council by environmental and other legislation. The possible impacts include:

- Unnecessary health and safety risk for employees, contractors, customers and the general public
- HSE investigation
- Prohibition and/or improvement notices
- Fines and/or prosecution
- Loss of confidence and reputational damage

6.3 The recommendation of this report is made directly to minimise this risk to the lowest possible level.

7. ALTERNATIVE OPTION(S) CONSIDERED

7.1 The option of undertaking a procurement exercise for the proposed supply using a Framework Agreement was considered, but it was not possible to take this forward as the Council was unable to identify a suitable and applicable framework it could use for the supply of a generator.

7.2 Following the formal procurement process, including Formal quotation exercise to be advertised extensively via e-tendering portal using the 'quick quote' function and through advertising on Contracts Finder, will add between three and five weeks to the overall time to have in place a suitable generator. This adds to the risks of incurring the problems outlined above in paragraph 6.2.