

**SUBJECT: INTERNAL AUDIT SECTION
CONTRACT PROCEDURE RULES -
EXEMPTIONS**

DIRECTORATE: Resources
MEETING: Governance & Audit Committee
DATE: 2nd July 2021
DIVISION/WARDS AFFECTED: All

1. PURPOSE

- 1.1 To consider the adequacy and appropriateness of the exemption process from the Authority's Contract Procedure Rules since the last report in July 2019. There has been a delay in reporting this periodic data due to the Covid-19 pandemic.
- 1.2 To inform the Governance and Audit Committee of the number of exemptions requested by operational managers and to identify any non compliance with the process or adverse trends.

2. RECOMMENDATION(S)

- 2.1 That the Governance and Audit Committee accepts and acknowledges the justifications for the exemptions provided by operational officers.
- 2.2 If the justifications are not accepted, then consideration should be given to calling in the respective operational officer and their respective Head of Service to further account for the reasons why they could not comply with the Council's Contract Procedure Rules at the time of the procurement.
- 2.3 That the Governance and Audit Committee receive an updated report in 6 months time to include any further responses obtained by the Chief Internal Auditor.

3. KEY ISSUES

- 3.1 To ensure compliance with the Council's Contract Procedure Rules in the way goods, works and services are procured on behalf of the Authority.

- 3.2 Reassurance that the exemption process from Contract Procedure Rules is operating as intended by managers procuring goods, works or services on behalf of the Authority.
- 3.3 Some operational managers procuring goods, works and services on behalf of the Authority may not be as familiar with Contract Procedure Rules and the exemption process as they should be.

4. REASONS

- 4.1 Council approved the revised Contract Procedure Rules for Monmouthshire County Council in April 2009. This was as a result of a major update of the Council's former Contract Standing Orders which incorporated compliance with the Procurement Strategy. The Contract Procedure Rules were further revised and updated in 2020/21 and approved by Council as part of the update of its Constitution March 2021.
- 4.2 The previous report was presented to Audit Committee in July 2019. This report covers the period June 2019 to October 2020. Previously, managers have been invited to Audit Committee to explain to Members their reasons for seeking an exemption rather than complying with the Council's Contract Procedure Rules.
- 4.3 The Chief Internal Auditor is not recommending that any managers be called in to the Governance and Audit Committee as a result of this report.

5. EXEMPTIONS - Background

- 5.1 Although the Contract Procedure Rules were written to ensure a consistent and fair approach to how officers procure works, goods and services on behalf of the Council, there will be occasions where full compliance may not be appropriate. Provided there is sufficient justification and appropriate approval for not following these rules then that is permissible within the agreed policy.
- 5.2 Management need to ensure that the use of exemptions is proper and they are not being used for convenience or to avoid following CPRs. Exemptions from CPRs are therefore administered by Internal Audit, although approvals are given by Heads of Service, Chief Officers and or Cabinet Members.
- 5.3 Since April 2009, 312 exemptions have been requested (up to October 2020) as shown at Appendix 1.
- 5.4 The majority of exemption forms have been returned to Internal Audit although there are some which are still outstanding. The exemptions requested may not have been needed by the service managers but

they have not notified Internal Audit; in a minority of cases it is not yet possible to determine whether or not the correct authorisation procedures have been followed.

- 5.5 An exercise will need to be undertaken to capture the missing information on previously non returned exemption forms between November 2018 and October 2020. This will be reported to Audit Committee in the next report.
- 5.6 This process will only capture the exemptions which have been requested via and returned to Internal Audit.
- 5.7 The process is as follows:
 - Obtain a sequentially numbered exemption form from Internal Audit
 - Record the reason for requesting the exemption on the form
 - Obtain the appropriate level of approval
 - Check that Procurement Team are happy with the justification of the exemption
 - Return the fully signed off and approved form to Internal Audit.

6.

EXEMPTIONS – June 2019 to October 2019 [281 - 291] [Appendix 2]

- 6.1 Of the 11 requested exemptions, 8 were returned to Internal Audit as required and were correctly authorised; 3 were not returned to Internal Audit (283, 287, 290); these are highlighted in the table.

