

**Annual Report on Requests to Waive Standing Orders**  
Report by Head of Finance

**Summary:** This report provides members with the annual summary of instances where Contract Standing Orders have been waived by the Chief Executive during 2013/14.

**Recommendation:** That the annual report of instances where Standing Orders have been waived be noted.

**1 Introduction**

- 1.1 The Authority’s Standing Orders relating to Contracts provide for the Chief Executive to authorise a waiver of Standing Orders by certifying that there is an extreme urgency, only one supplier or in certain other circumstances. They also require that all waivers authorised under delegated powers must be reported to the Authority.
- 1.2 It has been agreed that any waivers will be reported on an annual basis, after the end of each financial year.

**2 Waivers Authorised During 2013/14**

- 2.1 Fourteen separate waivers to Standing Orders were authorised by the Chief Executive during the 2013/14 financial year. These are summarised in the table below. All costs are exclusive of VAT.

Ref	Details of Contract	Supplier	Amount (£)
A	To develop the website for “Love the Broads.”	Whoop Marketing	4,250
B	To hire a small screener (vibrating separator) to support the Salhouse Broad sediment pumping project.	Sands Contractors	6,000
C	To undertake a research study of lake restoration and management in the Broads, with a focus on Hickling, Hoveton Great, and Decoy Broads.	Dr Nigel Willby / Stirling University	19,958 (Plus 25,000 from Natural England )
D	To trial the dewatering of hydraulically dredged sediment from Hardley Dyke and Loddon using the “geotunnel” concept.	Innovative Water Contractors (IWC)	71,000
E	To undertake options appraisal and architectural consultancy for	Hudson Architects	5,500 (16,500 total)

	developments at Whitlingham Country Park.		split between three partners)
F	To hire JS220 excavator to dredge sediment from Hardley Dyke and Loddon with submersible pump (12 weeks).	Land and Water Plant	13,760
G	To construct a second replacement wherry to the Authority's specification.	John Kearney & Sons	110,570
H	To provide working space, access, utilities and the spreading of 3,600 tonnes of sediment at Hardley Dyke.	Phillip Hagger / Church Farm	6,000 (Approximate cost based on three weeks at 2,000 per week)
I	To undertake a three-year research study (PhD) into the impact of invasive species and the effects of climate change on their spread.	Dr Jonathan Grey / Queen Mary University London	2,000 (Total over three years plus 5,000 from Natural England)
J	To provide phone system maintenance and support services.	Octagon Communications Ltd	2,950 (Annual cost, 8,850 for three year contract)
K	To replace the existing lock gate hydraulic and electrical control units (including housings) at Mutford Lock.	LEC Marine (Klyne) Ltd	72,250
L	To provide "Acorn" survey and profiler software and support.	CACI Ltd	4,500 (Annual cost, 9,000 for two year contract)
M	To update the climate change estimates for the Broads from 2003.	Dr Jeff Price / UEA	6,000
N	To create a short animated film to support dialogue about the development of a climate adaptation plan.	Room 60	6,750

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

A **Competitive quotations sought, insurance requirement waived.**  
Five quotations for this contract were received, none of which

complied with the required level of Public Liability Insurance (£5m), which had been set based on an anticipated contract value of over £5,000. Four of the quotes received, including the most economically advantageous quote, were below this threshold and it was therefore considered appropriate to lower the insurance requirement.

- B Sole supplier.** Due to constraints at the site and as a result of the other equipment being used, a specialised small screener was identified as being the only suitable item for use on this project. Only one supplier for such a screener could be found, and the quoted price was considered to represent a competitive market rate for similar items of equipment. The purchase of a screener was examined as an alternative to rental, however this was not judged to be financially attractive.
- C Competitive tenders not sought.** This project has been established with a consortium of specialists drawn from a number of different organisations, to be project managed by Stirling University. This procurement method was adopted to enable the Authority to gain access to the necessary level and breadth of academic and technical expertise to support delivery of a robust and rigorous scientific study. This was considered to provide the Authority with the most cost effective and efficient route to procure this activity, particularly when compared to managing a process where the individual contributors had to bid separately. It is further anticipated that this collaborative approach will allow a higher quality of output as a result of greater sharing of information. Although other potential providers of this type of academic analysis exist, the Authority's past experience of tendering for academic research has not been uniformly positive. In addition, many of the members of the consortium are the holders or owners of the relevant datasets to be used to inform the research work, and therefore it would not be feasible to undertake the required studies with an alternative provider without incurring significant additional costs.
- D Competitive tenders not sought.** Previously reported to members for decision (BA Item 13, 20 September 2013). The techniques to be used in this PRISMA trial were both innovative and experimental and as such the equipment and expertise required was only available from one supplier, IWC. The proposed waiver was referred to members for decision due to the existence of a separate commercial relationship between the PRISMA Project Manager and IWC and was approved on the basis that:
- IWC has developed the geotunnel concept and works closely with the patent holder (Tencate) for the product. As such no other suppliers for this specialist work exist;
  - the Authority's relationship with IWC predates the PRISMA Project Manager's consultancy work with them;

