

Report of Head of Projects and Programmes

Report to Chief Officer Employment and Skills

Date: 11th April 2016

Subject: Waive Contract Procedure Rules 3.1.23 and 15.2 in relation to the European Structural and Investment Fund Back to Work Programme

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: 10.4 (3) Appendix number: CONFIDENTIAL Appendix A ESIF B2W Evaluation Criteria	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. In March 2016, the Council's Employment and Skills Service led on a joint bid with the City of Bradford for funding to deliver the European Structural Investment Fund (ESIF) Back to Work (B2W) Programme across both districts. If the funding bid is successful, the provision will support particular priority groups, including those with mild to moderate mental health issues, young people including care leavers and ex-offenders move into work.
2. As a key partner in the city and, as set out in the Best Council Plan 2015-20, the Council is committed to the 'promotion of sustainable and inclusive economic growth by improving the economic wellbeing of local people and businesses'. This encompasses improving employment outcomes for individuals with complex and, often multiple needs
3. Notification will be received from the ESIF Managing Authority, the Department for Work and Pensions (DWP) in June 2016 of their intention to award a contract, or not, to Leeds City Council as the lead partner.

4. If the funding bid is successful, delivery on the Leeds and Bradford B2W Programme must start in September 2016, hence the timeline to procure must start in April 2016.
5. Leeds City Council wishes to procure delivery services from the restricted framework of potential providers, who had previously tendered an expression of interest to deliver Leeds and Bradford B2W Programme during the bid phase (and in accordance with the DWP's bidding criteria). If the Council's bid is successful, approval to award contracts will be sought by the Executive Board in June 2016.
6. This report seeks approval of the evaluation criteria in Confidential Appendix A which is required prior to going out to tender.
7. Approval is also being sought to waive contract procedure rules 3.1.23 and 15.2 in order to evaluate primarily on quality and to undertake post tender negotiations.

Recommendations

The Chief Officer Employment and Skills is asked to approve the criteria for evaluation and the waiver of contract procedure rules 3.1.23 and 15.2 to permit evaluation primarily on quality and, to allow the Council to undertake post tender negotiations.

1 Purpose of this report

1.1 In preparation for the procurement of delivery providers for the ESIF Leeds and Bradford B2W Programme, this report complies with the latest Contract Procurement Rules (CPR) published as Issue 2 2015/16 01 January 2016. CPR 27 authorises service directorate Chief Officers to take a delegated decision to waive certain requirements from the list of CPR's eligible for waiver defined in CPR 1.3.

1.2 This report sets out the following proposals and seeks approval to:

- approve the evaluation criteria attached at Confidential Appendix A, in accordance with Contract Procurement Rule (CPR) 15.1 which requires *“evaluation criteria to be pre-determined and approved by the relevant Chief Officer”*
- waive CPR 15.2 requirement for 40% evaluation on the price element and permit the quality evaluation criteria to be raised to 100%. which requires approval *(as a significant operational decision under CPR 27) by the relevant Chief Officer.*
- waive CPR 3.1.23 to permit post tender negotiations with providers in order to ensure a balanced programme of provision is achieved for the duration of the framework which requires approval *(as a significant operational decision under CPR 27) by the relevant Chief Officer.*

2 Background information

2.1 In March 2016, the Council's Employment and Skills Service led on a joint bid with the City of Bradford for funding to deliver the ESIF B2W Programme across both districts. If the funding bid is successful, the provision will support particular priority groups, including those with mild to moderate mental health issues, young people including care leavers and ex-offenders move into work.

2.2 As a key partner in the city and, as set out in the Best Council Plan 2015-20, the Council is committed to the 'promotion of sustainable and inclusive economic growth by improving the economic wellbeing of local people and businesses'. This encompasses improving employment outcomes for individuals with complex and, often multiple needs.

2.3 Notification will be received from the ESIF Managing Authority, the DWP in June 2016 of their intention to award a contract, or not, to Leeds City Council as the lead partner.

2.4 If the funding bid is successful, delivery must start in September 2016, hence the timeline to procure must start in April 2016. The procurement Evaluation Criteria are attached at Confidential Appendix A.

3 Main issues

3.1 Waiver of CPR 15.2

3.1.1 The price components for the B2W Programme are predetermined in the DWP funding bid submission. The quality criteria have been designed to ensure that the Council can meet its obligations to deliver provision in accordance with the requirements of the DWP.

3.1.2 For this reason a waiver of CPR 15.2 is being sought to permit the requirement for 40% evaluation on the price element to be removed to allow the 60% quality evaluation to be raised to 100%. Providers will be remunerated on pre-determined tariffs defined in the ESIF funding bid and no price comparison is required.