EXEMPTIONS – November 2019 to May 2020 [292 - 300] [Appendix 3]

- 6.2 Of the 9 requested exemptions, 7 were returned to Internal Audit as required and were correctly authorised; 2 were not returned to Internal Audit (296, 297);

EXEMPTIONS – June 2020 to October 2020 [301 - 312] [Appendix 4]

- 6.3 Of the 12 requested exemptions, 7 were returned to Internal Audit as required and were correctly authorised; 1 was returned to Internal Audit but had not been correctly authorised (304); 4 were not returned to Internal Audit (306, 310, 311, 312);

7 GENERAL

- 7.1 All officers who request an exemption will be reminded to return the form to Internal Audit by the Chief Internal Auditor.

- 7.2 Some managers are still sending Exemption Forms to Internal Audit which have not been formally issued; some add their own number to the form, some use a previously issued sequentially numbered form, which indicates a weakness in the control environment as the correct process is not being followed.
- 7.3 Although Heads of Service and operational managers were made aware of the revised Contract Procedure Rules at the time, the main concern is that current operational managers may be non compliant because they are not seeking the appropriate exemptions.
- 7.4 The exemption form was reviewed and updated in August 2019. This will be reviewed further in 2021/22.
- 7.5 A list of all requests for CPR exemptions which have not been returned to Internal Audit will be sent to Heads of Service to chase up a return to the Chief Internal Auditor who will then verify that they have been correctly authorised. The Chief Internal Auditor will then also remind all Heads of Service of the correct procedure to follow when seeking an exemption from the Council's procurement rules.

8. RESOURCE IMPLICATIONS

None.

9. CONSULTEES

Chief Officer Resources

Results of Consultation:

10. BACKGROUND PAPERS

Report to Council 2nd April 2009 – Contract Procedure Rules (CPR)
Internal Audit CPR Exemption Logs

11. AUTHOR AND CONTACT DETAILS

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AUDIT COMMITTEE MAY 2021

CONTRACT PROCEDURE RULES - EXEMPTIONS

APPENDIX 1

Contract Procedure Rules Exemption Forms Log

		Period	Exemption Ref	No' of exemption requests	Cumulative
Report 1	January 2011	April 2009 to 31 Aug 2010	1 – 41	41	41
Report 2	November 2012	September 2010 to August 2011	42 – 60	19	60
		September 2011 to August 2012	61 – 92	32	92
Report 3	May 2013	September 2012 to March 2013	93 – 102	10	102
Report 4	December 2013	April 2013 to October 2013	103 - 117	16	117
Report 5	July 2014	November 2103 to May 2014	118 - 132	15	132
Report 6	December 2014	June 2014 to October 2014	133 - 141	9	141
Report 7	July 2015	November 2014 to May 2015	142 - 174	33	174
Report 8	December 2015	June 2015 to October 2015	174 - 179	5	179
Report 9	June 2016	November 2015 to May 2016	180 - 194	15	194
Report 10	December 2016	June 2016 to October 2016	195 - 207	13	207
Report 11	November 2017	November 2016 to May 2017	208 - 222	15	222
Report 12	November 2018	June 2017 to October 2017	223 - 246	24	246
		November 2017 to May 2018	247 - 259	15	259
Report 13	July 2019	June 2018 to October 2018	260 - 272	13	272
		November 2018 to May 2019	273 - 280	8	280
Report 14	May 2021	June 2019 to October 2019	281 - 291	11	291
		November 2019 to May 2020	292 - 300	9	300
		June 2020 to October 2020	301 - 312	12	312

APPENDIX 2

June 2019 to October 2019 [Exemptions 281 - 291]

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
281	Frances O'Brien	To take forward the Monmouthshire MedTech Centre proposal that the Chief Executive started looking at back in August last year (2018). Paul presented a report to the Investment Committee in November 2018 which was approved and we have since been working through the terms of the MoU and the lease. To partner with Capital Kinetics to develop a specific concept and brand 'Monmouthshire Medtech'. See form and Cabinet report of 31/7/19 for full details	50,000	Enterprise	13/06/19 (AW)	Y	27/09/19	Specialist provider
282	Ross Price Project Engineer (Highways & Flood Management)	Phase 2 of design work relating to flood alleviation measures in Llanfair Kilgeddin	46,568	Enterprise	26/06/19 (DW)	Y	01/07/19	Specialist supplier - extension to cover phase II of scheme and supplier WSP would have unique knowledge and experience of the scheme from their work on phase I.

