

Report of: Head of Business Development and Improvement

Report to: Chief Officer Property and Contracts

Date: 18th February 2014

Subject: Waiver Report to appoint Travis Perkins without competition for the provision of managed Stores contract for Construction Services from 1st April 2014 to 31 March 2015 (Waive CPR 9.1)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Areas in the East and North East of Leeds	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The report (appendix A) discusses the rationale for extension of Managed Stores arrangement for Construction Services and the recommendation to extend the contract with Travis Perkins from 1st April 2014 to 31 March 2015.
2. This report was subject to call in and publication. The call in period expired on 13th February 2014 after the commencement of the contract extension. Contract Procurement Rules state that a contract cannot be extended after the contract has been extended even though in this case sign off with the exception of the call in period had been received
3. Given the Advice was sought from the Chief Procurement Officer who advised that a waiver be exercised to waive CPR 9.1 and to appoint Travis Perkins to contract for a 12 month term without competition in accordance with the terms of the previous provision.
4. As the original decision has been subject to call in then this waiver does not require further call in

Recommendations

5. That the Chief Officer of Property and Contract approves the waiver of CPR 9.1 and to appoint Travis Perkins on a contract for a 12 month term without competition in accordance with the terms of the previous contract provision.

1 Purpose of this report

To seek the approval of the Chief Officer for Property and Contracts to waive CPR 9.1 and appoint Travis Perkins on a contract for a 12 month term without competition in accordance with the terms of the previous provision.

2 Background information

A report recommending extending the contract for Travis Perkins for one year (appendix A) was submitted to Housing Contracts Board and subject to delegated decision and subsequent call in to extend the managed stores arrangements for 1 year from 1st April 2014.

3 Main issues

Reason for Contracts Procedure Rules Waiver

The call in period expired on 13th February 2014 which was after the commencement of the extension period.

Advice was sought from the Chief Procurement Officer who advised that a waiver be exercised waive CPR 9.1 and appoint Travis Perkins to contract for a 12 month term without competition in accordance with the terms of the previous provision.

Consequences if the proposed action is not approved

Failure to appoint will mean that any spend through the store with Travis Perkins will be outside of any formalised contractual arrangements.

4 Corporate Considerations

4.1 Consultation and Engagement

The original decision to extend the contract was subjected to delegated decision and call in. Therefore this waiver is not subject further call in as it is a subsequent decision of the original decision and call in.

4.2 Equality and Diversity / Cohesion and Integration

There are no equality and diversity issues associated with this decision

4.5 Legal Implications, Access to Information and Call In

The original decision to extend the contract was subjected to delegated decision and call in. Therefore this waiver is not subject further call in as it is a subsequent decision of the original decision.

Advice from the Chief Procurement Officer is as follows:-

“Article 13 of the Constitution sets out the definitions for the three categories of Executive Decision; Key, Significant Operational and Administrative. Different controls apply according to the category of each decision. A Key decision would result in a spend or save exceeding £250K, or with a significant impact in an area including one or more wards. This would appear to apply in this case. However, the definition at Article 13.6.1.b particularly excludes “a decision which is a direct consequence of implementing a previous Key decision.” In this case approval has already been obtained to procure, so letting the contract will be a direct consequence of this, and this decision is therefore excluded from the definition of a Key decision.

We must then consider whether it is a significant operational decision (SOD). The definition here includes decisions which would have been Key “but for ... Article 13.6.1.b above” and also decisions which result in a spend or save exceeding £100K. Under either of these parts of the definition this decision should be treated as a SOD. All that this requires is that the decision is published when taken. The DDN and supporting report will therefore need to be passed to the relevant directorate support officer for publication when the decision has been signed off. This should not however delay implementation of the decision. SODs are not subject to the requirements to include on the List of Forthcoming Key Decisions, or to publish notice in advance of the decision being taken, neither are they open to call in”.

4.6 Risk Management

Failure to appoint Travis Perkins will mean that any expenditure through the managed stores will be outside of any formalised contractual arrangements. Furthermore it is not possible in the times frames to conduct a re procurement exercise to appoint a new contractor

5 Conclusions

That CPR 9.1 is waived and that Travis Perkins be appointed for a 12 month period without competition on the terms of the original provision

6 Recommendations

That Travis Perkins be appointed for a 1 year term based on the terms and conditions of the previous contract LCC12000.