

Approval to award a new contract under Regulation 32(2)(b)(ii) of the Public Contracts Regulations 2015 - Use of the negotiated procedure without prior publication - for the Customer Service Transformation

Date: 27th March 2024

Report of: Chief Officer Community Hubs, Welfare & Business Support

Report to: Director of Strategy and Resources

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Approval to direct award a new contract to KPMG LLP under Regulation 32(2)(b)(ii) of the Public Contracts Regulations (PCR) 2015 - use of the negotiated procedure without prior publication - for the provision of services as a proof of concept (PoC).

As part of the Financial Challenge, there is a need to reassess and drive forward a "Customer Contact" strategy which looks to drive efficiencies (both organisational and technological) to ensure consistent, joined up and accessible customer services across the whole organisation. KPMG have offerings to deliver a proof of concept to redesign a service using MS Dynamics CRM - to model a user centric, automated transformed service and verify if this technology will support the customer contact strategy.

Recommendations

- 1 The Director of Strategy and Resources is recommended to approve the use of Regulation 32(2)(b)(ii) of the Public Contracts Regulations (PCR) 2015 – Use Negotiated Procedure without Prior Publication of a Contract Notice for the direct award of a new contract to KPMG LLP (KPMG), for the provision of specialist resources to deliver a PoC using Microsoft Dynamics. The contract will commence as soon as possible, with the intention of it ending within 6 months. KPMG will use Online Service Advisor credits to fund this work - the value of this is £270,000. **There is no cost to Leeds City Council** (the Council) for the award of this contract. Therefore, the value of this contract is £270,000 and will be funded solely from the Credits that KPMG have from Microsoft solely for use with the Council.

What is this report about?

- 2 The purpose of this report is to set out the reasons for seeking approval to award a new contract under Regulation 32(1) (b) (ii) of the Public Contract Regulations 2015 - Negotiated

Procedure without prior publication of a Contract Notice - to KPMG for specialist technical resources in this field.

- 3 At the heart of the Customer Contact Strategy is the development and implementation of a single integrated customer relationship management (CRM) solution. This technology will enable greater choice around the services customers consume and improve the availability of self service. Delivery of these technical capabilities and services is intended to deliver financial savings on the basis that customer-led transformation will generate considerable efficiencies.
- 4 The proposal is for the Council to enter a contract with KPMG to deliver a PoC using Microsoft Dynamics CRM, to help with our goals of increasing efficiency in the organisation, improving case management and customer services and lowering demand through better use of resources and technology. If this PoC is successful, further work will be scoped to implement a wider scale delivery of Microsoft Dynamics CRM cross the organisation.
- 5 KPMG will fund this work using Microsoft Online Service Advisor credits worth £270,000. These credits are given to KPMG by Microsoft. KPMG can only apply these credits to help with further implementation or development of Microsoft technologies and must use them by November 2024, solely for use with the Council. The credits are given to KPMG by Microsoft for previous work between KPMG and the Council that is supporting the implementation of Microsoft Dynamics Finance and Operations.

What impact will this proposal have?

- 6 The proposal does not impact on members of the Council staff in terms of changes to structures or roles. There is an assessment that the proposal will be positive for the Council staff in removing workload pressures by working on cross-cutting efficiencies and automations that allow for more consistent and dedicated customer contact experiences.
- 7 The engagement and partnership with KPMG will allow the Council to accelerate the delivery of this work by providing dedicated and specialist resources who will deliver a redesigned end-to-end service as a Microsoft proof of concept product.
- 8 There will be an impact on resources to ensure success which are reliant on senior stakeholder buy-in, short-term, dedicated, and focused stakeholders from across the organisation who have the authority to make decisions and access to data to inform the work which may impact service teams in a short-term but forewarned capacity.
- 9 These outputs should allow for the Council to have a dynamic, resilient, and short-to-mid-term priorities on organisational and technological delivery on delivering better engagement with our customers.
- 10 The wider impact on customers will help to reduce systemic barriers, improve access to information and services in a way that is accessible to them. This is foreseen to lead to a reduction in direct contact with the Council (because the information is clear and concise), reduction in complaints and increased satisfaction levels across the whole organisation.
- 11 The proposal in this report will strengthen the capacity of the LCC programme delivery team to a level which will enable a more rapid rate of delivery of priority project work. Delays in procuring these resources will cause delays to this major transformation programme that is reliant on creating financial savings.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 12 As part of the proposed Customer Services transformation work taking place within the Council, any improvements driven by this contract would directly help to deliver on the three pillars of the Best City Ambition.
- 13 As part of the Customer Contact approach and mentioned through the Best City Ambition, we recognise the need for customers to have accessible, easy-to-use and services that empower them to self-serve more widely. This is intended to also help tackle systemic inequalities and that our work would be driven by co-production through the lens of our customers.
- 14 Having more consistent and dynamic customer-led approaches will also ensure that businesses and public institutions are able to engage effectively with the Council, encouraging the Inclusive Growth pillar.
- 15 Ensuring equitable access to essential services, creating cycles of improvement within housing and the ability to model more joined up services within the Council serves to drive the Health and Wellbeing pillar.
- 16 This proposal relates to the provision of new technology, its impact on climate change initiatives is mainly through the support it gives those services using it.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 17 Consultation has taken place with the Directors of the Council and the Elected Member for Resources to discuss this proposal. We acknowledge the importance of continuing to deliver on our ambitions within Leeds, whilst working within complicated financial constraints with our Financial Challenge. Yet because of these constraints, we must look to deliver services and work with our customers in a better way.