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
283	Mike Moran	Summer Playscheme 2019	76,276	Enterprise	4/7/19 (DW)			
284	Hywel Price Assistant Engineer	We are working on a project in Severn Tunnel Junction Under the new Rail Franchise with TFW, they have a consulting arm and we would like to work with them on this project. The value of the works will be up to £75k for the consultants only. We have been granted monies from the Welsh government for the scheme. Supplier is Amey Consulting.	23,000		08/07/19 (MS)	Y	10/07/19	I am looking to seek exemption under section 3.4. Amey Consulting will be entering into a contract with MCC using the NPS frame work of which they have entered a competitive price compatible with other national consultants. They have supplied a cost breakdown and project schedule along with letter of intent.

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
285	Rachel Lewis	To support the evidence base for the Replacement Local Development Plan we are required to update the existing Landscape Sensitivity and Capacity Study which was prepared in 2008/2009 to inform the current adopted LDP. The Landscape Sensitivity and Capacity Study is key to establishing an evidence base to inform/support the strategy, policies and site allocations of the replacement LDP covering the period 2018-2033. We do not have the expertise in house to undertake this work and therefore need to appoint consultants. The reason we require an exemption is that we would like to appoint Simon White Associates specifically to undertake the work due to their previous involvement in the Adopted Local Development Plan (LDP) and work undertaken to date. It would therefore be beneficial to build on this work rather than start afresh.	36,363	ENT	17/07/19 (RS)	Y	24/07/19	Specialist Supplier

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
****NEW FORM IN USE FROM HERE** ** 286	Natalie Edwards	To extend our two year contract with our website provider, NVG. (See original approved form attached.) The reasons for the original exemption haven't changed – we are acting as a data steward for the Wales Tourism Product Database (WTPD) and we receive a discount on our website costs for doing so. Visit Wales has just reappointed NVG for another three years to manage and host the WTPD and NVG's is the only platform that enables us to manage WTPD data entries.	24,500	ENT	13/08/19 (SG)	Yes - Ian Sauders - Head of Service	06/11/19	Extend existing contract
287	Lucinda James	<i>We are trying to procure a piece of work that is very specialised. We have invited Cardiff University to prepare a proposal for an academic study on the Internet Of Things (IOT) to help with a project about Independent living (please see attached proposal) as they have the skills and knowledge on the subject area.</i>	13,598	ENT	22/08/19 (RS)		<i>Informed of cancellation 13/05/2021</i>	<i>CANCELLED - Exemption not required</i>

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
288	Alison Grimson	The name of the supplier is Wye Knot Tourism and the amount of the contract will be £14,000. Wye Knot Tourism is a specialist provider to one of our Rural Development projects and would be the best fit for an evaluation to be carried out as they already have extensive knowledge of the project and have an existing contract with Mon CC with regards to the project already making them best value for money. I understand that I will need to get the cert. signed by the head of service which is fine.	14,300	Ent	MS 03/09/19	Y -HoS	03/10/19	specialist
289	William Miles	Planning Department - Annual Footfall Survey	6,000	ENT	17/9/19 (DW)	Y - See email from Scott James adding his approval for this exemption (originally omitted on the form)	25/9/19 (form from Planning) 7/10/19 (approval from SJ);	Specialist provider familiar with requirements/way of working

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
290	Cath Saunders	21C Schools (details tbc)	?	CYP	11/10/19 (DW)		Informed of cancellation 14/05/2021	CANCELLED - Exemption not required
291	Matthew Gatehouse	Replacement self service machines for MCC Libraries	10,000	CEX	31/10/19 (DW)	Y - HoS	18/12/19	Specialist provider of proprietary software for libraries' self service machines.

