

**Report of** Head of Service, Adult Social Care

**Report to** Director of Adult Social Services

**Date:** 15 February 2017

**Subject: Request approval of Contracts Procedure Rules 21.1 – Contract Extension to take up the First 12 Month Extension of an existing contract (YORE-99AGH8 - Supply, Maintenance & Repair of Overhead Tracking Hoists)**

Are specific electoral wards affected? If yes, 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 checked="" type="checkbox"/> Yes	<input 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. Following the tender exercise for supply, maintenance and repair of overhead tracking hoists and the repair of mobile hoists and stand aids, the Director of Adult Social Services approved contract award YORE-99AGH8 under CPR 18.1 to Prism for three years from 1st December 2013 to 30th November 2016, with the option to extend for a further two 12 month periods. The annual value of the contract is £309,844.
2. Under the terms of the contract the agreement may be extended by agreement of both parties, such extension to be evidenced in writing. The contract was due to expire on the 30th November 2016 but, due to confusion over the value of the contract extension, the request to extend the contract was not sought in sufficient time to comply with the Council's internal processes, although it was identified at the end of October 2016 that the contract was due to expire at the end of November 2016.
3. Advice from the Commercial Team, Projects, Programmes and Procurement Unit was that as the parties had tacitly agreed to extend the contract, which is supported by the fact that the provider has continued to supply these services beyond the 30<sup>th</sup> November 2016 and we have continued to pay them, this contract had in fact been extended, and under the terms of the contract it simply needed ratifying in writing once the Council's internal processes had been concluded. The request is therefore to extend the current contract. This remains a key decision given the annual value of the contract and the notification on the Forthcoming List of Key Decisions has been amended to reflect this.

## **Recommendations**

4. The Director of Adult Social Services is therefore recommended to approve the take up of the first 12 month extension of an existing contract (YORE-99AGH8 - Supply, Maintenance & Repair of Overhead Tracking Hoists). The annual value of the contract is £309,844.
5. Implementation discussions will take place with Prism once the contract has been extended.
6. The proposed timescale for implementation is March 2017 and the contract will run until 30<sup>th</sup> November 2017.
7. The Service Delivery Manager – Assisted Living Leeds will be the officer responsible for the implementation of the extended contract.

### **1.0 Purpose of this report**

- 1.1 To request approval to take up the first 12 month extension of an existing contract (YORE-99AGH8 Supply, Maintenance & Repair of Overhead Tracking Hoists)

### **2.0 Background Information**

- 2.1 The contract is for the supply, maintenance & repair of overhead tracking hoists that are installed in service user's homes following assessment of need and moving and handling risk assessment. The risk assessments are performed to establish a moving and handling plan and reduce moving and handling risk, as far as reasonably possible, for disabled people and both paid and unpaid carers. Under the terms of the existing contract joint visits by the assessor and the supplier are undertaken. The supplier will assess the environment to ensure that the equipment can be safely installed and that any associated works e.g. Joinery, Electrical or Structural, are identified in order for the installation to take place.
- 2.2 New tracking hoists are funded from the capital budget for Adaptations to Private Properties following assessment and recommendation by the Council's Occupational Therapy service. The servicing, repair, removal and re-siting of this equipment is funded from revenue budgets. The hoists are installed, serviced, repaired, removed, stored and re-sited under the terms of the contract.
- 2.3 Housing Leeds use the contract to provide an equal service to their tenants. The contract is also used by ASC residential and day care and Shared Lives Service for maintenance and meeting LOLER regulations on their mobile hoists. Other parts of the council eg: Leisure Centres will also utilise the contract for their requirements.
- 2.4 The annual contract value is £309,844.

### **3.0 Main issues**

- 3.1 This service provision is essential to ensure disabled adults, older people and disabled children can be supported safely at home by paid and unpaid carers. The provision supports strategies to enable people to remain at home, avoiding admissions to short and long term bed based services. Installations are also carried out as part of hospital discharge planning. ASC also use the service to maintain the safety of mobile hoists and "stand aids" used in residential and day care settings and in its Shared Lives service.
- 3.2 Key requirements of the contract include

- The ability of the supplier to carry out joint assessment visits with occupational therapists. All new installations require a joint assessment visit.
  - To be able to remove used tracking hoist, refurbish it and store until required for reissue.
  - To be able to provide 24 hour cover with a 4 hour response time.
- 3.3. The contract was put in place following a competitive tendering process. The supplier has delivered good performance over the first three years which has been demonstrated by monthly reporting against Key Performance Indicators and a six monthly meeting with the contract manager. There is no indication that it would be beneficial to go back out to tender rather than take up the option to extend for a further year.

### **Tender Exercise**

- 3.4 The tender was initially advertised on 29<sup>th</sup> July 2013 and the tenders evaluated on 50% price and 50% quality. The successful tender has been subject to monthly reporting against KPIs and six monthly monitoring meetings. Performance for the first three years has been good.

### **Consequences if the proposed action is not approved**

- 3.5 The service would not be able to install tracking hoists into any of the settings described. This would lead to delays in hospital discharges, increase admissions to long term care and unreasonable levels of moving and handling risk to paid and unpaid carers.
- 3.6 The Service would additionally not be able to request repairs to faulty equipment, which may result in injury to service users and paid and unpaid carers due to unsafe manual lifting and increased admissions to long term care and hospital.
- 3.7 The Council would fail to meet its statutory requirements to ensure that equipment is serviced annually and a twice year LOLER 1998 conducted.
- 3.8 If the contract is not extended under its current terms and conditions then the service would continue on an implied contract basis only. This means that the service wouldn't be protected by the current conditions of the contract and the current provider could potentially increase their costs meaning a loss of the efficiencies that have benefited the service.

