

Report of: Digital and Learning Development Manager, Library and Information Service

Report to: Chief Digital and Information Officer

Date: 12th April 2018

Subject: Report to seek a waiver of Contract Procedure Rules 9.1 and 9.2 to enter into a contract with Telefonica UK Limited to provide a Tablet Lending Scheme with device management services

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 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If 'yes', access to information procedure rule number:		
Appendix number:		

Summary of main issues

1. The library and information services conducted a procurement exercise for the provision of a Tablet Lending Scheme. The procurement exercise did not result in a contract being awarded as all submissions were either non-compliant or failed to pass the required qualification thresholds.
2. One supplier (Telefonica UK Ltd) demonstrated during the procurement that they can deliver the elements required to ensure the successful implementation of the Tablet Lending Scheme.
3. This waiver of contracts procedure rules is seeking to award an interim contract to Telefonica UK Ltd to enable the Library and Information Service to deliver a tablet lending scheme. The scheme is an integral part of the wider digital inclusion programme for citizens that the library service is leading as part of the Smart Cities 100% Digital Leeds strategy.

Recommendations

The Chief Digital and Information Officer is recommended to approve the waiver of the following Contracts Procedure Rule(s):

Contracts Procedure Rule Nos 9.1 and 9.2 - High Value Procurements to enter into a contract with Telefonica UK Limited to provide a Tablet Lending Scheme with device management services.

1 Purpose of this report

- 1.1 This report sets out the reasons for recommending that the Chief Digital and Information Officer approves a waiver of Contract procedure Rules 9.1 and 9.2 to enter into a contract with Telefonica UK Limited for the provision of a Tablet Lending Scheme at an initial cost of £99,985.90 which could increase should more funding be made available to procure further tablets over the next 24 months.

2 Background information

- 2.1 City Development Scrutiny Board at its meeting on 17th June 2015 resolved to undertake an inquiry looking at Digital Inclusion. Research has identified that poverty is one barrier to internet connectivity and concern was expressed that many areas of the council are evolving to 'digital by default'.
- 2.2 The 100% Digital Leeds Smart City strategy will ensure the city is sustainable, competitive and inclusive for all in the 21st century. To be a compassionate city with a strong economy, we need to ensure that all of our citizens are digitally included. Our Digital Inclusion programme is addressing all of the issues raised by the Scrutiny Inquiry and tackles the three main barriers to digital inclusion:
 - Lack of online skills/confidence
 - Cost of equipment and broadband access
 - Lack of interest/motivation
- 2.3 The overall aim of this programme is to increase digital inclusion of Leeds citizens through a targeted engagement and marketing campaign, the provision of skills training and access to hardware and broadband as required. The introduction of a tablet lending scheme is an integral part of this programme.

3 Main issues

- 3.1 Library and Information Services undertook a procurement exercise in October 2017 for the provision of a Tablet Lending Scheme. The procurement did not result in a contract being awarded as all other submissions received were either non-compliant or failed to pass the required qualification thresholds.
- 3.2 During the procurement process Telefonica UK Ltd were the only supplier to successfully pass the qualification stage. Telefonica also demonstrated the ability to deliver against the Councils requirements.
- 3.3 In order to ensure delivery of a Tablet Lending Scheme over the next 24 months the Library and Information Services are seeking to award an interim contract to Telefonica UK Ltd.

- 3.4 There is a pressing need to award the contract as soon as possible as there are a number of dependencies that rely on the successful introduction of a tablet lending scheme.

Dependencies include: Since the successful pilot tablet lending scheme in 2017, partner organisations have identified users who are waiting to benefit from the scheme; Housing are introducing new 'Digital by Default' services and will use the tablets with some of their most vulnerable tenants; The Homelessness Reduction Act came into force earlier this month and places new responsibilities on the council - the wider digital inclusion programme and the tablet lending scheme in particular is one of the ways in which the council will meet these responsibilities.

- 3.5 During the course of the interim contract the service will re-assess options for procuring a longer term Tablet Lending Scheme. It is anticipated that more suppliers will be in a position to provide the required service when the next procurement commences.

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Consultation was undertaken with key stakeholders prior to the procurement commencing. Consultation was also undertaken with DIS Strategic Sourcing and PPPU Commercial team prior to seeking approval of this report.
- 4.1.2 Consultation is ongoing with colleagues and partners within the council, the NHS and third sector organisations across the city who are keen to ensure that their clients can benefit from the scheme.

4.2 Equality and diversity, cohesion and integration

- 4.2.1 Work is ongoing to identify the groups and areas of the city that are most at risk of digital exclusion. National research shows that people who are digitally excluded are also likely to be unemployed or on a low income, be chronically ill or disabled, have low literacy levels or be from lower socio-economic groups. The tablet lending scheme will target the groups and individuals who are most excluded and for whom the scheme will have most impact.

