

Report of: Head of Service - Reablement and Assistive Technology Services

Report to: Director of Adult Social Services

Date: 23rd July 2015

Subject: Approval to waive Contract Procedure Rules (CPR) 8.1 and 8.2 in accordance with CPR's 1.3 and 27, in order to appoint NPS to instruct STG to supply and install heating without undertaking a procurement exercise at Assisted Living Leeds.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" 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. In November 2012 Norfolk Property Services (NPS) were commissioned by Adult Social Care as the design team for the development of Assisted Living Leeds (ALL).
2. The construction contract was awarded to Strategic Team Group (STG) and the construction building commenced in January 2014 with handover in September 2014.
3. The heating to the cleaning department was overlooked when the construction specification was drawn up.
4. This was discovered in September and NPS have been designing a heating solution for this area.
5. The provision of heating to this area is essential for the Health and Safety of staff.

Recommendations

6. The Director of Adult Social Services is requested to approval to waive Contract Procedure Rules (CPRs) 8.1 and 8.2 under the authority set out at CPR 1.3 and 27, to appoint STG to supply and install heating without undertaking a procurement exercise.
7. Implementation discussions will take place with NPS and STG should the waiver be approved.
8. The proposed timescale for implementation is September 2015.
9. The Service Delivery Manager - Assisted Living Leeds will be the officer responsible for the implementation.

1 Purpose of this report

- 1.1 To outline the reasons for, and seek approval of a waiver of CPRs 8.1 and 8.2 in accordance with CPR's 1.3 and 27 in order to appoint STG to install the heating system into the cleaning area without undertaking a procurement exercise.

2 Background information

- 2.1 The development of an Assisted Living Leeds for Leeds is a tangible step to provide a single point of contact for AT in Leeds, where health / social care professionals and service users can access specialist advice and services across a range of assistive technologies: ensuring that informed choices are made on AT as part of larger support packages; and a consistent level of service quality is delivered city-wide.
- 2.2 Assisted Living Leeds brought together a range of Leeds City Council services including Leeds Community Equipment Service, Telecare, Blue Badge Assessment, assessment and demonstration facilities so that service users are able to test the equipment, office space for staff from health and social care and training and meeting space. An information point for older people, disabled adults and children, carers and their families as well as professionals is in development.
- 2.3 The building was handed over from STG in September 2014 with services becoming fully operational from February 2015. NPS have been exploring the best solution for the heating in the cleaning area since September 2015.
- 2.4 The specification for heating in the cleaning area was overlooked at the design stage. Staff working in this area are standing, washing equipment for significant periods. In cold weather this area is an unpleasant working environment. Without the provision of heating over the winter of 2014/15 control measures needed to be in place to ensure the health and wellbeing of staff. The frequent breaks away from this working area to warm up resulted in less equipment being cleaned and put back into stock for re use.

3 Main issues

Reason for Contracts Procedure Rules Waiver / Invocation

- 3.1 The principal rationale for seeking a waiver of the usual requirement to obtain quotes for work is that we are proposing to use the same contractor who was the main contractor for the construction works, which are now in the defects period. This is to mitigate the risk that defects liability may be invalidated in the event that a different contractor caused any damage to the completed works.
- 3.2 The original design team and contractor have a good understanding of the overall building design and construction and therefore of any related issues that may impact on the retro installation of a heating system into an area which already contains an industrial wash unit, washers and dryers and a dehumidifier.
- 3.3 NPS are responsible for designing the heating system and managing its installation under an existing commission – i.e. there is no additional cost for NPS services. The approval of this waiver report will allow LCC to directly appoint STG for the work, with NPS continuing in a consultant role under existing commission.

Consequences if the proposed action is not approved

- 3.3 If the proposed action is not approved and the contract goes to tender there is a risk that variations to the planned design could be presented. This could lead to additional costs.
- 3.4 If the waiver is not approved the timescale for installing the heating will be extended and will not be in place before winter, thereby creating a continued risk for staff. Timescales for installation need to include the lead in time for the supplier of the units and is likely to be a minimum of 6 weeks.
- 3.5 Any damage caused by a different contractor to the works previously carried out by STG will invalidate the construction works which are covered during the defects period.

