

Broads Authority

10 May 2024

Agenda item number 14

Standing Orders relating to contracts

Report by Director of Finance

Purpose

This report details the 2023/24 annual summary of instances where Standing Orders were waived by the Chief Executive and the review of the Standing Lists for Fen Contractors.

Broads Plan context

B3 Seek biodiversity net gain and enhance areas of fen, reed bed, grazing marsh and wet woodland to protect peatlands as carbon sinks.

Recommended decision

- i. Note the annual instances where Standing Orders were waived.
 - ii. Approve the standing list for fen contractors in 5.7.
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1. Introduction

- 1.1. The first part of the report provides details where the Chief Executive authorised a waiver of Standing Orders during 2023/24. Waivers can only be approved by certifying that there is an extreme urgency, only one supplier or in certain other circumstances. It also requires that all waivers authorised under delegated powers must be reported to the Authority on an annual basis.
- 1.2. The second part of the report provides details on the renewal of the Standing Lists following the process set out in the 'Standing Orders Relating to Contracts'.

2. Waivers authorised in 2023/24

2.1. Thirteen separate waivers to Standing Order were authorised in 2023/24, eleven by the Chief Executive and two by the Board as set out in Table 1. The costs in the final column are exclusive of VAT.

Table 1

Summary of waivers authorised in 2023/24

Ref	Details of Contract	Supplier	Amount £
A	Motor Insurance	Marsh Ltd (Protector)	27,045
B	Architect for Yare House extension	Hudsons Architects Ltd	3,935
C	Horsey Footpath extension	NR11 Groundworks & Civil Engineering	8,397
D	Review of pilotage and alternative risk mitigations	Marico Marine & Risk Consultant Ltd	5,100
E	Refit for Shoveler	Alicat Workboats Ltd	23,416
F	Planning Enforcement	Birketts (Giles Atkinson)	10,000
G	Grab 10 removal	Alicat Workboats Ltd	17,366
H	Purchase of second-hand crane	Cowling & Co Engineering Ltd	79,800
I	Tree contractors	Broadwood	5,775
J	Broadcaster printing	Micropress (Countrywide Publications)	10,125
K	PhD Student research	Nottingham University	10,000
L	Tolls system upgrade	Zippy Zebra	22,700
M	Electrical connections for charging posts	Electrical Testing Ltd	12,573

2.2. Further details of the individual contracts and the reasons for waiving Standing Orders are set out below.

- A. **Urgency:** At late notice the Authority received confirmation that its previous supplier was unable to honour their tender price for the duration of the contract. Our Broker (Marsh) obtained four quotes and Protector was in line with the original tender price.
- B. **Contract extension to original contract:** This extension relates to the work to redesign the layout of Yare House to include stages 3 to 6. These costs were not available until the outcome of stages 1 and 2 were complete. As this was above

a 10% extension it was approved by the Broads Authority 28 July 2023 (agenda item 20).

- C. **Contract extension to original contract:** This extension relates to the DEFRA Access for All funded footpath works. As construction progressed a number of additional items were needed. The landowner contributed £6,089 towards the costs. As with B above this exceeded a 10% extension and it was approved by the Broads Authority 28 July 2023 (agenda item 20).
- D. **Competitive quotes not received:** Despite contacting three contractors one declined to quote and no other suppliers were identified. The review was recommended by internal audit. The contractor selected was made on lowest price.
- E. **Sole supplier:** Due to MCA classification of the vessel the refit needed to be completed in the Broads to avoid sea passage. The contractor was the only company that could accommodate a 38-ton vessel in dry dock.
- F. **Urgency:** The plea trial preparation hearing was listed at short notice and representation needed to be appointed to allow time to prepare. The contractor was recommended by our legal provider.
- G. **Sole supplier:** As the barge was over 70 years old and over 30 meters in length the costs to remove and dismantle via road or broken down on site would have exceeded the quote received. As with E the contractor was only company that could lift it out.
- H. **Second-hand equipment:** Purchasing second-hand equipment does not provide exact comparisons and enables to the Authority to purchase equipment that would normally be out of the Authority's price range. The new crane will enable larger diameter and longer length marker posts to be installed.
- I. **Competitive quotes not received:** Despite contacting nine contractors only one could only carry out the work with the correct qualifications and kit to complete the works next to the river.
- J. **Competitive quotes not sought:** The supplier has produced Broadcaster for a number of years and the cost above represents the total cost of production. The need to move to a better-quality print (heat sealed) was needed prior to the 2024 season publication but did not enable time for quotes to be obtained. The additional cost has been shared split with the supplier. This will go through a procurement process in 2024/25 to ensure ongoing value for money.
- K. **Sole supplier:** Nottingham University is a sole supplier of non-invasive tools development to detect and monitor the Fen Raft Spider in the UK. The work will be delivered as part of a CASE partnership with Buglife via the Natural Environment Research Council.