4.3 Council policies and the best council plan

- 4.3.1 The Digital Inclusion programme supports the council's vision of a Compassionate City with a Strong Economy. Digital Inclusion can help to tackle poverty and reduce the inequalities that still exist.

4.4 Resources and value for money

- 4.4.1 Citizens who are digitally excluded are also likely to be unemployed or on a low income, be chronically ill or disabled, have low literacy levels or be from lower socio-economic groups. The investment into our digital inclusion programme will see people achieving better health and wellbeing outcomes, improve their financial capability and employment prospects and reduce their social isolation. By increasing digital inclusion in this way we will realise benefits across a range of indicators.

- 4.4.2 Estimates vary, but the cost differential of customer contact can be as much as £15 (face-to-face) vs 10p (online)¹. As well as modelling and reporting these savings, we will model and report the potential additional economic benefits of digital inclusion for citizens. These include cost/time savings, gains in earnings and employment, and savings to the NHS and Adult Social Care from increased health and wellbeing. As a rough guide, every £1 invested in digital inclusion has the potential to drive economic benefits of almost £10 over the subsequent ten years².

¹ Figures from Halton Housing Trust

² The Economic Impact of Digital Skills and Inclusion in the UK, CEBR, 2015

4.5 Legal implications, access to information and call-in

- 4.5.1 The Chief Digital and Information Officer is identified as the authorised decision maker in the Director of Resources and Housing Sub-delegation scheme.
- 4.5.2 This is a significant operational decision and will be published by the Council. The contents of this report are not subject to call in and the contents are not confidential or exempt under the Access to Information Rules.
- 4.5.3 This waiver deals with awarding a contract to a provider without subjecting the contract to competition. This presents a risk of challenge to the Council from other potential providers that it has not been wholly transparent and that they may have been unfairly denied the chance to tender for this opportunity.
- 4.5.4 It is considered that having recently concluded a whole of market procurement exercise, other suppliers have been recently given the opportunity to bid for this work. No other providers have demonstrated that they are able to provide this work.
- 4.5.5 This contract is for a period of 2 years to enable the Council to redraft and issue an invitation to tender for the continued service. This will give time for the Council to draft full terms and condition of contract suitable for a service of this nature to ensure that any future contract is on the best terms for the Council. This will also mean that it is a relatively short period of time before the market is tested again, ensuring that value for money and competitive tendering is secured.
- 4.5.6 In terms of transparency it should be noted that European case law suggests that contracts of this value should be subject to a degree of advertising if it is considered that it would be of interest to contractors operating in another Member State. It is up to the Council to decide what degree of advertising is appropriate. In particular, 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.
- 4.5.7 Having considered EU case law, it is considered that the scope and nature of the services are such that it would not be of interest to contractors in other EU member states
- 4.5.8 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.

- 4.5.9 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted. In making their final decision, the Chief Digital Information Officer should be aware of the risk of challenge to the Council and be satisfied that on balance the course of action chosen represents Best Value for the Council.

4.6 Risk management

- 4.6.1 The contract will be awarded under Terms and Conditions issued by Telefonica UK Ltd. These have been reviewed by colleagues in PPPU, Legal and the library service in accordance with the Contracts Procedure rules.
- 4.6.2 As identified in section 4.5 above, there is a risk to the Council in awarding a contract directly in this way. However, the Chief Digital Information Officer considers that the risks are outweighed by the benefits of awarding a contract to O2/Telefonica, and the resource/value for money implications of doing so.
- 4.6.3 It is considered that in terms of the risk of challenge to the procurement route of this contract, the Council has taken steps to mitigate this. The contract, given its value, falls outside any remit of the EU Procurement Regulation beyond the duty to act transparently, fairly and non-discriminatorily that applies to all contracts.
- 4.6.4 Risks will be managed as part of the wider Governance arrangements for this programme. There will be monthly contract monitoring meetings with the supplier and representatives from the library service's digital inclusion team.
- 4.6.5 The team will report progress and/or concerns to the Smart Cities Portfolio Board.

5 Conclusions

- 5.1 Telefonica UK Ltd demonstrated during the procurement process their ability to deliver against the Council's requirements and overall represents value for money.

6 Recommendations

- 6.1 The Chief Digital and Information Officer is recommended to approve the waiver of the following Contracts Procedure Rule(s):

Contracts Procedure Rule Nos 9.1 and 9.2 - High Value Procurements to enter into a contract with Telefonica UK Limited to provide a Tablet Lending Scheme with device management services.

7 Background documents¹

- 7.1 None
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