

## THANET DISTRICT COUNCIL

### APPLICATION FOR EXEMPTION FROM CONTRACTS PROCEDURE RULES

Contact Officer: Tim Goss	Tel Ext: 7265	Date: 10 February 2009
Portfolio		
Contract: Management of gas servicing works, together with new central heating installations and boiler replacements.		
Contractor (if known) Gas Contract Services Ltd		
Amount of contract: £56,000 (8% based on estimated overall works value of £700,000)		
Budget Code: H4500 1008 N005 ZZZZZ 7002 8723 (Please enter the cost centre code and account code)	Budget value: £350,000 (+£92,000 estab. Charge) £350,000	
Is this applying for exemption retrospectively?  (If yes, please attach authorisation from the S151 Officer)	NO	

**Please outline the CPR's you wish to suspend. (Please quote the CPR number)**

#### 3.0 QUOTATIONS

3.1 Where the value of goods and services are not expected to exceed £75,000, officers are not required to undertake a full tendering exercise but shall instead invite quotations.

**Please describe why you want to suspend the above CPR's.**

This request is to engage Gas Contract Services to provide professional services in the preparation, seeking and assessment of tenders for the gas servicing contract together with heating installations, renewals and breakdowns, and to manage the contract for the year 2010/11.

Following on from the work being carried out on the responsive repairs contract those who are responsible for maintenance, at an operational level, in Canterbury, Thanet, Shepway, Dover and Ashford (the joint maintenance working group) have met together to discuss the possibility of jointly procuring the gas servicing works. This assessment is in line with the undertaking outlined in the joint report to Chief Executives in March 2008.

The responsive repair contract is a high value contract with high stakes for each authority that means the diverse nature of the contracts causes greater difficulties in bringing the various practices together. However, the gas servicing contracts for each authority are simpler to jointly procure.

Currently the contracts for all five authorities end on 31 March 2010. All five authorities are committed to providing the best and most cost effective service they can and believe that working together on the procurement of this contract is both timely and advantageous.

The group has set out a few fundamental principles that need to be aimed for, they are:

- Value for money must be demonstrated to comply with the Standing Orders applicable in each local authority.
- All members of the joint gas servicing working group must be committed to changing their practices where the group as a whole benefits, without this being detrimental to an individual local authority.
- Flexibility must be incorporated to accommodate differences in operation between the partners that cannot be changed.
- Knowledge and expertise should be shared openly with all partners in order to reach a mutually beneficial position to all partners.

Three of the five authorities employ Gas Contract Services (GCS) directly to manage the gas servicing works, Shepway, Ashford and Dover District Council. Canterbury City Council employ GCS indirectly, through the main contractor for their responsive repair contract. Thanet District Council use Mears to do all our servicing and quality control that the other four authorities use GCS for. Each authority uses GCS differently, with different access procedures and performance data collection methodologies. There is therefore scope for a joined up approach across all the five authorities that would simplify the managing agent function, provide comparable performance data and lead to greater efficiencies in the managing agent functions.

GCS have tabled a proposal to prepare the OJEU notice, specifications and tender documents which will be set out in a way that contractors can submit a tender for a single authority, or all five authorities, and to include gas servicing and/or new heating installations. This will give a wide range of options for each authority to select a contractor which suits their own individual requirements, yet realising the possibility of efficiencies should the same contractor be selected by any or all of the other authorities. Each authority will enter into an individual contract with their own selected contractor.

**What impact will these exemptions have on the contracting process and what evidence do you have to demonstrate value for money ?**

The joint gas servicing working group have identified the potential benefits of joint working as both cashable and non-cashable. Cashable benefits include resourcing the tendering process, the ability to buy in expert advice that is consistent for all parties (this is especially relevant as four of the five authorities use Gas Contract Services to provide this advice separately to each of them) and potential savings through better administration of the contracts (back office functions).

Qualitative benefits include better benchmarking through the ability to measure this key area in exactly the same way over all five authorities; partnering (setting a framework for joint working) that will assist in inspection reports; sharing of good practice to improve performance; shared knowledge and expertise.

GCS have confirmed that there will not be any extra cost in writing a joint contract for the five local authorities as they have already allowed for these costs in their current contracts with Shepway, Ashford and Dover District Council.

If they were requested to undertake the tendering process through OJEC then they would make no charge for this service providing they were employed to administer the contract for the first year.

GCS have estimated the cost for the management fee for the year 2010/11 as being £28,000 for managing the servicing element. Currently TDC pay Mears a sum of £92,000 for the management of the servicing only, so there will be an immediate saving of £64,000. This figure is subject to variation as the actual cost of the servicing may increase or decrease.

