

Regulatory and Audit Committee

Title:	Standing Orders relating to Contracts- Exemptions and Breaches
Date:	April 2016
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Local members affected:	N/A

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This report provides an updated summary in relation to compliance with the Council's Standing Orders relating to Contracts (CSO) and compliance with the Public Procurement Regulations

The reporting period covers 1st April 2015 until 31st March 2016

Recommendation

Members are asked to note this report

Summary

1. Exemptions

Background

The Committee has received two earlier reports on this subject, the most recent one being presented in November 2015

This Committee requested that they be updated at six monthly intervals on this subject.

EU Threshold

The applicable EU thresholds for the advertising of good, services and works are revised every two years. The most recent changes took place in January 2016 and the following rates were introduced from that date: The revised thresholds show a small decrease in sterling value, (although the Euro value has increased), which are due to fluctuations in exchange rates over the previous two years.

Thresholds	Supplies	Services	Light Touch	Works
Other public bodies (Local Government)	£164,176	£164,176	£589,148	£4,104,394

This means that more tenders will be subject to the Public procurement Regulations. Contract standing Orders and guidance notes for Exemptions have been updated accordingly.

Publication of Opportunities and Award Notices

As advised previously the revised Public Procurement Regulations 2015 includes a requirement for local authorities to publish contract opportunities, and award notices on Contracts Finder. (Contracts Finder is the registered website used for the publication of all public sector procurement opportunities in England). This requirement relates to the government's transparency agenda. Failure to comply with these requirements will put the Authority in breach of UK law. Crown Commercial Services (CCS) is currently monitoring LA compliance via mystery shopping.

CCS have extended the transition period for full implementation of these requirements until such time as agreement has been reached on the sanctions that will be applied for non-compliance. In the meantime they will continue to publish details about their mystery shopping results and name the Authorities that are not complying with this Regulation.

Procurement is not currently able to report accurately on the extent of compliance within BCC due to functionality issues with the e-tendering system. However we are working closely with the supplier of the system to resolve these issues and are confident that these reports should be available in the near future.

Data (Appendix One)

Data Summary

There were a total of 22 exemptions registered in the complete Fiscal Year 15/16. This is considerably lower than the total number for the previous year (59), due in part to the change in Contract Standing Order thresholds introduced in April 2015. However it could also indicate a higher level of compliance within the organisation.

During the Fiscal Year 2015/16

- The highest value application was £143,797
- The lowest value application was £47,000

- The total value of exemptions approved in 2015/16 was £687,297 again a considerable drop from the previous year when the total value was over £22 million.

Breaches

There has been one potential breach reported to the Statutory Officers in the six month period since the last report.

This breach was in relation to the CYP contract for Information, Advice and guidance for young people, currently delivered by Connexions. This was as a result of a failed procurement process. Although the Business Unit started a re-procurement exercise in good time, certain information in relation to pension liability coupled with a decision to further reduce the budget available for the service resulted in a failure to complete and award a contract. A new procurement exercise will be undertaken with a view to awarding a new contract early in 2018.

Appendix 1

Fig. 1 - Data Summary

Summary of all Exemption to Standing Orders registered during Complete Fiscal Year 2014/15 and Complete Fiscal Year 15/16

FY 2014/15	Qtr. 1	Qtr. 2	Qtr. 3	Qtr. 4	Total
Total number. of exemptions registered	12	22	16	9	59
Total number. of exemptions cancelled during process	0	8	3	2	13
Lowest value exemption (excluding cancelled)	£13,000	£6,000	£6,000	£1,285	
Highest value exemption (excluding cancelled)	£2,267,454	£132,000	£2,384,641	£173,000	
Total no. of exemptions raised retrospectively (excluding cancelled)	5	9	9	6	29
Total value of retrospective exemptions (excluding cancelled)	£2,903,454	£520,281	£556,626	£426,150	£4,406,511
Total value of exemptions	£4,898,771	£13,764,950	£3,275,362	£480,855	£22,419,938

FY 2015/16	Qtr. 1	Qtr. 2	Qtr.3	Qtr. 4	Total
Total number. of exemptions registered	5	2	5	10	22
Total number. of exemptions cancelled during process	1	1	0	2	4
Lowest value exemption (excluding cancelled)	£47,000	£50,000	£10,000	£35,963	
Highest value exemption (excluding cancelled)	£143,797	£50,000	£324,311	£120,000	
Total no. of exemptions raised retrospectively (excluding cancelled)	1	0	0	4	5
Total value of retrospective exemptions (excluding cancelled)	£70,000	£0	£0	£200,163	£270,163
Total value of exemptions	£514,797	£172,500	£558,868	£982,891	£2,229,056