- IWC is an experienced contractor in this field and has proven to be very effective when working with the Authority on the Salhouse project alongside another contractor, Besekk;
- IWC developed a very competitive quotation for this work and also provided full and transparent costings, giving the Authority confidence that it can achieve value for money;
- the PRISMA Project Manager's consultancy work with IWC involves work outside the Broads executive area only; and
- the Budget Manager for PRISMA will be responsible for approving all invoices for payment under this contract and as such all invoices will be signed off by either the Head of Construction, Maintenance and Environment or the Director of Operations, providing independent oversight.

**E Competitive quotations not sought.** Following an open architectural design competition run by the Crown Point Estate, Hudson Architects were selected as the preferred provider of architectural services for the future development of the site. It was a requirement of the Crown Point Estate (as landlord) that Hudson Architects be used for this project as a result of the competition process. Standing orders were therefore waived as a robust and open shortlisting process including input from Broads Authority officers had been previously undertaken by the three partners.

**F Sole supplier.** As part of the PRISMA dredging trials set out in waiver D, the Authority undertook pump dredging at Hardley Dyke and Loddon using a submersible pump. The pump is operated from an excavator's hydraulics and requires specific fittings, pressure and flow rates. Only one provider of an excavator with the appropriate fittings proven to operate with this equipment exists. Alternative options including fitting an excavator with the appropriate connections were given consideration but ultimately discounted due to the prohibitive costs. The Authority has a positive track record of working with the identified supplier.

**G Competitive tenders not sought.** Previously reported to the Financial Scrutiny and Audit Committee for comment (FSAC Item 9, 9 July 2013). In 2012 the Broads Authority completed a tendering process for the purchase of a new wherry following an open advertisement, for which the deadline was 30 March 2012. As part of the tender, the tenderers were asked to supply an optional price for the supply of a second wherry. The successful tenderer was John Kearney Ltd, of Northern Ireland, who was both the cheapest price and also came out as the favoured supplier taking into account the other tender evaluation criteria. The wherry has now been delivered and launched, and the Authority is pleased with the build quality and performance. As part of the Authority's Asset Management Plan, the need for a further wherry was identified. Due to the time lapse between the original tender, and also taking into account some design variations which were agreed as part of the contract, the boatyard prepared a revised

cost for a second wherry of £107,000. This was still lower than the next nearest tendered amount from the original tender, and the views of the FSAC were sought as to the appropriateness of awarding the contract on this basis via a waiver of standing orders. Following consultation with FSAC the contract was let on the basis that:

- a full tender process had previously been undertaken with the option of a second wherry included;
- value for money was offered by savings against running a second tender process and the quoted price remaining lower than the other original tenders; and
- the first wherry procured from this boatyard has demonstrated satisfactory quality and performance.

H **Sole supplier.** See also waivers D and F. To facilitate the dredging project at Hardley Dyke, access to a works area and utilities connections were required. Church Farm is the nearest farm to Hardley Dyke, with the next closest alternative site being over 500m away, which was not considered to be feasible. The identified supplier offered the use of farm land, a work space, electricity and water connections and equipment (including driver and fuel) for spreading of sediment as a complete package. When compared to the separate costs of contracting a spreader, hiring a generator and transporting water to the site, the quoted price was considered to represent very good value for money, with no other viable alternative being identified.