The estimate for GCS to manage the new installation and boiler replacement programme is £28,000. This figure could be offset by the reduction in officer time should we decide to include this element.

Following the first year, it will be for TDC to decide whether to extend the services GCS offer, or to seek competitive tenders. Consultation will be required with the other four authorities at this time.

## **APPROVAL**

The information provided on this form is correct. The proposed expenditure is within the Budget and Policy Framework and I have read the Council's Contract Procedure Rules and have complied with all the requirements of the Rules, with the exception of those for which an exemption has been applied for.

Signature of officer completing form:	Date:
Signature of the Head of Service:	Date:

I have read the above form, have no objections to exemptions sought and am satisfied that value for money can be demonstrated.

Signature of Portfolio Holder :	Date:
Signature of the Cabinet Leader:	Date:

<b>To be completed by Democratic Services</b>	
Date reported to Cabinet 9 April 2009	

**THANET DISTRICT COUNCIL**

**APPLICATION FOR EXEMPTION FROM CONTRACTS PROCEDURE RULES**

Contact Officer: Sarah Martin Sarah Medus	Tel Ext: 7617 Tel Ext: 7682	Date: 11 <sup>th</sup> March 2009
Portfolio Finance		
<p>Contract:</p> <p>To use PwC to assist with the completion of an additional 'Fleming' appeal, which will allow us to reclaim past VAT paid going right back to the introduction of VAT for trade waste and leisure. Also, to use our VAT Advisors to protect our position in respect of compound interest only.</p> <p>We have not got the in-house expertise to prepare and evidence this claim. PwC have identified areas to challenge HMRC and seek a refund in these areas. Some of these areas are the intellectual property of PwC so we would not know on what basis they are able to make a claim. Unless we enter into a contract with them, we would not have this knowledge to make an appeal ourselves. PwC have offered to do this work for us on a no win, no fee basis. They have offered a percentage fee of 20% of any monies recovered as to reclaim VAT leisure which is unique to PwC and 5% of any refund of VAT on leisure services. They also offer a percentage fee of 20% to any compound interest we receive, as PwC are able to protect our position for receiving this back and may incur legal costs in doing so. PwC offer different ideas to recover VAT and therefore we are likely to be able to recover more VAT using both PwC and Authoritas, who are already progressing with a further claim for other areas such as car parking, catering and cultural services.</p>		
Contractor (if known) PricewaterhouseCoopers		
Amount of contract: (estimated or actual) Impossible to estimate what the likely VAT recoverable will be. The fee is most unlikely to exceed £75k		
Budget Code: 19070 3455  (Please enter the cost centre code and account code)	Budget value: we will only pay on a no win no fee basis, so there will be income to offset the cost	
Is this applying for exemption retrospectively?  (If yes, please attach authorisation from the S151 Officer)	NO	

**Please outline the CPR's you wish to suspend. (Please quote the CPR number)**

I wish to suspend CPR3

**Please describe why you want to suspend the above CPR's.**

We already have a contract with Authoritas to provide us with VAT advice and are making a claim in relation to other areas of VAT. The work required re this appeal is not covered by our contract with Authoritas. PwC are offering fee terms of 5% and 20% of any VAT refund received. The areas at which is 20% is charged are PwC's unique areas on intellectual property. We can't know what this is unless we have a contract with them. The deadline for submitting the appeal is 31 March 2009, we are anxious to enter into an agreement with them and get the work started as soon as possible.

**What impact will these exemptions have on the contracting process and what evidence do you have to demonstrate value for money?**

We will not be seeking other quotes.

PwC are looking at a completely different area for reclaiming VAT. Trade waste and leisure are unique to PwC and reflect their intellectual property. The areas are not settled with HMRC yet, however if we do not protect the council's position then there will be no opportunity to make a claim. PwC have been engaged to protect client's position in respect of compound interest only as well and their fee of 20% and 5% of monies refunded reflects the hard costs they incur in respect of legal fees and the technical uncertainty.

As these areas have not been settled by HMRC yet, PwC offer new ideas and arguments as to why this VAT is due to be refunded to us. There is no guarantee that HMRC will agree with their arguments, but we must make a claim now in order to ensure that if they do agree it after the 31<sup>st</sup> March 2009, we do not lose out on a potential refund.

This is a no win, no fee basis so we do not stand to lose anything.

**APPROVAL**

The information provided on this form is correct. The proposed expenditure is within the Budget and Policy Framework and I have read the Council's Contract Procedure Rules and have complied with all the requirements of the Rules, with the exception of those for which an exemption has been applied for.