- L. **Competitive quotes not sought:** The initial works on the replacement of the tolls system requires an Oracle APEX supplier of which there are very few in the UK. The contractor can provide a specialist service to upgrade the current system to a web-based version for the start of the 2025/26 tolls season in a cost-effective way.
- M. **Competitive quotes not received:** Despite contacting eight contractors only two were willing to quote due to the scale of the works. The contractor selected was made on lowest price.

3. Risk implications

- 3.1. Within the corporate risk register, reputational damage to the Authority (such as that caused by comments or actions by members or officers) is identified as a risk and the directorate risk register identifies failure of procurement practices, which could lead to legal challenge. All waivers require careful consideration to ensure that contracts are not awarded to give unfair benefit to suppliers, thus reducing the impact on the Authority's reputation and the potential for challenge.

4. Summary

- 4.1. Eleven waivers were approved by the Chief Executive and two by the Board in 2023/24, compared to the eighteen in 2022/23 (nine by the chief executive and nine by the Board). All approved waivers were considered to be justified on the grounds of achieving the best outcome for the Authority at the best possible price.

5. Standing Tender List for Fen Management

- 5.1. Section 15 of the Authority's 'Standing Orders Relating to Contracts' sets out the procedure for Selective Tendering from a standing list of approved contractors. This Standing Order applies where the Authority or appropriate committee has decided that invitations to tender for a contract are to be limited to those persons or bodies whose names are included in a list compiled and maintained for that purpose. These lists are normally reviewed every three years. However, this was run a year earlier to try and attract younger reed cutters.
- 5.2. In accordance with Standing Order 15, an advert for expressions of interest or inclusion on the Fen Management standing list was published on the Authority's website and Contracts Finder. Interested parties were required to complete a questionnaire.
- 5.3. Since 2001, the Authority has worked with local reed and sedge cutters to facilitate the continuation of this heritage industry (Action Plan for the Reed and Sedge Cutting Industry, 2012). One of the ways in which the Authority has provided support is to offer small-scale fen management work to reed and sedge cutters, at the time of year when commercial reed and sedge cannot be harvested.
- 5.4. This small-scale contract work typically includes scrub clearance and conservation mowing of non-commercial fen on Broads Authority land and / or sites where the

Authority is the managing agent. Such contract work aids the Authority in achieving its management obligations.

- 5.5. The contract work is awarded in accordance with criteria set out by the Broads Authority to all interested cutters who can demonstrate appropriate equipment and health and safety standards. A standard day rate for payment is agreed between the Authority and the Broads Reed and Sedge Cutters Association (BRASCA). This rate is assessed annually to ensure the rate represents good value for the Authority, compared to that charged by other similar commercial wetland management contractors, and to take account of any inflationary change.
- 5.6. The benefits of compiling this list are as follows:
 - All local reed and sedge cutters who actively harvest these products commercially and wish to apply for small-scale contract work are given an equal opportunity to do so.
 - Information relating to equipment certification and insurance can be gathered, held and updated centrally.
 - Contractor competency and health and safety management can be assessed through a formal process.
- 5.7. The following contractors expressed an interest in inclusion in the Standing List, all of whom had successfully joined Standing List in 2022:
 - William Burgess
 - Paul Eldridge
 - Chris Henshaw
 - Jeremy Nicholls
 - Brett Fransham
- 5.8. All of these contractors were asked to complete a form confirming existing details and asked to submit up to date certificates. Each submitted form was reviewed for the purpose of checking that the details provided met the stated approval criteria.
- 5.9. All five contractors comprehensively provided all the information required and fulfilled the criteria for approval. Whilst this does represent a reduction of two since 2022, it is recommended that the Authority approves these contractors for inclusion on the standing list as set out in recommendation (ii) above.
- 5.10. The Fen Management standing list will be renewed on a three-year basis (the next being April 2027). The review will consist of the following:
 - a) All contractors on the Standing List will be contacted at least four weeks before the review and asked if they wish to remain on the list.

- b) All projects executed using the Standing List will be reviewed and any contractor who has not performed adequately (e.g. breach of contract, not meeting the requirements of the specification, method statements or risk assessments) will be removed from the list.
- c) Contractors not on the list who have expressed an interest in inclusion on the list, maybe recommended to the Authority for inclusion on the list upon submission of an adequately completed questionnaire.
- d) The list of contractors will then be put to the Authority for approval.

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Background papers: Standing Orders Relating to Contracts

[Broads Plan](#) strategic objectives: B3