

Report of Chief Procurement Officer, PPPU

Report to The Head of Learning Systems

Date: 26th September 2016

Subject: Waiver report for procurement of specialist government advisor on cost-led procurement for Shakespeare Primary Expansion



Are specific electoral wards affected? If relevant, name(s) of ward(s): Richmond Hill & Burmontofts; Gipton & Harehills	<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. It is proposed that Shakespeare Primary School increase its roll starting at reception level from 1.5 forms of entry (FE) to 3FE by relocating the primary school to the former Primrose High School site off Dolly Lane and the new accommodation and external play areas etc. associated with this expansion being required by September 2018. The change of school is required to deliver the overall additional 315 pupil places in order for the school to accommodate this 45 place increase in intake at reception level.
2. The proposed expansion project will be delivered under the Learning Places Programme.
3. The Director of Children’s Services approved the Procurement Strategy for Shakespeare Primary on 12th September 2016 and this is currently within the call-in period, which ends on 27th September 2016. The procurement strategy follows a new model of procurement recommended by the Cabinet Office and Constructing Excellence, Cost Led Procurement (CLP).

4. CLP is a new approach for Leeds City Council and no internal expertise is available with regard to this approach. As such, it has been agreed with the Cabinet Office that the scheme will be one of their "Trial Projects", and the Cabinet Office require a mentor to be assigned in order to provide the specialist support and knowledge required along with access to historic data reference sets. The mentor has been assigned to this Trial Project by the Cabinet Office as part of the Trial Project Working Group and is not subject to choice by the Council.
5. There is a cost attached to this support of up to £25k, including disbursements and expenses, representing 0.16% of the overall scheme budget.
6. This report seeks a waiver of CPR 8.1 and 8.2 (intermediate value procurements) to award a contract direct to the mentor, VEB Lean Ltd, up to the sum of £25,000. The contract shall commence in September 2016 and expire on completion of the project.

Recommendations

The Head of Learning Systems is requested to:

- Approve the waiver of CPR 8.1 and 8.2 (intermediate value procurements) to award a contract direct to the CLP Mentor, VEB Lean Ltd, in the sum of £25,000 for the provision of specialist support and advice on the implementation of the CLP method being utilised for the Shakespeare Primary School project to commence in September 2016 and expire on completion of the project.

1 Purpose of this report

- 1.1 To seek approval for the waiver of CPR 8.1 and 8.2 (intermediate value procurements) so that LCC can directly commission a Cabinet Office Mentor, VEB Lean Ltd, in the sum of £25,000 for the provision of specialist support and advice on the implementation of the CLP method being utilised for the Shakespeare Primary School project to commence in September 2016 and expire on completion of the project.

2 Background information

- 2.1 It is proposed that Shakespeare Primary School, as part of the Learning Places Programme for Leeds, increase its roll starting at reception level from 1.5FE to 3FE by relocating the primary school to the former Primrose High School site off Dolly Lane and the new accommodation and external play areas etc. associated with this expansion being required by September 2018. The change of school is required to deliver the additional overall 315 pupil places in order for the school to accommodate this 45 place increase in intake at reception level.
- 2.2 Subject to approval of the procurement strategy, the Shakespeare Primary Scheme will follow a new model of procurement recommended by the Cabinet Office and Constructing Excellence, Cost Led Procurement (CLP).

3 Main issues

- 3.1 Reason for contracts procedure rules waiver
- 3.1.1 It is proposed that the expansion scheme for Shakespeare Primary School follows a new model of procurement recommended by the Cabinet Office and Constructing Excellence, CLP. This is a procurement method intended to allow the industry to use its experience and knowledge to develop innovative solutions through leveraging design, materials, subcontracting and direct labour to the advantage of the client.
- 3.1.2 There are no Internal Service Providers, existing providers or Third Party Framework Agreements capable of providing the required services. As such, it has been agreed with the Cabinet Office that the scheme will be one of their "Trial Projects" and the Cabinet Office require a mentor to be assigned in order to provide the specialist support and knowledge required along with access to historic data reference sets. The mentor has been assigned to this Trial Project by the Cabinet Office as part of the Trial Project Working Group and is not subject to choice by the Council.
- 3.1.3 This waiver is sought in order to enter into a contract directly with the Cabinet Office's assigned mentor who is the only person who can take on this role and provide the required level of support and data
- 3.1.4 The Cabinet Office mentor will ensure the principles of this new method are followed to gain full benefit from this procurement approach. There will be a cost associated to this engagement which will be minimal, up to £25k, but this will provide additional industry experience and access to a wider range of baseline information on which to set a robust cost ceiling and progress the procurement.
- 3.1.5 An academic partner will be appointed by the mentor who will compile data and fact sheets from this scheme demonstrating the outcome to provide an example of a scheme following a CLP approach.

