

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**CABINET**

**14 October 2009**

**Report of the Information Technology Manager**

**Part 1- Public**

**Matters for Information**

**1 WAIVER FROM CONTRACTS PROCEDURE RULES**

**This report informs Members of a waiver from the Council's Contracts Procedure Rules for the purchase of geographic information systems (GIS) software.**

**1.1 Circumstances**

- 1.1.1 Due to the required compatibility with existing GIS software, the necessary interfaces with existing software applications and the use of existing knowledge and skills, the required GIS software could only be purchased from a single supplier.
- 1.1.2 A budget estimate had been obtained from the supplier and the total cost of the proposed contract was £133,350. This was calculated in accordance with the Contracts Procedure Rules which includes four years support and maintenance and was below the EU tendering threshold for supplies and services but required at least three written tenders.
- 1.1.3 A formal quotation was then obtained prior to placing an order and increases in both initial costs and annual maintenance costs of some elements of the software now gave a total cost of contract of £150,040 which exceeded the EU tendering threshold.
- 1.1.4 Paragraph 9.1 of the Contracts Procedure Rules states that "the starting point for calculating the contract value for the purposes of these Contracts Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract.....". The budget estimate of £133,350 was that genuine pre-estimate and showed it to be below the EU threshold.
- 1.1.5 In view of the fact that the required software was only available from a single supplier, a waiver from the requirement to obtain at least three written tenders was still required and sought from the Chief Executive, the Director of Finance and the Monitoring Officer. This was granted and in accordance with paragraph 13.7 of the Contracts Procedure Rules is being reported to Members.

**1.2 Legal Implications**

1.2.1 Compliance with the Contracts Procedure Rules as above.

**1.3 Financial and Value for Money Considerations**

1.3.1 I do not believe that there would have been any value in performing a tender exercise for this purchase.

Background papers:

contact: Alan Burch

Waiver request and approval

Alan Burch  
Information Technology Manager