

Subject:	Waivers of Contract Standing Orders		
Date of Meeting:	13 October 2011		
Report of:	Director of Finance		
Lead Cabinet Member:	Cabinet Member for Finance and Central Services		
Contact Officer:	Name:	Claire Jones	Tel: 29-1408
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Key Decision:	No		
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Contract Standing Orders (CSOs) requires reports to be presented to Cabinet, setting out all waivers authorised under CSO 18.2 & 18.3 compared to previous financial years. This report relates to financial year 2010/11

2. RECOMMENDATIONS:

- 2.1 That Cabinet notes the number of waivers authorised under Contract Standing Orders 18.2 & 18.3 during financial year 2010/11.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Under CSO 18, Strategic Directors have delegated powers to waive CSOs in relation to contracts with an estimated contract value of less than £75,000 and over £75,000 following consultation with the relevant Cabinet Member and the Procurement Strategy Manager. Prior to the organisation restructure, Chief Officers (Assistant Directors and Heads of Services) were able to approve waivers with an estimated contract value of less than £75k. To reinforce CSO governance and align with the new organisational structure, the approval process was changed so that only Strategic Directors could approve waivers for contracts less than £75k. CSO 18.6 states that a register of all waivers will be jointly maintained by Corporate Procurement and Property & Design and kept available for inspection by Councillors or members of the public during working hours
- 3.2 On 1st November 2010 the organisation was restructured to deliver services through a commissioning model. For the purposes of this report waivers will be shown by the five key areas – Communities, Finance, People, Place and Resources. As a result of this organisational change, the report is not able to show direct comparisons by service area (previously Directorates) within the statistical analysis outlined in Appendix A & B. However comparisons can be shown for value and number of waivers sought.

- 3.3 A summary of the number and value of waivers under and over £75,000 for years 2009/10 to 2010/11 is shown in table 1 below. The table shows a reduction in both higher and lower value waivers. There are a number of reasons and factors behind this: the waiver authorisation and notification processes have been streamlined and reinforced, greater use has been made of consortium contracts and frameworks. This is enhanced by greater collaboration with neighbouring authorities and an increased awareness of contract standing orders by contract officers. This can be attributed to the increasing profile of the Corporate Procurement team due to initiatives within the team and the wider Value for Money programme. These actions have all helped to reduce the number of waivers and this reduction will have improved the value for money obtained by the council through greater competition

Table 1				
	Number of Waivers		Value of Waivers	
Year	2009/10	2010/11	2009/10 £ million	2010/11 £ million
Under £75,000	25	23	1.0	1.0
Over £75,000	6	5	0.7	1.0
Total	31	29	1.7	2.0

- 3.4 The statistical analysis of the waivers in 2009/10 and 2010/11 is included within Appendix A and B to this report. Although the number of waivers received in 2010/11 decreased (by 3) compared to 2009/10 there was an increase in value of £344k. The majority of this increase can be accounted for by one waiver for a design and build contract for a new playground at a city primary school. The tender was awarded to a contractor already in operation on a neighbouring site which therefore presented economies of scale with regards to access, staff already deployed in the area and knowledge of the schools operating hours and geographical issues (narrow steep roads and access points, residential housing close by).
- 3.5 The information set out in Appendix A & B does not appear to demonstrate any noticeable trend apart from an overall reduction in waiver numbers.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 The Head of Property and Design, and the Head of Strategic Finance & Procurement have been consulted over the contents of this report.
- 4.2 Community Engagement has not been sought as it is not required for this report however waivers are open for viewing by members of the public during standard council operating hours.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The use of the waiver function allows the council to achieve the best value on its contract standing orders and therefore supports providing value for money. This report is for information purposes and does not have any direct financial implications, although it should be noted that financial implications would be required within each report supporting a waiver.

Finance Officer Consulted: Mike Bentley

Date: 14/09/11

Legal Implications:

- 5.2 There are no direct legal implications arising from this report. Full legal implications would be required within each report supporting a waiver in respect of a contract estimated to be over £75,000.

Lawyer Consulted: Sonia Likhari

Date: 14/09/11

Equalities Implications:

- 5.3 There are no direct equalities implications in this report and it should be noted that full equalities implications would be required within each report supporting a waiver in respect of a contract estimated to be over £75,000.

Sustainability Implications:

- 5.4 There are no direct implications in this report and it should be noted that full sustainability implications would be required within each report supporting a waiver in respect of a contract estimated to be over £75,000.

Crime & Disorder Implications:

- 5.5 There are no direct implications in this report.

Risk and Opportunity Management Implications:

- 5.6 The use of the waiver function allows the council to mitigate potential risk of fraud and deception within the procurement process. It also allows the Corporate Procurement team to analyse trends regarding directorate procurement practices and address any issues which may arise.

Public Health Implications:

- 5.7 There are no public health implications in this report.

