

Report of: Chief Officer (Customer Access)

Report to: Assistant Chief Executive Citizens & Communities

Date: 15 August 2016

Subject: Interpreting and Translation Service – Procurement

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity or cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If 'yes', access to information procedure rule number:10.4 (3)		
Appendix number: 1		

Summary of main issues

1. An expression of interest under Community Right to Challenge legislation for the Interpreting and Translation Service was received on 30 January 2015. This expression of interest was accepted by the Assistant Chief Executive (Citizens and Communities) on 13 July 2015 which triggered the procurement process.
2. In line with that acceptance this report seeks the agreement of the Assistant Chief Executive (Citizens and Communities) to the procurement route, the programme, the scope and the budget for the formal procurement exercise under Contract Procedure Rule 3.1.8.

Recommendations

3. The Assistant Chief Executive is recommended to agree to the Council instigating the formal procurement exercise for the Interpreting and Translation service as per the acceptance in July 2015 of the Community Right to Challenge for the Interpreting and Translation service made in January 2015 and in line with legislation contained within the Localism Act 2011.

1 Purpose of this report

- 1.1 This report seeks the agreement of the Assistant Chief Executive (Citizens and Communities) to the procurement route, the programme, the scope and the budget and to move to the formal procurement for the Interpreting and Translation Service as per the acceptance in July 2015 of the Community Right to Challenge for the Interpretation and Translation service made in January 2015 and in line with legislation contained within the Localism Act 2011.

2 Background information

The Legislation

- 2.1 The Right to Challenge is part of the Localism Act 2011. The legislation allows voluntary or community bodies, parish councils and employees to express an interest in running a council service. If accepted, the council must undertake a procurement exercise and the normal procurement rules will apply. The Localism Act 2011 does not appear to contain any obligation to appoint following the completion of a tender exercise. Therefore the council's normal tender processes will apply. If none of the tenders submitted represent a better position for the council than continuing with the current provision (once they have been evaluated against the published evaluation criteria), they can be rejected.

Leeds City Council Procedure

- 2.2 On 17 October 2012 Executive Board determined an approach to decisions on Community Right to Challenge expressions of interest. An outline of this process is provided below:
- (i) The relevant Directorate and the Projects, Programmes and Procurement Unit ('PPPU') jointly consider any expression;
 - (ii) Relevant Members are consulted and the Executive Board Member who is responsible for the service area that is being considered in the expression of interest may refer the expression to Executive Board for a decision;
 - (iii) Liaison is undertaken with Area Leadership. In this case the service is council-wide and therefore this is not applicable;
 - (iv) A report is provided jointly by the PPPU lead and the directorate, taking account of feedback;
 - (v) The Chief Officer PPPU approves the report;
 - (vi) The relevant Director makes a decision on an expression except where referred to Executive Board.
- 2.3 An approach of engagement with voluntary and community sector organisations is supported.

Current position

- 2.4 The Interpreting and Translation Team is based within Face to Face Contact, Citizens and Communities directorate. The service employs four full time equivalent staff - one coordinator and three administrative staff. The function of the team is to manage, control and monitor the interpreter list. The service manages a register of approximately 300 freelance interpreters and translators. A network of external providers is offered work if there are no interpreters and translators available.
- 2.5 An informal expression of interest was made by an organisation in November 2013 in relation to the council's interpreting and translation service. The organisation registering the expression of interest is a West Yorkshire based Community Interest Company limited by guarantee providing interpreting services, and training and employment opportunities.
- 2.6 On 30 January 2015 a formal expression of interest was received from the organisation in relation to provision of the 'Interpreting and Translation Service in its entirety' and this was accepted by the Council on 13 July 2015, triggering the instigation of a procurement process.
- 2.7 Work has been ongoing since that date to plan for the procurement. A report to Citizens and Communities Leadership Team dated 21st September 2015 outlined the next steps and timescales. A budget and resource proposal to deliver the project has been agreed. To date the Procurement Plan has been finalised and agreed as well as the preparation of the project planning documentation such as the actions log, risk register and communications and engagement plan.
- 2.8 Drafting of the tender documentation is underway and the first draft of the tender Specification is substantially under development.

3 Main issues

- 3.1 The key issue is ensuring the delivery of an efficient and effective translating and interpretation service to meet the Council's commitment to equality of access to services and in compliance with the Equality Act 2010.
- 3.2 The competition following the Expression of Interest must be conducted in accordance with the Public Procurement Regulations 2015 and the Council's Contract Procedure Rules. Due to the heightened level of interest in this matter, it is imperative that the procedure is conducted particularly robustly and with absolute probity in order to minimise the risk of challenge as far as possible.
- 3.3 The tender procedure will involve clear lines of communication and engagement with stakeholders to ensure the specification accurately reflects the Council's requirements for an effective interpreting and translation service. Due care has been taken to respect the position of the in-house team with appropriate distance being observed between the project team and the in-house team. This will further mitigate the risk of challenge.
- 3.4 The in-house team will be required to submit a bid to exactly the same specification, criteria and timescales as external bids and will be evaluated to

provide a benchmark against which to assess the most economically advantageous bid. The Council has reserved its right not to award a contract should the in-house offering prove to be the preferred option following evaluation.

