

Environment and Economy Directorate

Request for exemption from tendering under Contract Procedure Rule (“CPR”) 4 in respect of the extension of a contract dated 1st February 2014 with Hourbike Limited for the provision of bicycle hire and maintenance services (the “Contract”).

Legal Appraisal by Peter Clark, County Solicitor**A. Background**

The proposal is for an extension of the Contract for an additional period of eight months. The contract extension has an estimated value of £36,713 and the total value of the contract will be £106,678.04. The Contract was entered into pursuant to an exemption agreed in December 2013 as a result of the unexpected and sudden insolvency of the previous provider.

B. Grounds for Exemption

The exemption request from Environment & Economy sets out the availability of underspend in the Local Sustainable Transport Funding (LSTF) budget and the expectation that consent will be forthcoming from the Department for Transport for reallocating that underspend to the bicycle hire scheme. There is currently no budgetary provision or alternative sponsor for this scheme to continue and in the absence of the exemption it is likely that the scheme would close at the current end of contract date in June 2015.

C. Appraisal

1. In making its contract arrangements, the Council is required to demonstrate that it has acted in accordance with the EU Treaty-based principles of fairness, transparency, non-discrimination and proportionality (“the EU Principles”). Aside from the application of the Council’s own Contract Procedure Rules, public bodies are also required to comply with the Public Contracts Regulations 2006 (“the Regulations”), which impose further procedural requirements in relation to contracts for services over a prescribed pecuniary threshold.
2. Both the Contract Procedure Rules and the Regulations are drafted with the EU Principles in mind. The Regulations impose two levels of procedural requirement, depending on the nature of services being procured. Although the service is a Part A service, the estimated aggregate value of the contract is below the applicable threshold and the contract therefore falls outside the stricter requirements that would otherwise apply.
3. Notwithstanding the limited procedural requirements, the County Solicitor is concerned to ensure that the contractual arrangements proposed by Environment & Economy demonstrate compliance with the EU principles.

4. The County Solicitor accepts that this is a one-off request based on the unexpected availability of additional funding and that no further requests for an exemption will be made.

D. Recommendations

The County Solicitor considers therefore that the requested exemption is justified in these special circumstances and recommends that the request for exemption is approved.

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