Advertising

- 3.6 It is not proposed to subject this contract to completion for the reasons set out at in section 3 above.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The focus of this report is the provision and installation of specific equipment; this is a minor element of a larger project, Assisted Living Leeds, which was the subject of an extensive consultation process.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Impact Assessment screening exercise has been completed and was presented to Executive Board in April 2013. This demonstrated that the impact on all service users has been considered in the development of the ALL (AT Hub) proposals.

4.3 Council Policies and Best Council Plan

- 4.3.1 The service contributes to National Indicator 142: the percentage of vulnerable people supported to achieve independent living.
- 4.3.2 The service contributes to the City Priority Plan 2011 to 2015, Best City for health and wellbeing: Supporting more people to live safely in their own homes and give people choice and control over their health and social care services.
- 4.3.3 The service contributes to the Council Business plan 2015 to 2020, Adult Social Care Directorate Priorities and Performance Measures by making Leeds the best place to grow old and delivering the better lives programme.
- 4.3.4 The service supports adults whose circumstances make them vulnerable to live safe and independent lives.
- 4.3.5 The service provides easier access to joined-up health and social care services.
- 4.3.6 The ALL is also an opportunity to advance Council priorities including more cross-working across teams and directorates and closer working with partners in the public, private and voluntary sectors. This will result in partners working together in close proximity on a daily basis, sharing resources and expertise, reducing duplication and developing shared activities and operational processes for an improved customer experience and more cost effective services.

4.4 Resources and Value for Money

- 4.4.1 The use of the main design team and contractor provides value for money by significantly reducing the risks of additional expense through undertaking a tender exercise.
- 4.4.2 The cost for installing the heating is £14,407.75. This will be met from within existing resources.
- 4.4.3 By approving this report the risk that defects liability may be invalidated in the event that a different contractor causing damage to the completed works is mitigated.
- 4.4.3 The Council's mechanical and cost consultant (NPS) advises that the costs are reasonable for this work. Any minor saving which might be obtained through an open competition would not mitigate the risk of invalidating defects liability of the main contract.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This is a significant operational decision which is not subject to call-in. There are no grounds for keeping the contents of this report confidential under the Access to Information rules.
- 4.5.2 Awarding a contract directly to STG in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest that it has not been wholly transparent as the opportunity is not being advertised and at least three written tenders invited. In terms of transparency, it should be noted that it is a requirement of recent case law to consider whether contracts should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc) and the geographical location of the place of performance.
- 4.5.3 The Chief Officer of Access and Care has considered this and, due to the nature of the services being delivered and the relatively low value of this piece of work, is of the view that the scope and nature of the services is such that it would not be of interest to contractors in other EU member states.
- 4.5.4 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the content of the report should be noted. In making their final decision, the Director of Adult Social Services should be satisfied that the approved course of action represents best value for the council.

4.6 Risk Management

- 4.6.1 If the waiver is not approved the timescale for installing the heating will be extended and will not be in place before winter. This will impact on staff health and wellbeing and may lead to sickness and grievances. There is a reputational risk to the Council.

5. Conclusions

- 5.1 Appointing STG to supply and install heating without undertaking a procurement exercise will significantly reduce the risks of additional costs and delays to the installation of a heating system into the cleaning department.
- 5.2 The principal rationale for seeking a waiver of the usual requirement to obtain quotes for work is that we are proposing to use the same contractor who was the main contractor for the construction works, which are now in the defects period. This is to mitigate the risk that defects liability may be invalidated in the event that a different contractor caused any damage to the completed works.

6. Recommendations

- 6.1 The Director of Adult Social Services is requested to approval to waive CPRs 8.1 and 8.2 under the authority set out in CPR 1.3 and 27, to appoint STG to supply and install heating without undertaking a procurement exercise.
- 6.2 Implementation discussions will take place with NPS and STG should the waiver be approved.
- 6.3 The proposed timescale for implementation is September 2015.
- 6.4 The Service Delivery Manager- Assisted Living Leeds will be the officer responsible for the implementation.

7. Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.