3.5 Should an external bid win the contract, then the services will be introduced in line with the transition and mobilisation plan and current staff may transfer to the new service provider under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended by the 'Collective Redundancies and Transfer of Undertakings (Protections of Employment)(Amendment) Regulations 2014). The CITU Co-ordinator who leads the in-house team has a wider remit and would therefore not be expected to transfer.

3.6 It has been assumed that since the Expression of Interest was accepted the market will be sufficiently well-developed to respond to a call for competition. However, both Wakefield and Bradford Councils are in the process of tendering the same services therefore market capacity has been identified as a potential issue.

4 Corporate considerations

4.1 Consultation and engagement

4.1.1 Citizens and Communities Leadership Team and the Chief Officer PPPU have been consulted.

4.1.2 The Executive Member for Communities has been consulted.

4.1.3 Trade Unions (should TUPE apply).

4.2 Equality and diversity, cohesion and integration

4.2.1 An equality and diversity, cohesion and integration screening has been undertaken as per the agreement made in July 2015 and is attached at Appendix B. The key actions to note from the EDCI screening are as follows:

- Building in known requirements of disabled users (for both staff and customers) within the specification
- Involving the Council's equality experts to ensure the proposed new service explicitly meets the accessibility standards (as set out in the accessibility audit report)
- Consultation with key stakeholders, including Members, throughout the procurement process to keep them informed of progress and any potential changes in future policies and operating procedures
- Engagement with and involvement of key users, disabled staff and customers during the evaluation process, to obtain their feedback on the proposed new service and consideration of any equality and diversity issues that may arise from their feedback.
- Involvement of key users, including staff, customers and disabled users during implementation of the new service.
- Marketing strategy including how the new service is to be articulated to the deaf and blind community
- Appropriate training for staff
- Establishing procedures for how a customer informs staff members they need an interpreter or translator.
- Introduction of monitoring to test whether the service is cost effective and is improving customer access (including feedback direct from customers).

4.3 Council policies and the best council plan

4.3.1 The Interpreting and Translation Service plays a key role in helping the Council address poverty and deprivation, helping people into work and tackling social isolation. Specifically the service contributes to the delivery of the Best Council Plan outcomes for everyone in Leeds to 'Earn enough to support themselves and their families' and this year's Best Council Plan priorities around 'supporting economic growth and access to economic opportunities', 'providing skills programmes and employment support' and 'helping people adjust to welfare changes'.

4.4 Resources and value for money

4.4.1 The resource implications of the procurement exercise with regards to project and procurement support from PPPU has been agreed with the Assistant Chief Executive (Citizens and Communities) and will be met from within existing budgetary provision.

4.5 Legal implications, access to information and call-in

4.5.1 This decision to procure is as a result of the Council's acceptance of an Expression of Interest under the Community Right to Challenge (which is part of the Localism Act 2011).

4.5.2 The procurement is being conducted in accordance with the Public Procurement Regulations 2015 (Open Procedure) and the Council's Contract Procedure Rules.

4.5.3 Due to the inclusion of commercially sensitive information relating to the Council's financial or business affairs, Appendix A of this report is exempt from publication under the access to information rule 10.4(3).

4.5.4 It has been identified that TUPE may apply should a contract be awarded to an external service provider as a result of the procurement exercise.

4.5.5 Due to the value of the services, this decision to procure is categorised as a Key Decision and as such will be subject to call-in.

4.5.6 Citizens and Communities Leadership Team will act as the governance Board for the procurement process.

4.6 Risk management

4.6.1 There is risk inherent within the procurement process in relation to business continuity and staff morale. Implications for interpreters and translators currently registered with the council service will also have to be managed.

4.6.2 A risk register has been maintained throughout the procurement process to ensure risks clearly identified and managed.

5 Recommendations

- 5.1 The Assistant Chief Executive is asked to agree the procurement route, the programme, the scope and the budget for the formal procurement exercise under Contract Procedure Rule 3.1.8 and approve the Council instigating the formal procurement exercise for the Interpretation and Translation service as per the acceptance in July 2015 of the Community Right to Challenge for the Interpretation and Translation service made in January 2015 and in line with legislation contained within the Localism Act 2011.

6 Background documents¹

- 6.1 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.