3.1.3 Consequence if the proposed actions are not approved

Quality evaluation is required in order to ensure the Council can meet its obligations to deliver quality provision in accordance with the requirements of the DWP. If this proposal is not approved, providers would be unable to demonstrate any price related benefit and the Council would be unable to apply any appropriate criteria to assess this.

3.2 Waiver of CPR 3.1.23

3.2.1 Providers already appointed on a restricted framework from an earlier B2W tender during the funding bid phase, are being invited to bid for delivery call-off contracts for the range of activity described in the funding bid. Within each type of activity it is possible that some providers may target the same type of service users or geographical priority area resulting in potential duplication of provision for some of these factors and gaps in provision for others. In order to achieve a broad and balanced programme that meets the required outcomes it is proposed to undertake post tender negotiations where appropriate.

3.2.2 For this reason a waiver of CPR 3.1.23 is also requested in accordance with provisions set out in CPR 17.5 authorising negotiations where this is in the Council's interest to do so.

3.2.3 Consequences if the proposed action is not approved

If the Council is unable to enter into post tender negotiations with providers it may jeopardise the Council's ability to fulfil the contractual obligations to the DWP.

3.3 Advertising

3.3.1 The invitation to tender will be advertised through YORtender to the providers on the restricted framework of providers that were named in the funding bid submission.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The Executive Member for Employment, Enterprise and Opportunity was consulted on the proposed decision during March 2016.

4.1.2 Projects, Programmes and Procurement Unit (PPPU) officers were consulted and advised how to proceed with this waiver.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An equality impact assessment was carried out on 31 March 2016 in relation to the considerations outlined in this report. The assessment identifies that the Council will not be able to fulfil its contractual obligations to deliver all the required provision if approval is not granted to the waiver.

4.2.2 All bidders will be required to submit an Equality Diversity and Community Cohesion Impact Assessment as part of their tender submission to demonstrate that equality issues have been considered and will be embedded in the planning, delivery and review of provision. This is assessed through the quality criteria.

4.3 Council policies and Best Council Plan

4.3.1 As a key partner in the city and, as set out in the Best Council Plan 2015-20, the Council is committed to the 'promotion of sustainable and inclusive economic growth by improving the economic wellbeing of local people and businesses'. This encompasses improving employment outcomes for individuals with complex and, often multiple needs

4.4 Resources and value for money

4.4.1 Value for money is achieved through the seeking of competition and assessment of other factors as part of the evaluation process such as quality of provision and learner outcomes.

4.4.2 The set tariff rates defined in the bid are comparable with the other providers in the employment sector and in other local authority districts where similar provision is commissioned.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This report includes confidential Appendix A that contains the evaluation criteria for the tender bids. The evaluation information must not come into the public domain prior to the tender being published.

4.6 Risk Management

4.6.1 This procurement is being undertaken with the support and advice of PPPU.

4.6.2 The Council would consider revising the value of delivery contracts to any provider who significantly underperforms against delivery and/or quality targets.

5 Conclusions

5.1 The Council wishes to procure providers to deliver the ESIF B2W Programme for the next three years. Contracts will only be awarded to providers if the Council's funding bid to DWP is successful. Formal approval to award contracts has been included on the Forward Plan for the Executive Board in June 2016.

- 5.2 This report seeks approval of the evaluation criteria in accordance with CPR 15.1 which requires evaluation criteria to be pre-determined and approved at Chief Officer level.
- 5.3 Contract Procurement Rule (CPR) 27 authorises service directorate Chief Officers to take a delegated decision to waive certain requirements from the list of CPR's eligible for waiver defined in CPR 1.3.
- 5.4 In order to ensure delivery of a programme that meets contractual and geographic targets, approval is being sought to evaluate primarily on quality and, to undertake post tender negotiations through waivers of the contract procedure rules below:
- Waiver of CPR 15.2 - will enable the Council to use appropriate criteria and ensure quality of provision in accordance with the financial proposals in the bid submitted for DWP funding.
 - Waiver of CPR 3.1.23 will enable the Council to negotiate post tender. To ensure the Council can meet its contractual obligations to DWP is the Council funding bid is successful.

6 Recommendations

- 6.1 The Chief Officer Employment and Skills is asked to approve the criteria for evaluation and the waiver of contract procedure rules 3.1.23 and 15.2 to permit evaluation primarily on quality and to allow the Council to undertake post tender negotiations.

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.