

Taunton Deane Borough Council

Council Meeting – 9 December 2008

Proposal for exemption to Contract Standing Order 13 for the procurement of specialist Consultancy Services for Project Taunton

Report of Strategic Director (Joy Wishlade)

(This matter is the responsibility of Councillor Jefferson Horsley)

1. Background

- 1.1 In 2005 Taunton Deane Borough Council (TDBC), in partnership with Somerset County Council (SCC) and the South West Regional Development Agency (SWRDA), entered into a partnership arrangement to work together to deliver the objectives of the Taunton Vision. At the time we agreed that we had entered into a joint procurement arrangement with these two partners. Taunton Deane acted as “banker” for this project and in effect, the three partners were acting as an agency.
- 1.2 It was envisaged that much of the necessary work in developing the Taunton Vision (now Project Taunton) would be done through the commissioning of external consultants. Given the size of the respective contributions it was envisaged that the commissions issued would be in excess of Taunton Deane Standing Orders threshold 2 (when full tender procedures apply) and threshold 3 (when EU Procurement Rules apply).
- 1.3 It was proposed by the Vision Executive Group (now Project Taunton Executive) that the consultants should be drawn from the framework agreements already held by SWRDA and that this should be considered by the respective partners as being compliant with Contract Standing Orders.
- 1.4 All partners accepted this statement and agreed that the period it would cover was 2005 – 2008. We would now like to extend the period for a further three years 2009 – 2012.

2. Contract Standing Orders

- 2.3 Ordinarily, all contracts over threshold 3 must comply with EU Procurement Rules. However, for this work we wish to use the exemption under Standing Order 13 (c) and (d) but as one of the partners has already carried out this stage then we are exempt.
- 2.4 This exemption states that we are permitted to enter into a contract, other than in accordance with the usual procedures laid down in Standing Order 13 if any of the following apply:-

“14 (e) the contract to be entered into is to be dealt with in a prescribed manner under agency arrangements entered into by the Council with another authority.”

3. Advantages

- 3.1.1 The decision to use this exemption has been made because of the advantages that this will bring.
- 3.2 SWRDA has already complied with EU Regulations and therefore we do not have to consider an OJEU Notice at any time thus saving the necessary officer and lead-time to advertise plus associated costs in tendering. It will also allow us to commission work during this project as and when it is required without repeating this exercise. We can therefore demonstrate that the procurement has gone through a suitable process for both Standing Orders under 13 and European Law.
- 3.3 SWRDA's framework agreement is for three years and the rates are fixed for this period. This will provide known costs for budgeting purposes and will protect the partnership from inflationary pressures in later years.
- 3.4 SWRDA has already formed a judgement as to the quality of the possible consultants, ensuring they have suitable expertise in order to deliver the Project Taunton work.
- 3.5 The attraction of entering into a framework agreement for three years should have given external consultants maximum incentive to offer suitable rates for their engagement given that this is a larger and longer opportunity.
- 3.6 In deciding to proceed with an exception by use of an agency with other authorities we are obliged to consider the achievement of best value in our procurement. The advantages are as listed above. A large number of organisations in the public sector have taken advantage of similar arrangements.

4. Disadvantages

- 4.1 The only possible disadvantage would be that we could be seen to be limiting our external consultancy to those on the framework. However, this agreement does not limit the three partners to the framework agreement. If it proves impractical to use this arrangement for certain specialist work or because Taunton Deane is in some way dissatisfied with the consultancy being provided, we would reserve the right to reconsider our approach to procurement.

5. Southwest One Procurement Procedures

- 5.1 Southwest One is setting up new procurement procedures. The requirements of Project Taunton have been discussed with them and they are supportive of Project Taunton continuing to use the SWRDA framework contracts. They will add these to the relevant category plans so that the Southwest One procurement routes can be utilised. Consultants outside the SWRDA framework will also be on these category plans so Project Taunton will be able to use these if, for any reason, the SWRDA list is not satisfactory.

6. Recommendation

Full Council is asked to approve the exemption to Standing Orders as described above and to approve the procurement of Project Taunton Consultancy Work through the use of the SWRDA framework as outlined above under exemption 14 (e), this exemption to cover the three year period, 2009 - 2012.

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Taunton Deane Borough Council