

# Article Eighteen: Contract Procedure Rules

## Appendix A – Exemption From Procurement Procedures

### Guidance Notes

- The following form must be completed whenever a request is made to seek an exemption from Nottingham City Council's Financial Regulations and
- Before seeking an exemption from the requirements to obtain tenders and quotations the Head of Contracting and Procurement must be consulted.

### Instructions on Completing the Form

- The officer requesting the exemption should complete the attached form with all relevant information in order for a decision to be properly reached.
- The form **must** be signed by the originator and the appropriate Head of Service (or above) before forwarding to the Head of Contracting and Procurement.
- The Procurement Team will record the exemption for reporting and monitoring purposes.
- The Head of Contracting and Procurement and the Section 151 Officer will consider the request and, where justified, will authorise it.
- Notification of rejection/approval of any request will be sent to the originator via the Head of Contracting and Procurement.
- A copy of the completed and authorised form/s must be kept by the originator on the relevant project file.
- Retrospective Exemption Requests will be rejected without further consideration.
- Exemptions that exceed the UK Procurement Threshold will be rejected without further consideration

<b>Exemption from Procurement Procedures</b> <b>Request for a exemption from complying with Procurement Procedures</b>
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<b>Section 1: Request Originator</b>	
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<b>Name:</b>	Mark Lethbridge
<b>Signature:</b>	Mark Lethbridge
<b>Department:</b>	Traffic and Safety
<b>Date:</b>	08/09/2022

<b>Section 2: Exception Type</b>	
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<b>Please enter 'X' against whichever box applies and provide relevant supporting information under Section 5</b>	
<b>Exemptions; Please select the relevant exemption being relied on in this request</b>	
The works to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing proprietary machinery, where such repairs or parts are specific to that machinery or upgrades to existing software packages.	X
Works, supplies or services are urgently needed for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible. In such cases the contract must only last as long as is reasonably necessary to deal with the specific emergency.	
The Corporate Director, in consultation with the Head of Contracting and Procurement, decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited and that best value for the Council can be achieved by not tendering.	

<b>Section 3: Subject</b>	
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<b>Description of Goods, Works or Services: (please provide a full description including any written proposals that have been received)</b>	Renewal of the yearly maintenance contract for Nottingham City Council's Department for Transport Approved ANPR camera enforcement system. Contract runs from October 1 <sup>st</sup> 2022 – September 30 <sup>th</sup> 2023 and includes Leicester City Council's estate of cameras, LCC are NCC's client for ANPR camera enforcement.
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<b>Section 4: Data Protection</b>	
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Do the Goods, Works or Services involve processing of personal data on behalf of the Council (i.e. processing is anything that may be done with personal data – service user, employee data etc)	Yes <input type="checkbox"/>
	No <input checked="" type="checkbox"/>
IF YES, have you liaised with the Information Compliance Team or submitted a Data Protection Impact Assessment(DPIA) for the provision of these, Goods, Works, Services or does a DPIA already exist (e.g. if this is recommission of an existing service)?	Yes <input type="checkbox"/>
	No <input type="checkbox"/>
IF YES please provide details	
If NO, please seek the advice of the Information Compliance Team	

**Section 5: Proposed Provider & Contract Details**

<b>Proposed Provider:</b>	<b>Yunex Traffic Ltd (Siemens new name)</b>
<b>Contract Value:</b>	<b>£233,379.02</b>
<b>Proposed Contract Start Date:</b>	<b>1/10/2022</b>
<b>Proposed Contract End Date / Duration:</b>	<b>30/9/2023</b>

**How or why has the proposed provider been selected?**

Yunex Traffic are NCCs current contracted provider for the installation of our automatic number plate recognition (ANPR) enforcement cameras and have been since we started enforcement in 2008. Our ANPR camera enforcement estate is a part of the DfT's approved devices certification scheme.

The certification scheme requires an annual repairs & maintenance (R&M) programme to be in place as without the certification the enforcement function would have to cease.

Yunex Traffic manufacture both the software and hardware system for their ANPR cameras and therefore own the intellectual property rights to maintain their system, thus preventing NCC from sourcing alternative suppliers.

**How does this proposal demonstrate Best Value?**

All income from ANPR camera enforcement is ringfenced by legislation to maintain the ANPR camera estate, including all hardware and software, and can be used to fund other traffic initiatives.

By maintaining the cameras NCC can continue its enforcement operation and ensure our capability to raise income from any PCNs issued, thereby demonstrating Best Value to the authority.

Discussions are currently underway with procurement to look at ways in which the future supply and installation of new cameras is coupled with long term repair and maintenance contracts and that lifetime costings are included as part of the tender evaluation process.