### **Advertising**

- 3.9 It is not proposed to advertise this opportunity as the contract has been extended in accordance with its terms.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.2 Key staff from Adult Social Care Occupational Therapy Services, Leisure Services, ALMOS, Leeds Community Healthcare and Children's Social Care have been consulted and all are in agreement with regard to the extension of the contract.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An Equality, Diversity, Cohesion and Integration Screening has been completed (see Appendix 1), which demonstrates that the service meets the desired equality requirements to cover the extension period

### **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 Council Business Plan – this work contributes to the target to increase the number of people successfully completing a programme to help them relearn the skills for daily living; increase proportion of older people (65 and over) who were still at home 91 days after leaving hospital into rehabilitation services; increase the percentage of service users who feel that they have control over their daily life.

4.3.3 Best Council Plan 2015 – 20 – this work contributes to the Better Lives programme and to the breakthrough project of making Leeds the best place to grow old. For children this work contributes to supporting children to have the best start in life

4.3.4 To focus on helping all children to be healthy, safe from harm.

### **4.4 Resources and Value for Money**

4.4.1 The annual value of the contract is £309,844. There has been no price increase as a result of this action; the contract remains value for money.

4.4.2 The contract is funded through the capital budget for Adaptations to Private Property and some use of revenue budgets for servicing and repairs.

4.4.3 The contract was put in place following a competitive tendering process. The supplier has delivered good performance over the three years which has been demonstrated by monthly reporting against Key Performance Indicators and a meeting with the contract manager. It is therefore considered that the contract continues to provide value for money to the Council and there is no indication that it would be beneficial to go back out to tender rather than take up the option to extend for a further year.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 As the overall value of this decision is above £250,000 this decision is a Key Decision and is 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 The contract terms allow for the extension to be taken up before the expiry date so long as the contract still delivers best value for money.

4.5.3 The contract contained provisions for extension of the initial period by 2 additional periods of 12 months. However, due to confusion over the value of the contract extension, the request to extend the contract was not sought in sufficient time to comply with the Council's internal processes, although it was identified at the end of October 2016 that the contract was due to expire at the end of November 2016.

4.5.4 Advice from the Commercial Team, Projects, Programmes and Procurement Unit was that as the parties had tacitly agreed to extend the contract which is supported by the fact that the provider has continued to supply these services beyond the 30th November 2016 and we have continued to pay them, this contract had in fact been extended, and under the terms of the contract it simply needed ratifying in writing once the Council's internal processes had been concluded. The request to extend the contract remains a key decision

given the annual value of the contract and the notification on the Forthcoming List of Key Decisions has been amended to reflect this.

- 4.5.5 Under Clause 2.3 of the contract terms and conditions any extension must be agreed by both parties, to be evidenced in writing. There is no time limit imposed by the contract as to when the agreement to extend must be evidenced in writing, so it is perfectly reasonable to conclude that the parties always had an intention to extend the contract before the 30th November 2016, and that we are now simply ratifying that decision in accordance with the Council's constitution.
- 4.5.6 It could be argued that we have failed to comply with our own internal Contract Procedure Rules (CPR) as CPR 21.1 requires the "contract extension to be put in place before the contract expiry date...in accordance with the contract terms". For the reasons set out at paragraph 7.5.5 above, it is considered that this requirement has been met. Even if such an argument were to be put forward by a contractor who considers this opportunity should have been tendered, the Council's action must have complied with the "spirit" of CPR 21.1, but we have simply failed to comply with the internal processes in time in order for the extension to be "evidenced in writing" before the 30th November 2016. It is for these reasons that any risk of a challenge is considered to be low.
- 4.5.7 Although there is no overriding legal obstacle preventing the extension of this contract the contents of this report should be noted. In making their final decision, the Director of Adult Social Services should be satisfied that the course of action chosen represents best value for the Council.

## **4.6 Risk Management**

- 4.6.1 It would be very difficult to manage the risk of not having a contract in place. Mobile hoists would be available but this would not meet the moving and handling needs of all service users. Incidents occurring with equipment which has not been serviced or LOLER tested could leave the Council at risk of litigation and reputational harm.

## **5. Conclusions**

- 5.1 By granting the first extension of 12 months from 1st December 2016 it will ensure that the service is able to continue to order tracking hoists to enable customers to be supported safely at home, and to ensure that the Council continues to comply with the legal requirements of LOLER a new contract is required.

## **6. Recommendations**

- 6.1 The Director of Adult Social Services is therefore recommended to approve the take up of the first 12 month extension of an existing contract (YORE-99AGH8 - Supply, Maintenance & Repair of Overhead Tracking Hoists). The annual value of the contract is £390,844k.
- 6.2 Implementation discussions will take place with Prism once the contract has been extended.
- 6.3 The proposed timescale for implementation is March 2017 and the contract will run until 30th November 2017.
- 6.4 The Service Delivery Manager – Assisted Living Leeds will be the officer responsible for the implementation of the extended contract.

## **7. Background documents <sup>1</sup>**

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they

7.1 None