I **Sole supplier.** The identified supplier, who is supervising this research project into invasive species, is the UK's leading specialist in the techniques to be applied for this study, as well as having access to the necessary specialist equipment in 2014, allowing the project to commence promptly. This is a priority area of work for the Authority and the identified supplier was the only realistic supplier able to meet the detailed specification of the research project.

J **Competitive quotations not sought.** The Authority's phone maintenance and support contract is placed with the original phone system provider. Renegotiation of the contract was undertaken following the Authority's withdrawal from the Ludham fieldbase and cost savings were achieved. Significant efficiencies are offered by having this contract with the original provider and it also ensures that a reliable system is in place with risks for the Authority being minimised. The current provider has a good track record of delivering the service.

K **Competitive tenders not sought due to extreme urgency.** As a result of damage sustained at Mutford Lock following the tidal surge event in December 2013, the Authority has been required to urgently let the contract for the repair of this key access point to the Broads. Following consultation with the Chairman of the Authority and also the Chairman and Vice Chairman of the Navigation Committee, the contract was let to LEC Marine (Klyne) Ltd. LEC Marine have

previously undertaken responsive repair work for the Lock and as a result have an in-depth knowledge of the site and the equipment in place. The exemption was approved under specific exemption 6(e) “for the execution of work [...] certified by the Chief Executive as being required so urgently as to preclude the invitation of quotations or tenders.” Officers had previously explored options for the replacement of the Lock equipment in 2013, with two quotations ultimately being obtained at this time. Of these, only the quotation from LEC was considered viable and appropriate, however due to a lack of resources to take the work forward, the project was held for inclusion in a future work programme. The urgent nature of the works required following the tidal surge led to the LEC quotation being revisited. The updated quotation from LEC Marine for £72,250 was in line with their earlier quote, and allows for the works to be undertaken as a matter of urgency.

- L **Sole supplier.** In order to support the development of the survey of boat owners, the Authority required specialist software to support “data mining” of its existing information. The identified software and support package is only available from one supplier and therefore it was not possible to obtain alternative quotes for a comparable service. Although alternative providers may have been able to undertake the initial data analysis, they would not have been able to provide the required on-going support and analysis. It was therefore considered preferable for the Authority to procure the complete package from a single supplier.
- M **Sole supplier.** This specialist work requires knowledge of climate science in the context of the Broads, and additionally represents an update of work previously undertaken by UEA. Although a number of scientists at UEA may have been in a position to undertake this work, any procurement undertaken by the Authority would be managed via UEA at an organisational level and so would not produce competitive quotes between researchers. Identification of a suitable researcher was undertaken by the Chair of the Climate Change Panel, Professor Kerry Turner. Using the same researcher provides continuity in developing a robust comparable data set and ensures efficiency in that no time is required to develop an understanding of Broads specific issues. Price negotiations have been undertaken to deliver value for money to the Authority.
- N **Competitive quotations not sought.** There are a limited number of animation firms working in this field with an understanding of water management issues. Following investigation and engagement with the identified supplier, and a positive demonstration of their previous work to the Climate Change Adaptation Panel, this contract was progressed without alternative quotations being sought. Value for money was tested by comparing the quoted price against benchmark costs for a similar animation of this sort. In addition this contract was judged to offer some efficiencies in that other providers without knowledge of the

field would have potentially required a significant input of officer time and resource to support development of an appropriate product.

### **3 Summary**

- 3.1 Fewer waivers were approved by the Chief Executive in 2013/14 than in previous years (fifteen were reported to members in the previous year), although two additional waivers relating to previous financial years have been reported earlier in 2013/14 following their identification as part of the internal audit of procurement (BA Item 12, 22 November 2013). As in previous years, the use of specialist and bespoke equipment without equivalents for comparison relating to the EU funded PRISMA project has led to a comparatively large number of waivers. The three most significant waivers in financial terms (D, G and K) have all been subject to Member consultation at different levels as set out in section 2 above. All approved waiver requests were considered to be justified, for the different reasons as set out above, and on the grounds of achieving the best outcome for the Authority at the best possible price.
- 3.2 The Authority has in place a robust process for officers to seek waivers to Standing Orders, and all such requests are carefully assessed by the Chief Executive on the basis of the information provided, taking into account the views of the appropriate Director and those of the Head of Finance.

Background Papers:	None
Authors:	Titus Adam
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Broads Plan Objectives:	None
Appendices:	None