

# **Contract and Financial Procedure Rules - Exemption Request - Finance Approval**

## **Officer Details**

Department name:	Business Focus
Who is making the exemption request:	PAUL WHEATLEY
Department Name if needed for PDF or email:	Business Focus
Select group:	USERGROUP-18624375-54d2-47d3-8c81-9026bb03223f
group selected:	USERGROUP-18624375-54d2-47d3-8c81-9026bb03223f
What is your email address:	PAUL.WHEATLEY@nwleicestershire.gov.uk
Date of request:	31/10/2024
Who is your Finance Business Partner?:	JUDITH HARWOOD
Chief Executive:	ALLISON THOMAS

Section 151  
Officer:

PAUL STONE

Monitoring  
Officer:

ELIZABETH WARHURST

## About Your Request

What is your  
reason for  
requesting  
this  
exemption?:

Extreme urgency exists for unforeseen reasons which are not attributable to the Council and the various time limits cannot be met

Do you need  
any other  
exemptions  
with this  
request:

No

Reason:

We have a £350,000 grant from the UKSPF programme to deliver a conversion of the former public toilet building at Memorial Square to business workspace. The project is being funded purely by grant (no council money being invested) and the grant is a fixed amount. In order for the project to proceed the tendered costs must remain within the amount of grant available. The grant must also be fully expended by 31/3/2025 or will be clawed back by Central Government. Officers have been advised that the works will require 18 weeks to complete which means that a contractor must be appointed and ready to commence works by 11/11/2024. The construction contract has been tendered using a two stage mini competition through a national framework. Through this tender process a fixed price for delivery of the works has been obtained from the preferred contractor (Stepnell). The preferred contractor's best price unfortunately is significantly in excess of the available budget primarily due to the company including significant preliminaries costs. It is not possible to proceed with the project based on the price obtained from the preferred contractor, nor is there time available in which to retender the project. As part of the exercise to assess Stepnells tender a local contractor (Merisons of Coalville) has been asked to provide a comparison price for the scope of works required. The comparison price submitted by Merisons is £330,825 which is within the projects available budget and as being lower than Stepnells price offers better value. Granting of an exemption to the procurement regulations would enable the council to move to appoint Merisons at the price they have submitted which would allow the project to proceed and complete within timescale.

Background:

The delivery of the Memorial Workspace project is to be entirely funded by UKSPF grant with a fixed budget of £350,000 which needs to be expended by 31/3/2025. Delivery of the project requires the undertaking of a programme of construction works for which a scope document has been produced by the Council's Project Quantity Surveyor. The planned procurement approach for the construction contract was to undertake a two stage mini-competition tendering exercise using the Procure Partnerships Framework. This process was discussed and agreed with the Council's Procurement Officer in advance. At Stage 1 of the Mini-competition four proposals were received from contractors on the framework. The responses comprised written answers to quality based questions and a requirement to submit details of the contractors required overhead and profit levels that would be applied to the works. Stage 1 submissions were reviewed and scored by a panel comprising the project architect, the project QS, the Head Of Property And Regeneration and the Property Officer. At stage 1 two contractors were eliminated on the basis that they scored less than 50% on the quality assessment. Of the remaining two contractors Stepnells had the more competitive OH&P figure and they were therefore selected as the preferred contractor and asked to price the Scope of Works with the knowledge that the project budget was £350,000. Stepnells Initial price submission (received at the end of September 2024) was £467,000. The price was analysed by the Council's Quantity Surveyor and it was identified that the figure included for contractor's preliminaries was high (around 35% of the project cost). Stepnell were advised that the project couldn't proceed at the submitted price as it exceeded the available budget. They were asked to undertake a value engineering exercise. The result of this was that their tender price reduced to £399,000. This price remained £49,000 over budget. Stepnells indicated that they only way in which they could reduce their tender within budget was by reducing then scope of works to a level whereby the resulting building is judged to be unusable and therefore unacceptable. To check the validity of Stepnells statement that the price could only be brought within budget by reducing the scope of works, a comparison price using the original scope of works has been obtained from local contractors Merisons. The price they have submitted is £330,825. Comparing Stepnells value engineered price with the price provided by Merisons it is clear that Merisons are offering the same scope of works, with the same delivery timescale at a lower price. The Stepnells tender offered through a competitive tender process does not appear to represent best value to the council and should not be accepted. Both Stepnell and Merisons have indicated the works will require 18 weeks

Extreme urgency exists for unforeseen reasons which are not attributable to the Council and the various time limits cannot be met:

The procurement / tender process used has failed to deliver a price for delivery of the project works which is within budget. The funding for the project is external grant which is a fixed amount and must be spent by 31/3/25. There is insufficient time remaining to retender the project and complete the works. Agreeing an exemption from the contract procurement rules is the only way in which the works can proceed in time, such that the expenditure can be funded by the grant available.

Financial Information :

The proposed expenditure will be entirely funded by grant from the UKSPF programme. Expenditure under this grant programme needs to be completed by 31st March 2025. The proposed contract length is a maximum of 18 weeks (excluding Christmas shutdown) The value of the contract proposed to be awarded is £330,825 The expenditure will result in an income generating council asset.

Conclusion:

Officers have attempted to secure a contractor for the Memorial workspace project through a competitive (market tested) approach but this has failed to deliver a price within budget. Additional market testing undertaken to check the competitiveness of the tendered prices has proven that there is a local contractor willing to deliver the works at a lower price which is within the available budget. Awarding the contract to the local contractor will ensure the works can proceed, at a price lower than the best tender received, within the timescale restrictions of the grant funding regime. It is beneficial for the council for the works to proceed as it will deliver an income generating asset. There are additional benefits of proceeding with a local contractor such as supporting local employment, utilisation of local supplier networks and reduced carbon footprint during delivery.

## **Approval / Authorisation**

Name of Legal team member approving: Kate Hiller

Does Legal approve of the request: Yes

Date of approval: 31/10/2024

Name of Finance team member approving: Judith Harwood

Does Finance approve of the request: Yes

Date of approval: 08/11/2024

Who is your Line Manager to approve this request: JAMES ARNOLD

Who is your Director to approve this request: JAMES ARNOLD

Chief Executive Email: nichola.oliver@nwleicestershire.gov.uk

Section 151 Officer Email: kerry.spiers@nwleicesteshire.gov.uk

Monitoring Officer Email: lucy-grace.o'shea@nwleicestershire.gov.uk

**consentMessageIds**