Fig. 2 - Analysis of exemptions applied for under Standing Orders relating to Contracts

Complete Fiscal Year 2014/15 and Complete Fiscal Year 15/16

Summary Complete Fiscal Year 2014/15	Qtr. 1	Qtr. 2	Qtr. 3	Qtr. 4	FY 14/15
Total no. of exemptions registered	12	22	16	9	59
Total no. of exemptions cancelled during process	0	8	3	2	13
Total no. of exemptions categorised as Low risk (excludes cancellations)	10	11	13	7	41
Total no. of exemptions categorised as Low/Medium risk (excludes cancellations)	2	2	0	0	4
Total no. of exemptions categorised as High risk	0	0	0	0	0

Summary Complete Fiscal Year 2015/16	Qtr. 1	Qtr. 2	Qtr. 3	Qtr. 4	FY 15/16
Total no. of exemptions registered	5	2	5	10	22
Total no. of exemptions cancelled during process	1	1	0	2	4
Total no. of exemptions categorised as Low risk (excludes cancellations)	4	1	4	5	14
Total no. of exemptions categorised as Low/Medium risk (excludes cancellations)	0	0	1	3	4
Total no. of exemptions categorised as High risk	0	0	0	0	0

Fig.3 - Exemptions requested by Service Area

Complete Fiscal Year 15/16 (excludes cancelled Exemptions)

Exemptions to Contract Standing Orders by Service Area (April 2015 - March 2016)	Requested and Approved	No. Low / Medium Risk	No. High Risk
BSP	6	5	1
CHASC - Adult Social Care	1	1	0
CHASC - Communities	2	2	0
CHASC - Public health	3	3	0
CYP - Learning, Skills & Prevention	4	4	0
TEE - Environment	2	2	0
Totals	17	17	1

Fig.4 Procurement activity conducted through the Council's e-tendering system 2015/16

Department	Process	Total Number	Total Estimated Value
Business Services Plus - Consultancy - Finance	Quote	3	£52,800.00
Business Services Plus - Consultancy - ICT Consultancy	Quote	8	£238,278.00
Business Services Plus - Operations - Corporate Business Support	Quote	1	£25,000.00
Business Services Plus - Operations - Human Resources	Quote	2	£24,000.00
Business Services Plus - Procurement Consultancy	RFI	8	£150,101.00
Business Services Plus - Procurement Consultancy	Tender	25	£147,057,630.00
Business Services Plus - Property Consultancy	Quote	157	£7,381,748.00
Business Services Plus - Property Consultancy	Tender	38	£15,975,000.00
		242	£170,904,557.00
Children & Young People	Quote	16	£486,602.00
Children's Social Care and Learning	Tender	1	£500,000.00
Client Transport	Quote	240	£4,951,772.00
Client Transport	Tender	4	£68,280,000.00
		261	£74,218,374.00
Communities, Health & Adult Social Care	Quote	7	£294,489.00
Communities, Health & Adult Social Care	Tender	2	£4,380,000.00
Communities, Health & Adult Social Care - Public Health	Quote	18	£617,203.00
Communities, Health & Adult Social Care - Public Health	Tender	2	£3,600,000.00
Public Health	Quote	1	£125,000.00
Public Health - CYP	Quote	2	£57,000.00
		32	£9,073,692.00
HQ - Customer & Communications	Quote	1	£35,000.00
HQ - Strategy & Policy	Quote	2	£37,000.00
HQ - Strategy & Policy - Business Intelligence	Quote	1	£24,000.00
HQ - Strategy & Policy - Civic & Events	Quote	1	£10,000.00
HQ - Strategy & Policy - Member Services	Quote	1	£17,000.00
		6	£123,000.00
Transport, Economy & Environment	Quote	11	£456,420.00
Transport, Economy & Environment	Tender	5	£4,700,000.00
Transport, Economy & Environment - Environment Services	Quote	4	£160,000.00
Transport, Economy & Environment - Growth & Strategy	Quote	2	£55,000.00
Transport, Economy & Environment - Regeneration & Infrastructure	Quote	19	£396,565.00
Transport, Economy & Environment - Regeneration & Infrastructure	Tender	5	£10,780,987.00
Transport, Economy & Environment - Transport Services	Quote	1	£6,000.00
Transport, Economy & Environment - Transport Services	Tender	1	£400,000.00
		48	£16,954,972.00