What are the resource implications?

- 18 There are no resource implications in terms of changes to structures or reduction in job roles. The resource implications relate to easing pressure on already over worked teams, thus reducing stress levels and attrition rates.
- 19 There will be a short-term resource implication to support the delivery of this work with KPMG if it is approved within the Transformation Teams and the Customer Leads plus Project Management resource, but many of the strategic leads are already engaged with an internal piece of work that is looking at the same approach.

What are the key risks and how are they being managed?

- 20 The key risk in engaging KPMG is that the organisation resource may not be able to make the decisions or actions needed to drive change. There is also a risk that proposals or outputs are produced that we are not able to revisit or improve with the specialist resource due to the timescale of the contract.
- 21 Internally risks are that whilst we might be able to generate positive and innovative directions of travel, organisation and cultural change is difficult to put into practice. It is acknowledged that the organisation is at risk from staff reductions through the financial challenge which also has an impact on staff retention and wellbeing.

- 22 Another risk which is present with or without the agreement to progress, is that the organisation will be engaging on the customer services transformation at the time when there are fluctuations in proposals to address other organisational savings. This is likely to impact on delivery and may provide pressures on the organisation because of unprecedented spikes of engagement, increased pressures faced by customers and resource pressures driven by staff reductions or service changes.
- 23 These changes are being managed at an organisational, directorate and service level through staff communications, engagement sessions, union involvement and consultations.

What are the legal implications?

- 24 The decision to direct award a new 6-month contract to KPMG LLP (at nil value to the Council), is a Significant Operational Decision (SOD), however is not subject to a call in.
- 25 The assessment of this direct award being determined as a SOD is based on the relative value of the service credits KPMG LLP are to receive directly from Microsoft, which as stated at paragraph 5 above, is £270,000.000. Meaning, that whilst the direct cost to the Council is nil value, the relative value assessment in procurement terms, is also based upon the service credits relative value. Therefore, the contract value here is above the UK Public Procurement threshold for services and as such is subject to The Public Contract Regulations (PCR) 2015.
- 26 The Council believes that the decision to award a new contract to KPMG is permitted pursuant to Regulation 32(2)(b)(ii) of the PCR 2015 which states:

32.-(1) In the specific cases and circumstances laid down in this regulation, contracting authorities may award public contracts by a negotiated procedure without prior publication.

(2) The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases: -

(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons: -

(ii) competition is absent for technical reasons,...

but only, in the case of paragraph (ii)...., where no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

- 27 Paragraph 5 of this report sets out the technical reasons why competition is absent and the reasons why no reasonable alternative or substitute exists, as required by Regulation 32(2)(b)(ii) PCR 2015 that the Council would rely on to justify its decision.
- 28 Notwithstanding the above, there is the potential risk of challenge that there are no real reasons justifying the use of Regulation 32(2)(b)(ii) PCR 2015, and that the Council is simply seeking to circumvent the application of the rules. However, due to the reasons set out in paragraph 3 of this report the risk of such challenge is low.
- 29 In addition, these risks can be further mitigated by the publication of a voluntary transparency notice on Find a Tender immediately after the decision to award the contract has been taken and then waiting 10 days to see if any challenges are made. If no challenges are made the chances of a claim for ineffectiveness being brought are significantly reduced and would only be successful if the Council had used the negotiated procedure without publication of a notice incorrectly. Further, publishing such a notice will also start time running for any other potential claim for breach of the Regulations, which must be brought within 30 days of the date that an aggrieved party knew or ought to have known that a breach had occurred.

30 The Council's Contract Procedure Rules (CPR), namely CPR 9 and CPR 10 provide internal governance for high value procurements. Where CPR 10.2 specifically further confirms "*Where the relevant Director in consultation with PACS agree that the negotiated procedure without publication of a contract notice applies there is no requirement to obtain a waiver of CPRs 9.1 and 9.2.*" Therefore, the direct appointment proposed here to KMPG LLP funded solely by service credits, whilst is of high value in terms of the Council's CPRs, importantly it does not require a waiver to be sought, as the direct award spend is based upon the grounds of Regulation 32 (2)(b)(ii) PCR 2015.

31 The Concession Contracts Regulations 2016 were considered within the context of this appointment, however they were disregarded, as the Council does not own or control the service credits. These are in the direct ownership of KPMG LLP, having been accrued by work previously undertaken for the Council in conjunction with Microsoft. The services credits are personal KMPG LLP and the Council.

32 These comments should be noted by the Director of Strategy and Resources and in making their final decision and in particular be aware of the risk of challenge to the Council identified above and should be satisfied that on balance the course of action chosen represents best value for the Council.

Options, timescales and measuring success.

What other options were considered?

33 The council has not considered other options for procuring these services as doing so would not achieve best value for money.

How will success be measured?

34 Success will be measured against KPMG's outputs set out in the POC work package, to be produced as part of the customer strategy work.

35 Success will also be measured against KPMG's methods and delivery approach, including adherence to the timescales, budget, project goals, inclusion, equality and diversity, stakeholder satisfaction and communications, to ensure quality of delivery throughout the lifecycle of this project.

What is the timetable and who will be responsible for implementation?

36 The new contract will be awarded as soon as is practicable and allowable after approval by Director of Strategy and Resources.

Appendices

- None

Background papers

- None