

# Finance and Resources Committee

10.00am, Thursday, 19 March 2015

## Contract Standing Orders – exemption for contracts with statutory organisations from the waiver process under Contract Standing Orders

Item number	7.12
Report number	
Executive/routine	
Wards	

### Executive summary

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The waiver process allows flexibility to depart from the Contract Standing Orders where this is justified. The requirement to complete a waiver form and have these signed off at a senior level is a useful control in increasing visibility and checks on such departures from the CSOs. This however has meant that service areas have had to complete a waiver form when there is no choice of contractor due to statutory requirements, for example, Network Rail, Scottish Gas Networks and Disclosure Scotland.

### Links

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Coalition pledges	<a href="#">P30</a>
Council outcomes	
Single Outcome Agreement	

## **Contract Standing Orders – exemption for contracts with statutory organisations from the waiver process under Contract Standing Orders**

### **Recommendations**

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- 1.1 The Commercial and Procurement Manager be authorised to maintain a list of statutory bodies or utilities which are exempt from the Council's Contract Standing Orders (CSOs) requirement to obtain 3 quotes or carry out a competitive tendering process and that purchases from these bodies be exempt from the waiver process because they are the sole provider by means of legislation.
- 1.2 That the Commercial and Procurement Manager reports, on an annual basis, those organisations that have been granted exemption from the waiver process based on statutory requirements.
- 1.3 The Commercial and Procurement Manager can add or remove organisations from the list.

### **Background**

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- 2.1 The CSOs are the Council's legal and operational rules for how we contract to buy goods and services.
- 2.2 In order to demonstrate best value and compliance with procurement legislation the CSOs require service to buy from contracted suppliers. Where there is not an appropriate contract in place best value is demonstrated by competitive tendering.
- 2.3 If a purchase order for more than £3,000 is placed on Oracle without evidence of three quotes (or other competitive tender) the order will be returned to the service area requesting evidence of quotations received or that a waiver report is completed and signed.
- 2.4 These controls have been beneficial in increasing compliance with CSOs, improving accountability and delivering savings. However there are many cases where there is only one appropriate provider due to statutory requirements or legislative permissions being limited to a single organisation. It is therefore not possible for the Council to obtain quotes or tender these contract opportunities. These contractors are typically statutory bodies which exercise statutory powers

on the Councils behalf, for example, Network Rail, Scottish Gas Networks and Disclosure Scotland.

## **Main report**

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- 3.1 When the Council requires to purchase services from a statutory body which has the sole powers to provide that service due to its exclusive statutory nature it is not possible to carry out a competitive tender. In such instances Commercial and Procurement Services will, as required by CSOs, request that a waiver form be completed and signed at a senior level to provide a transparent auditable trail as to why the CSOs were departed from.
- 3.2 Where there is a sole statutory provider it may be a disproportionate use of time and resources to require the waiver process to be followed. In order to speed up the processing of issuing purchase orders and receiving services from such statutory providers timeously it is proposed that contracts between the Council and certain statutory organisations are granted a general exemption from the waiver process.
- 3.3 This list of organisations would be maintained and reported to the Finance and Resources Committee on an annual basis, by Commercial and Procurement Services. A proposed list of organisations is attached in Appendix 1.
- 3.4 It is difficult to predict future expenditure with these organisations as it is dependent on the requirements of the Council, however it is envisaged that expenditure will be consistent with current costs.
- 3.5 If, due to a major project, the Council had to engage one of the utilities to carry out major infrastructure works this would be reported as part of that project. This exemption is intended to be for minor repair and maintenance works, likely to be less than £25,000 annually.

## **Measures of success**

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- 4.1 Purchase orders are processed without delay leading to more efficient service delivery.

## **Financial impact**

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- 5.1 There are no direct financial impacts from the contents of this report.

## **Risk, policy, compliance and governance impact**

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- 6.1 Risks associated with this report have been assessed as being low as Commercial and Procurement Services will assess which organisations will fall into this category and spend will be monitored and reported on an annual basis.

## Equalities impact

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- 7.1 The contents of this report do not directly impact on the Councils Equalities duty. Service areas will be required to carry out Equalities and Rights Impact Assessments when implementing the service.

## Sustainability impact

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- 8.1 The contents of this report have no direct sustainability impacts.

## Consultation and engagement

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- 9.1 Commercial and Procurement Services has consulted with service areas in order to improve the Purchase to Pay Process and to enable more efficient service delivery.

## Background reading/external references

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None.

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## Links

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<b>Coalition pledges</b>	<b>P30</b> Continue to maintain a sound financial position including long-term financial planning.
<b>Council outcomes</b>	
<b>Single Outcome Agreement</b>	
<b>Appendices</b>	<b>Appendix 1</b> – approximate expenditure April 2014-February 2015

## Appendix 1

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<b>Organisation</b>	<b>Approximate expenditure April 2014 to February 2015</b>
Disclosure Scotland	£187,000
Network Rail	£17,000
Scottish Gas Networks	£4,000
Scottish Water	£6,000
SP Energy Networks	£9,000
<b>Total</b>	<b>£223,000</b>