Corporate / Citywide Implications:

- 5.8 These are included in section 7 below.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 Not applicable to this report.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 The analysis does not suggest any failure to comply with CSOs. The decrease in the numbers of waivers is consistent with the streamlining of the waivers authorisation and notification processes. Additional methods have been introduced to monitor any occurrences of unauthorised purchases/contracts by council officers who would have required a waiver. Overall the report demonstrates the increasing awareness and achievement of value for money and reflects the changing nature of procurement, including the move to greater use of partnership working and collaboration.

7.2 Corporate Procurement continues to increase the profile of procurement with officers seeking advice about tendering and the use of more innovative approaches to procurement, which are allowed for within CSOs without the need for a waiver for e.g. the increase in collaboration with neighbouring councils and the use of consortium contracts and frameworks.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A - Analysis by Reason and Key Area - For Period 1/4/10 to 31/3/11
2. Appendix B - Analysis by Reason and Directorate - For Period 1/4/09 to 31/3/10

Documents in Members' Rooms

None

Background Documents

None

Waivers of Contract Standing Orders

APPENDIX A

Analysis by Reason and Area* - for period 01/04/10 to 31/03/11

* Due to the organisational restructure the Directorates outlined reported in 09/10 have been changed to Areas

Reason	Area					Total Waivers	Totals			
	Communities	Finance	People	Place	Resources		Waivers under £75K	Waivers over £75K	Total Value of Waivers	% Waivers by Reason
Appointment of tenderer										
1. Insufficient no. of tenders/did not accept lowest	0	0	1	0	0	1	£0	£301,675	£301,675	15.12%
Sub totals						1			£301,675	15.12%
Award with no tender process										
2. Award no tender process - consultant	0	0	1	2	0	3	£98,610	£0	£98,610	4.94%
3. Award no tender process - contractor	0	0	0	0	2	2	£99,595	£0	£99,595	4.99%
4. Award no tender process - supplier	1	0	1	0	0	2	£143,450	£0	£143,450	7.19%
Sub totals						7			£341,655	17.12%
Specialist Works										
5. Specialist	5	0	0	5	0	10	£333,441	£407,000	£740,441	37.11%
Sub totals						10			£740,441	37.11%
Urgent Award										
6. Urgent award - consultant	2	0	0	0	0	2	£42,000	£0	£42,000	2.10%
7. Urgent Award - contractor	0	0	0	4	1	5	£152,900	£84,580	£237,480	11.90%
8. Urgent award - supplier	0	0	0	1	1	2	£65,000	£0	£65,000	3.26%
Sub totals						9			£344,480	17.26%
Other										
9. Other	0	0	0	1	1	2	£17,037	£250,000	£267,037	13.38%
Sub totals						2			£267,037	13.38%
Total Number of Waivers by Dept	8	0	3	13	5	29	£952,032	£1,043,255	£1,995,287	100%
Total % Waivers in each Dept	27.59%	0.00%	10.34%	44.83%	17.24%					

29 Waivers were recorded to the total value of £1,995,287.34

48% of waivers recorded were for contracts under £75K at a total value of £952,032

52% of waivers recorded were for contracts over £75K at a total value of £1,043,255

Waivers of Contract Standing Orders
Analysis by Reason and Directorate - for period 01/04/09 to
31/03/10

APPENDIX B

Reason	Directorate						Totals			
	Childrens Trust	Finance & Resources	Cultural Services	Environment	Adult Social Care & Housing	Strategy & Governance	Total Waivers	Waivers under £75K	Waivers over £75K	Total Value of Waivers
Appointment of tenderer										
1. Insufficient no. of tenders/did not accept lowest	0	1	0	2	1	0	4	£86,000	£184,612	£270,612
Sub totals							4			£270,612
Award with no tender process										
2. Award no tender process - consultant	2	1	0	3	1	0	7	£237,033	£0	£237,033
3. Award no tender process - contractor	1	1	0	0	1	0	3	£117,000	£0	£117,000
4. Award no tender process - supplier	4	1	0	0	1	2	8	£254,385	£103,000	£357,385
Sub totals							18			£711,418
Specialist Works										
5. Specialist	1	1	0	1	1	0	4	£98,370	£86,000	£184,370
Sub totals							4			£184,370
Urgent Award										
6. Urgent award - consultant	0	0	0	0	0	1	1	£44,600	£0	£44,600
7. Urgent Award - contractor	0	0	0	1	0	0	1	£0	£75,000	£75,000
8. Urgent award - supplier	1	0	0	0	0	1	2	£115,650	£0	£115,650
Sub totals							4			£235,250
Other										
9. Other	0	0	0	0	1	0	1	£0	£250,000	£250,000
Sub totals							1			£250,000
Total Number of Waivers by Dept	9	5	0	7	6	4	31	£953,038	£698,612	£1,651,650
Total % Waivers in each Dept	29.03%	16.13%	0.00%	22.58%	19.35%	12.90%				

31 Waivers were recorded to the total value of £1,651,650
58% of waivers recorded were for contracts under £75K at a total value of £953,038
42% of waivers recorded were for contracts over £75K at a total value of £698,612