APPENDIX 3

November 2019 to May 2020 [Exemptions 292 - 300]

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
292	Rob Davies	The exemption is for a single supplier of materials as we are extending an existing scheme. The materials we require to purchase are York Stone "Scoutmoor" slabs and Granite kerbs both provided by Marshalls and have been selected by local Councillors. Marshalls have confirmed they can provide the materials in the restricted time scale. Please note that there was a previous exemption by MCC for the initial phase of the project. Exemption form no. 264.	170,000	ENT	17/12/19 (DW)	Y - Chief Officer, s151 & Cabinet Member	20/01/20	Specialist supplier of bespoke material, who can guarantee quality and quantity of items ordered and supply in time for meeting WG grant timetable restrictions.
293	Jill Edge	Additional modelling work required for the growth options for the Replacement Local Development Plan	5,625	ENT	20/12/19 (RS)	Y - Returned with countersignature from Mark Hand as originally had been signed off by Head of Planning (Craig O'Connor) instead.	27/02/20	Specialist provider - no in-house expertise available and chosen supplier has previous involvement in modelling and analysis required.

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
294	Jill Edge	Additional work required for the Employment Land Review	5,713	ENT	20/12/19 (RS)	Y - Returned with countersignature from Mark Hand as originally had been signed off by Head of Planning (Craig O'Connor) instead.	27/02/20	Specialist provider - work will be an addendum to existing work being completed by BE Group for LDP. No in house expertise and BE Group have existing knowledge of the ELR and the locality.
295	Jill Edge	Additional work that will be required for appropriate assessment for the Habitats Regulations Assessment of the Plan. At the present time we are not sure of the cost of this final one as the consultants were appointed on a joint basis with Blaenau Gwent and Torfaen and they will also be doing additional work for them so hopefully we may be able to save costs by undertaking the additional work jointly.	6,628	ENT	20/12/19 (RS)	Y - Returned with countersignature from Mark Hand as originally had been signed off by Head of Planning (Craig O'Connor) instead.	27/02/20	Specialist provider - Consultants are already undertaking a Habitats Regulation Assessment for the RDLP. Their work has identified a need for a separate visitor survey, to extend this work. No in house expertise and priori involvement of Ascom in the HRA makes them best placed to complete the additional work.

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
296	Nikki Wellington	Engagement of Compass for Life to provide motivational training/development for secondary school pupils.	?	CYP	7/1/20 (DW)			
297	Nikki Wellington	Commissioning Esphera Solutions to provide software for MCC to run a sickness absence mutual assurance scheme for schools opting in. Schools will be able to choose the level of cover they require and the software will determine the premium. Research shows that as long as enough schools opt in to the scheme it should be significantly cheaper over the medium /long term than each school insuring for sickness individually.	tbc	CYP	03/02/20 (DW)			Specialist provider - no other supplier offers this type of product.
298	Richard Cook - Strategic Transport	Delivery of de minimis bus service contracts which we are not required to tender, but require exemption forms (Phil Anslow Coaches: Service 31 - Brynawr - Llanelly Hill - Blaenavon service)	14,000	ENT	18/03/20 (NT)	Y - Procurement sign-off is shown by separate email received from Sue Day (copy in signed exemption form folder)	23/03/20	3.4 Specialist provider

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
299	Richard Cook - Strategic Transport	Delivery of de minimis bus service contracts which we are not required to tender, but require exemption forms (Stagecoach - Service X4: Cardiff - Brynmawr - Abergavenny)	13,725	ENT	18/03/20 (NT)	Y - Procurement sign-off is shown by separate email received from Sue Day (copy in signed exemption form folder)	23/03/20	3.4 Specialist provider
300	Jill Edge	Additional work arising out of the recent publication of the Welsh Government Population projections. Whilst the cost to Monmouthshire is below £5,000, as a joint commission with Torfaen and Blaenau Gwent, the initial cost to Monmouthshire as the main procurer will be above this figure.	14,400	ENT	13/05/20 (RS)	Y - HoS	16/9/20 (DW)	Specialist provider - developing previous work completed by same supplier.

APPENDIX 4

June 2020 to October 2020 [Exemptions 301 - 312]

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
301	Jill Edge	To pay for a local viability assessment to inform the Replacement Local Development Plan. We are required to identify policy targets in the Plan in relation to Affordable Housing and other s.106 obligations. Andrew Burrows who will be undertaking the work is also undertaking work at a regional level for other LPAs.	21,000	ENT	03/06/20 (RS)	Y - Initial form did not contain signatures of Procurement or Head of Service and was therefore returned to Planning. Subsequently separate emails were received from Scott James and Mark Hand to evidence their approval of the exemption.	02/07/20 (DW)	Specialist provider
302	Nikki Wellington	Purchase of child-friendly signage for MCC schools returning after Covid-19 lockdown	60,442	CYP	8/6/20 (DW)	Y - accepted electronic signatures during Covid-19 lockdown	15/06/20 (DW)	3 specialist providers able to respond to provide goods urgently to allow schools to re-open after pandemic closure