Signature of officer completing form: Sarah Medus	Date: 11 <sup>th</sup> March 2009
Signature of the Head of Service:	Date:

I have read the above form, have no objections to exemptions sought and am satisfied that value for money can be demonstrated.

Signature of Portfolio Holder :	Date:
Signature of the Cabinet Leader:	Date:

<b>To be completed by Democratic Services only</b>	
Date reported to Cabinet 9 April 2009	

THANET DISTRICT COUNCIL

APPLICATION FOR EXEMPTION FROM CONTRACTS PROCEDURE RULES

Contact Officer: Dominic Evans	Tel Ext: 2105	Date: 17 March 2009
Portfolio Maritime		
Contract: Dredging in the Turning Circle of the Port of Ramsgate. (Title and brief description)		
Contractor (if known) UK Dredging		
Amount of contract: (estimated or actual) £60,000		
Budget Code: 13544 1005  (Please enter the cost centre code and account code)	Budget value: £60,000	
Is this applying for exemption retrospectively?  (If yes, please attach authorisation from the S151 Officer)	NO	

**Please outline the CPR's you wish to suspend. (Please quote the CPR number)**

3.1

**Please describe why you want to suspend the above CPR's.**

Additional maintenance dredging of the turning circle is required to maintain port operations.

Three quotations have been obtained from specialist contractors who had the required plant availability (vessel Cherry Sands)

**What impact will these exemptions have on the contracting process and what evidence do you have to demonstrate value for money?**

To ensure best value 3 contractors were contacted to ascertain cost and availability of craft to undertake maintenance dredging to the Turning Circle to maintain port operations.

UK Dredging has the availability of craft and is considered best value for money.

APPROVAL

The information provided on this form is correct. The proposed expenditure is within the Budget and Policy Framework and I have read the Council's Contract Procedure Rules and have complied with all the requirements of the Rules, with the exception of those for which an exemption has been applied for.

Signature of officer completing form:	Date: 17/03/2009
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Signature of the Head of Service:	Date: 17/03/2009
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I have read the above form; have no objections to exemptions sought and am satisfied that value for money can be demonstrated.

Signature of Portfolio Holder :	Date:
Signature of the Cabinet Leader:	Date:

To be completed by Democratic Services only	
Date reported to Cabinet 9 April 2009	

THANET DISTRICT COUNCIL

APPLICATION FOR EXEMPTION FROM CONTRACTS PROCEDURE RULES

Contact Officer: Dominic Evans	Tel Ext: 2105	Date: 17 March 2009
Portfolio Maritime		
Contract: Dredging at the Port of Ramsgate. (Title and brief description)		
Contractor (if known) Wyre Marine Services		
Amount of contract: (estimated or actual) £ 50,000		
Budget Code: 13544 1005  (Please enter the cost centre code and account code)	Budget value: Rechargeable works	
Is this applying for exemption retrospectively?  (If yes, please attach authorisation from the S151 Officer)	NO	

**Please outline the CPR's you wish to suspend. (Please quote the CPR number)**

3.1-4.1- 4.2-4.3-4.5

**Please describe why you want to suspend the above CPR's.**

Due to the density and consistency of the dredged material from the area of berth No. 1 there is a need to continue the current campaign to facilitate its use by Thanet Off Shore Windfarm vessels for the construction of the windfarm. Thanet Off Shore has agreed to pay for the dredging costs on completion. Wyre Marine has suitable plant and availability From the contracts procurement officer.

"Yes, I agree that fits category B 63721000-9, Port and waterway operation services and associated services, therefore exempt from OJEU process. However, the value of spend for this work our own CPR's still apply and to date for the year I believe still falls above 75K, therefore you will need to get an exemption for not competing the total value of work "

**What impact will these exemptions have on the contracting process and what evidence do you have to demonstrate value for money?**

To ensure best value 3 contractors were contacted to ascertain cost and availability of craft due to the urgency of the contract, only two of the contractors, due to craft availability were able to provide us with a quote. However, the price given by Wyre Marine Services is considered good value for money.

APPROVAL

The information provided on this form is correct. The proposed expenditure is within the Budget and Policy Framework and I have read the Council's Contract Procedure Rules and



have complied with all the requirements of the Rules, with the exception of those for which an exemption has been applied for.

Signature of officer completing form:	Date: 17/03/2009
Signature of the Head of Service:	Date: 17/03/2009

I have read the above form; have no objections to exemptions sought and am satisfied that value for money can be demonstrated.

Signature of Portfolio Holder :	Date:
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