

**APPENDIX 1 TO REPORT NO:
COU/SE/15/023**

4. EXEMPTIONS

4.1 Where a proposed contract is likely to exceed the *EU Threshold* then there can be no exemption.

4.2 Below the *EU Threshold* exemptions must only be sought in exceptional circumstances and all exemptions, being a *Contracting Decision*, must be recorded.

~~4.3 Between £50,001 and the *EU Threshold* any exemption must be approved by the *Officer* and *Head of Service* in consultation with the *Head of Resources and Performance*. The *Officer* must produce evidence to support the request for any exemption. The *Head of Service* shall prepare a report for the next *Cabinet* to support the action taken. The exemption, being a *Contracting Decision*, the reason for it (together with support evidence) shall be forwarded to the *Head of Resources and Performance*.~~

4.3 revised – Between £50,001 and the *EU Threshold* any exemption must be approved by the *Officer* and *Head of Service* in consultation with the *Head of Resources and Performance*. The *Officer* must produce evidence to support the request for any exemption. The *Head of Service* shall prepare a report for the next *Cabinet* to support the action taken. The *Head of Service* shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.

~~4.4 Below £50,000 any exemption must be approved by the *Officer* and *Head of Service*. The *Officer* must produce evidence to support the request for any exemption. There is no requirement to report but the exemption, being a *Contracting Decision*, the reason for it (together with support evidence) shall be forwarded to the *Head of Resources and Performance* .~~

4.4 revised – Below £50,000 any exemption must be approved by the *Officer* and *Head of Service*. The *Officer* must produce evidence to support the request for any exemption. There is no requirement to report. The *Head of Service* shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.

~~4.5 Exemptions should only be considered in the following circumstances:-~~

4.5R Exemptions are likely only to be granted in the following circumstances:-

- An unforeseeable emergency involving immediate risk to persons or property, or serious disruption to council services.
- The goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations and the relevant Head of Service is satisfied that no satisfactory alternative is available.
- The works to be executed consist of repair or supply of parts of existing proprietary machinery or plant.
- The items to be supplied consist of goods or services which are currently in use and are required for the purposes of standardisation.
- The specialised nature of the goods, services to be supplied or the works to be executed means that only one suitable supplier has been identified or is available.
- Emergency action is required and/or immediate repairs are required to buildings, structures and other assets damaged by fire, flood or vandalism.
- Unforeseen works where delay will adversely impact on the service delivery for the Council(s).
- For a 'pilot' scheme where goods and services are procured on an experimental basis and considered to be the most appropriate approach for a particular scenario, and where 'pilot' scheme is for a clearly defined period not exceeding 24 months, and where agreed by relevant service manager and the procurement manager.

If an exemption is sought which is not for any of the above reasons, advice must first be obtained from the Monitoring Officer in order to determine whether such an exemption can be applied. Exemptions for reasons not listed above will be acceptable only in exceptional circumstances.

9.4 FORMAL TENDER PROCEDURE (£50,001- EU Threshold)

9.4.1 All procurement above £50,000 shall be conducted in accordance with advice from the *Procurement Manager* and shall be undertaken as an **Open Tender Procedure** using *e-procurement system*.

~~9.4.2 It is recommended that only an Open Procedure be used, but if the Officer is satisfied that there will be an excessive volume of responses then, following discussions with the Head of Legal and Democratic Services and seeking the assistance of the *Procurement Manager*, a Restricted Tendering Process may be used.~~

~~9.4.3 Other Procedures include the Negotiated Procedure, Competitive Dialogue and Innovation Partnerships. Advice must be sought from the *Procurement Manager* if any of these procedures are to be considered.~~

9.4.2 OPEN TENDER PROCEDURE

9.4.2.1 The *Invitation to Tender* shall be issued through the *e-procurement* portal and shall specify the supplies, services or works that are required together with the appropriate terms and conditions of contract as agreed with the *Head of Legal and Democratic Services*. It will also state that no *Tender* will be considered unless it is submitted via the *e-procurement* portal.

9.4.2.2 All organisations invited to provide a *Tender* must be issued with the same information at the same time and subject to the same conditions. All dialogue with *Bidders* during the process must be dealt with using the *e-procurement* portal.

9.4.2.3 Utilising the standard template available in the *Procurement Toolkit*, all *Invitations to Tender* shall include a *Form of Tender*, and other documentation as advised by the *Head of Legal and Democratic Services* or the *Procurement Manager*.

9.4.2.4 Providing *clarification* of an *Invitation to Tender* to *Bidder* is permitted and is provided for within *e-procurement*.

9.4.2.5 For the receipt and opening of a *Tender* there must be strict compliance with the requirements of *e-procurement*.

9.4.2.6 The *Officer* must ensure that there is approval from the *Head of Service* before awarding any contract above the tender threshold.

9.4.3 RESTRICTED TENDER PROCEDURE

~~9.4.3.1 The Restricted Tender Procedure is a two stage process whereby potential suppliers are invited to express an interest in bidding and are required to complete a pre-qualification questionnaire to show that they have sufficient experience and resources to meet the needs of the procurement opportunity. They are then shortlisted with those selected being invited to submit a *Tender*.~~

~~9.4.3.2 The invitation to express an interest shall be issued through the e-procurement portal and shall specify the details of the contract and invite persons or bodies interested to apply within a set period being not less than 10 working days (and in accordance with any relevant legislation) for permission to submit a Tender.~~

~~9.4.3.3 No person or body shall be shortlisted unless the Officer, in consultation with Head of Service responsible for the contract, have taken all reasonable steps to satisfy themselves as to the technical competence of the person or body to be invited. Advice must be sought from the Procurement Manager in these circumstances.~~

~~9.4.3.4 No person or body shall be shortlisted unless the Officer, in consultation with Head of Resources and Performance, have taken all reasonable steps to satisfy themselves as to the financial viability and competence of the person or body to be invited.~~

~~9.4.3.5 The subsequent Invitation to Tender must be sent to not less than 4 suppliers who have expressed an interest. If there are less than 4 then all must be invited, except those the Officer considers to be unsuitable. The Officer must maintain a record of this Contracting Decision.~~

Note : If deletion of above section 9.4 is accepted, section/paragraph numbers need to be changed.