**Do you have sufficient funds to cover this expenditure?**

Yes, as mentioned above all income from ANPR camera enforcement is ringfenced, which substantially exceeds the amount NCC are required to pay Yunex as part of this yearly maintenance fee.

**Section 6: Background & Justification****Provide an overview and explain why an exemption request is necessary?**

As mentioned above to perform ANPR camera enforcement Nottingham must have a maintained system to keep the DfT approved devices certification scheme valid.

**State when the need for this requirement arose?**

The authority has been working with Yunex since bus lane enforcement with cameras was introduced to the city of Nottingham, back in January 2008.

**Explain why it is not appropriate to seek alternative quotes/tenders?**

As set out section 5 above, Yunex own the intellectual property rights to maintain their cameras. Therefore, there are no alternative suppliers able to maintain the current cameras.

**What other options have been explored?**

For this current renewal there are no viable alternatives for us to explore, for the aforementioned reasons.

However, for future schemes where large volumes of enforcement cameras are required then we will be looking to go out to tender.

Examples include:

- Additional enforcement powers under Part 6 powers of the TMA 2004, Nottingham City Council will be able to enforce more moving traffic offences such as banned turns in 2022/23.
- Proposed changes to the Clear Zone and how it's enforced, is an example where we will be looking to purchase 12 plus cameras.

Traffic and Safety will be working closely with Procurement in 2022 to come up with a long term procurement strategy for the supply, installation and R&M of the cameras.

**What would the impact be if this request wasn't approved?**

As mentioned above we would no longer have DfT approved camera system, so we would have to cease enforcement as we would be illegally issuing PCN's to motorists.

There would be a significant loss of income to Nottingham City Council and an adverse impact on the traffic services and initiatives, which that income supports.

**Section 7: Forward Planning****Will there be an ongoing requirement beyond the expiry date of this request, if it is approved?**

To go out to tender where we have schemes that demand a large purchase of cameras, as previously mentioned we would then look to replace aging cameras with ones that provide best value. But the facts are plain, should we still have Yunex cameras contributing to PCN income and they are operating perfectly well within their scheduled life cycle they will need to be maintained by Yunex.

**Section 8: Head of Service Agreement****Head of Service (or above):****Name:**

Mark Jenkins

**Signature:**

**Date:**8<sup>th</sup> September 2022**Section 9: Procurement Comments****Head of Contracting and Procurement****Name:**

Steve Oakley

<b>Signature:</b>	
<b>Date:</b>	
<b>Comments:</b>	As Yunex own the intellectual property rights to maintain their cameras, there are no alternative providers. Public Contract Regulation 32(2)(b)(iii) the protection of exclusive rights, including intellectual property rights applies.
<b>Recommendation:</b>	Approve as compliant with PCRs

<b>Section 10: Section 151 Officer &amp; Approval / Rejection</b>	
<b>Section 151 Officer</b>	
<b>Name:</b>	Clive Heaphy
<b>Signature:</b>	
<b>Reasons for decision:</b>	
<b>Subject to the following conditions.</b>	
<b>Date:</b>	15.09.2022

If approval is given, please complete the following form to enable Procurement to complete its obligation of issuing a Contract Award Notice.

## Exemption from Direct Award Information Request

Under regulations 106, 108, 110 and 112 of the Public Contract Regulations 2015 Nottingham City Council is required to publish spend with a value of £25,000 and above on the government website [Contracts Finder](#). Following your recently approved Delegated Decision to dispense from the Councils Financial Regulations and directly award a contract, please confirm the information requested in the table below to enable the Procurement Team to fulfil the Councils legal duties. Some of this information will be captured in the Procurement Information Management System (PIMS) for internal reporting purposes only.

<b>DDM Reference</b> (Internal)	
<b>Procurement Reference</b>	CPU
<b>Subject</b>	
<b>Contract Type</b>	Service, Supply or Works
<b>Procedure Type</b>	Single tender action or 'Direct Award'
<b>Description</b>	
<b>Contract Award Date</b>	
<b>Contract Start Date</b>	
<b>Initial Contract End Date</b> (Internal)	
<b>Contract Extensions</b> (Internal)	
<b>Maximum End Date</b>	
<b>Total Value</b>	£
<b>Supplier Name</b>	
<b>Supplier Postcode</b>	
<b>Is the supplier an SME<sup>1</sup>?</b>	
<b>Is the supplier a VCSE<sup>2</sup>?</b>	
<b>Cashable Savings</b> (Internal)	£
<b>Income Generated</b> (Internal)	£
<b>Social Value<sup>3</sup></b> (Internal)	

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<sup>1</sup> Small to Medium Enterprise

<sup>2</sup> Voluntary, Community and Social Enterprise

<sup>3</sup> Social, economic or environmental benefits achieved by this contract