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
303	Susan Hughes (Active Travel Officer)	A previous expression of interest was undertaken with regards to an Active Travel Audit (auditing cycling and walking routes across the authority). Three quotes were obtained. Grant funding as now come through and we would like to appoint once contractor 'Sustran' due to the added value and innovation shown in the approach. Although these were not the cheapest. Ive just heard that the bid (based on Sustrans approach) was accepted and was awarded the money £50k. Sustrans bid is unique and it breaks new grounds with a business arrangement with the University into looking at new ways of examining distance travelled, assessment of walking and cycling routes and the data we would get back is rich and can be used in future bidding work. This was all included in the bid to WG	50,000	ENT	24/06/20 (MS)	Y - accepted electronic signatures during Covid-19 lockdown	26/06/20 (DW)	Specialist provider - no other supplier has same approach and links to university research

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
304	Roger Hoggins (Special Projects)	Use of consultant for Project Manager role	22,000	ENT	28/7/20 (DW)	N - Procurement sign-off to follow (Scott on leave)	21/08/20 (DW)	Specialist provider - work has to be done under time pressure due to grant funding deadlines and contractor has prior involvement/knowledge of the scheme.
305	Christian Schmidt	Use of Transport for Wales' framework contractor for improvement works to Severn Tunnel Railway Station	71,000	ENT	06/08/20 (DW)	Y - Chief Officer		Specialist provider - Amey have been completing other works on site for Transport for Wales. MCC now have responsibility for commissioning further works funded by CCR and wish to use the same contractor because of previous work and experience of working in rail environment. Using anyone else would cause unacceptable delays in completing a project of regional importance/impact.
306	Roger Hoggins	Sustainable Urban drainage scheme	?	ENT	21/8/20 (DW)			Timeliness - late notification of grant monies.

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
307	Jill Edge	Additional modelling/projection work required to inform the development of the Replacement Local Development Plan	7,833	ENT	11/09/20 (RS)	Y- HoS	16/9/20 (DW)	Specialist provider - developing previous work completed by same supplier.
308	Steve Baldwin	Blockstone revetment works at Llanthony.	74,000	ENT	15/9/20 (DW)	Y - Chief Officer	6/10/20 (DW - email from Frances O'Brian to confirm her authorisation)	Emergency works - road deteriorating rapidly
309	William Miles	Planning Dept - 2020 footfall survey. As part of the annual retail survey, a footfall survey is conducted in November of every year. We are in the process of organising this year's survey and have received a quote from 'Beaufort Research', the consultancy that conducts the survey on behalf of Monmouthshire.	6,000	ENT	23/09/20 (RS)	Y -HoS	30/9/20 (DW - final with Procurement comments/ consent added)	Specialist provider - familiar with work required and reporting output needed (NB Planning have agreed to tender this annual work for 2021 onwards)

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
310	Gillian Bray	In PDG work, we picked up a spend which had not been tendered for. Thrive training are a specialist provider which has been used by the school for circa 4 years. BW shows a spend of around £16k. No other possible provider so we have asked for a CPR exemption form to be completed (Dewstow Primary)	16,000 so far	SCH	24/09/20 (SG)			
311	Roger Hoggins	Church Road Active travel grant scheme	?	ENT	29/9/20 (DW)		Informed of cancellation 10/06/2021	CANCELLED - Exemption not required
312	Sean Hobbs	Damp Remediation works at J Block, County Hall. Work is proposed to be carried out via the same contractor (Davlan Construction) that carried out the original Block J refurbishment project that was completed in October 2019. We wish to procure the works via this Contractor in order to maintain contractual warranties/guarantees and also because this Contractor has in depth knowledge of the buildings construction details etc.	80,000	Resources	30/10/20 (DW)		Informed of cancellation 10/06/2021	CANCELLED - Exemption not required The work never went ahead due to the cost and complexity of the proposed works; Currently working on a revised project which will be tendered again in the near future.

