
Report to: Audit and Scrutiny Committee

Date of Meeting: 9 February 2023

Subject: Exceptions from the Application of Contract Standing Orders

Report by Strategic Director Partnership & Performance

1.0 Purpose

- 1.1 It is a requirement of Contract Standing Orders that exceptions should be reported to the next available Audit Committee. The purpose of this paper therefore is to provide detail on Exceptions to Contract Standing Orders submitted in the previous quarter.

2.0 Recommendations

- 2.1 The Committee is asked to note the report, commenting and challenging as appropriate

3.0 Considerations

- 3.1 Contract Standing Orders (CSO's) apply to all contracts entered into by Council officers. In some circumstances however, exceptions may be granted.
- 3.2 The appropriate senior manager must record their reasons in writing in the form of an exception report for a decision, which must be submitted to the Strategic Director, Partnership and Performance, for consideration.

The Strategic Director is required to consult with the Chief Finance Officer (S95) and Procurement Manager before taking any action that binds the Council. It is a requirement that any such exception shall be reported retrospectively in full to the next Audit Committee, including the reasons that fully justify the exception. A summary of CSO exemptions will also be provided as part of the Annual Procurement report to the Audit Committee.

- 3.3 **Three exceptions** were considered since the last report in December 2022

- 3.3.1 To permit the appointment of community partner organisations at short notice to Supply Out of School Childcare and development work over a 5-month period as part of a funded pilot to the value of £352,000 out of a total grant offer of up to £428,079.

The basis of the exception request is that, in terms of Contract Standing Orders section 6 (8), The purchase of goods or materials, the execution of

works or supply of services for which the procurement officer considers that no genuine competition can be obtained

Reference 2/6/2002

Not Granted

Based on the information provide the exception was not granted for the pilot

The main issues were:

- The short window was not a special circumstance and lack of sufficient planning and / or internal process delays do not constitute special, exceptional or emergency circumstances – in essence there is no scope to agree to an exception on the basis of short notice.
- The award figures for each provider needed to be further firmed up to publicly award the arrangement;
- The geographical arguments for local providers gave a developing context but it was not sufficient nor specific enough in the context of the exception sought.

Conditions

Advice was provided that should a grant offer come through in the future for this initiative that a procurement journey would be necessary and that realistic timescales should be factored in.

- 3.3.2 To permit the appointment of Clackmannanshire Economic Regeneration Trust (CERT) to Supply Adult Numeracy (Multiply) Programme funded through ring-fenced UK Shared Prosperity Fund over a 2.25 year period (1 January 2023 to 31 March 2025) to the value of £350,715.

The basis of the exception request is that, in terms of Contract Standing Orders section 6 (8) The purchase of goods or materials, the execution of works or supply of services for which the procurement officer considers that no genuine competition can be obtained & Contract Standing Orders section 6 (7) There is a genuinely justifiable case to use an existing contractor/supplier to maintain continuity of supply or site experience.

Reference 2/6/2003

Granted

The Multiply programme is part of the new UK Shared Prosperity Fund (replacing previous European funding) and is a new programme, with the funding ring fenced until March 2025 for adult numeracy support within our communities.

Multiply is intended to enable local areas to invest in meaningful participation that boosts people's ability to use maths in their daily life, at home and work –

and enable adults to achieve formal qualifications that can open doors for them (such as career progression, or progression to further study)

Discussions have taken place with in-house CLD team, who have given support to the proposal for the contract to be delivered by CERT (in partnership with the college) CLD will work closely with the CERT team to ensure there is no duplication of service or support

Discussions have taken place with FV College who are currently working with CERT on the PEC (Pre Employability Programme) in Clackmannanshire and are supportive of the partnership arrangement.

CERT will directly employ numeracy tutors and will partner with other Third Sector organisations to provide support within communities and in people's homes. Support will be flexible to suit people's needs and will be a mix of one-to-one and group sessions, depending on individual needs. The college will deliver any accredited and more formal training as required.

CERT are currently delivering and project managing (in partnership with CTSI), a successful pre-employability programme in Clackmannanshire, funded by the Community Renewal Fund (a precursor to the UK Shared Prosperity Fund), and are working in our communities with the clients groups we aim to support through the Multiply programme. By awarding this arrangement to CERT the Multiply contract would provide continuity of service delivery to this client group and there are no known alternative providers with the required skill set and local knowledge.

Conditions

A Procurement Form 1 & 2 should be completed and authorised to provide Procurement, Legal and Financial Governance

Purchase orders should be raised to cover the period requested

An award notice should be published in Public Contracts Scotland

- 3.3.3 To permit the appointment of Clackmannanshire Economic Regeneration Trust (CERT) to Supply a pre-employability Programme funded through ring-fenced UK Shared Prosperity Fund over a 2.25 year period (1 January 2023 to 31 March 2025) to the value of £310,000.

The basis of the exception request is that, in terms of Contract Standing Orders section 6 (8) The purchase of goods or materials, the execution of works or supply of services for which the procurement officer considers that no genuine competition can be obtained & Contract Standing Orders section 6 (7) There is a genuinely justifiable case to use an existing contractor/supplier to maintain continuity of supply or site experience.

Reference 2/6/2007

Granted

The recommendation was to approve an exception allow the Council to award the contract directly to CERT (working in partnership with other Third Sector providers, including Apex for delivery of employability support to those in the

criminal justice system) to allow delivery of the pre-employability programme to 'economically inactive' client group as per the Council paper on UKSPF of June 2022.

There are no known alternative providers with the required skill set and local knowledge.

Successful delivery of the PEC programme this year has shown that CERT and the Third Sector partners are best placed to continue this activity to ensure a seamless transition from Community Renewal Funded programme to UKSPF activity. They are already delivering within our communities and have systems and processes set up for engagement and monitoring.

Conditions

A Procurement Form 1 & 2 should be completed and authorised to provide Procurement, Legal and Financial Governance
Purchase orders should be raised to cover the period requested
An award notice should be published in Public Contracts Scotland

4.0 Sustainability Implications

4.1 There are no direct sustainability implications arising from the recommendations in this report.

5.0 Resource Implications

5.1 Financial Details - there are no direct implications for the Council's budget arising from this report

8.2 Staffing - there are no direct implications for the Council's establishment arising from this report

6.0 Exempt Reports

6.1 Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all
Our families; children and young people will have the best possible start in life
Women and girls will be confident and aspirational, and achieve their full potential
Our communities will be resilient and empowered so that they can thrive & flourish

(2) **Council Policies (Please detail)**

Contract Standing Orders

Financial Regulations

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

N/A

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

none

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

No (please list the documents below)

Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
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