- 3.1.6 This is the first time in Leeds that a learning places school expansion scheme has been developed using CLP. Once this scheme has been delivered, a lessons learned exercise will be undertaken.
- 3.1.7 If the outcome of the lessons learned, and the reporting from the academic partner, demonstrates a saving against traditional procurement routes then CLP will be considered for future schemes.
- 3.1.8 The request for waiver of CPR 8.1 and 8.2 for this scheme is required to engage the mentor to enable the Council to trial this approach.

4 Consequences if the proposed action is not approved

- 4.1.1 If the Council is unable to procure the mentor, the proposed scheme would not be accepted as a Trial Project with the Cabinet Office. As such, the Council would not have access to the market experience, specific data and guidance to develop the procurement approach. This would reduce the likelihood of achieving the potential savings.

4.2 Advertising

- 4.2.1 No advertising has been undertaken due to the reasons set out in section 3 above

5 Corporate considerations

5.1 Consultation and engagement

- 5.1.1 The publication of the Statutory Notice to expand and relocate Shakespeare Primary School was approved by Executive Board on 22 June 2016. Final determination is expected at Executive Board on 21st September 2016.
- 5.1.2 The procurement strategy had been approved by the Director of Children's Services and the call in period ends on 27th September
- 5.1.3 The Chief Procurement Officer has been briefed on the waiver of CPR 8.1 and 8.2 and supports this approach.

5.2 Equality and diversity/cohesion and integration

- 5.2.1 An Equality, Diversity and Cohesion Impact Screening has been undertaken for this scheme and determined that a full assessment is not required.

5.3 Council policies and best council plan

- 5.3.1 This scheme is due to be delivered under the City Council's Learning Places Programme and is required to meet the Council's statutory duty to ensure there are sufficient school places for all the children in Leeds. Providing places close to where children live allows improved accessibility to local and desirable school places, is an efficient use of resources and reduces the risk of non-attendance, supporting the Best Council Plan priority to 'Improve educational achievement and close achievement gaps' as part of contributing to the wider Best Council Plan outcome for everyone in Leeds to 'Do well at all levels of learning and have the skills they need for life'.

5.4 Resources and value for money

- 5.4.1 The associated cost to this engagement will be minimal, up to £25k, representing 0.16% of the overall scheme budget, but this will provide additional industry experience and access to a wider range of baseline information on which to base the CLP for this scheme.
- 5.4.2 The procurement approach sets out to drive costs down by working collaboratively with the industry to use its experience and knowledge to develop innovative solutions through leveraging design, materials, subcontracting and direct labour to the advantage of the client.
- 5.4.3 Other trial schemes mentored via the Trial Projects Working Group have realised savings ranging between 6% and 13% against traditional procurement routes, and this scheme is expected to achieve similar savings.

5.5 Legal implications, access to information and call-in

- 5.5.1 This is a significant operational decision and is therefore not subject to Call In. The content of this report is not exempt or confidential under the Access to Information Procedure Rules.
- 5.5.2 Awarding this contract directly to VEB Lean Ltd 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.
- 5.5.3 Case law suggests that the Council should always consider whether contracts of this value should be subject to a degree of European wide advertising if it could be of interest to contractors in other Member States. It is up to the Council to decide what degree of advertising is appropriate but 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.
- 5.5.4 The Director of Children's Services should take this into consideration when making a decision to waive CPR 8.1 and 8.2 and, due to the nature of the services being delivered, that the services to be performed require specialist knowledge of the particular procurement route being proposed, also consider whether the scope and nature of the services is such that it would not be of interest to contractors in other EU member states.
- 5.5.5 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 5.5.6 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 & 8.2, the above comments should be noted by the Director of Children's Services in making the final decision as to whether the award of this contract and be satisfied that to do so represents best value for the Council.

5.6 Risk management

- 5.6.1 Proceeding with the cost led approach without the guidance of the mentor and access to their data sets, is likely to impact on the outcome and limit the savings and benefits that could be made against following a traditional procurement route.

6 Conclusions

- 6.1 The procurement strategy for the delivery of Shakespeare Primary School expansion, sets out to facilitate a value for money scheme ensuring that costs are within a robust pre-determined cost ceiling. Acceptance as a Trial Project with the Cabinet Office requires the appointment of their assigned mentor who is the only person who can take on this role and provide the required level of support and data.

7 Recommendations

The Head of Learning Systems is requested to:

- Approve the waiver of CPR 8.1 and 8.2 (intermediate value procurements) to award a contract Direct to the CLP Mentor, VEB Lean Ltd, in the sum of £25,000 for the provision of specialist support and advice on the implementation of the CLP method being utilised for the Shakespeare Primary School project to commence in September 2016 and expire on completion of the project.

8 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.