

Report to the Chief Officer for Culture & Sport

Date: 06 September 2018

Subject: Waiver of Contracts Procedure Rules 8.1 and 8.2 using the authority to award a contract for the Leeds 2023 external advisor to Culture Creativity Place (Limited) under the previous terms and conditions.

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| Are specific electoral Wards affected? If relevant, 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 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. This report seeks waiver of Contracts Procedure Rules 8.1 and 8.2 using the authority to award a contract for the Leeds 2023 external advisor to Culture Creativity Place (Limited) under the previous terms and conditions.
2. It is required to reappoint Culture Creativity Place (Limited), the contract will start September 2018 and expire 30th June 2019 with an agreed review date of 31st March 2019 which is when the management of the project is expected to have moved to an external delivery body. The contract value will not exceed £25,000.

Recommendations

The Chief Officer for Culture and Sport is requested to:

- i) Approve the request to waive Contracts Procedure Rules 8.1 and 8.2 using the authority to award a contract for the Leeds 2023 external advisor to Culture Creativity Place (Limited) under the previous terms and conditions

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Chief Officer, Culture and Sport, to reappoint Leeds 2023's external consultant Culture Creativity Place

(Limited) under previous contract's terms and conditions.

2. Background Information

- 2.1 In 2015 Culture Creativity Place (Limited) was appointed through a fair and competitive tender exercise to provide specialist advice to see the Leeds 2023 project through the European Capital of Culture bidding process. Three submissions were received and two suppliers fulfilled all the criteria. Culture Creativity Place (Limited) outscored competing tenders on the basis of a providing a proven track record on giving similar specialist advice to cities working on cultural projects of a comparable size and scale. Due to the uniqueness of the Leeds 2023 project, seeking external advice from a consultant which specific expertise was integral to the success of the project.
- 2.2 Since appointment Culture Creativity Place (Limited) has provided technical advice throughout the process of the Leeds 2023 project, developing a strategy to raise funds from the private sector, via philanthropy, trusts and other sources. Securing support from partners has been critical to the success of the project to date. Culture Creativity Place (Limited) has also provided tactical advice and intelligence; supporting the Leeds 2023 Independent Steering Group to develop the vision and narrative of Leeds 2023 and advise on budgeting, fundraising and governance.
- 2.3 Culture Creativity Place (Limited) has successfully advised Hull UK City of Culture 2017 and more recently Coventry UK City of Culture 2021, both have comparable budgets to the Leeds 2023 project.
- 2.4 On 27th November 2017 the decision was taken by the European Commission to cancel the UK competition. Despite the setback Leeds City Council expressed a strong renewal of their commitment to create and deliver a six year £35m cultural investment programme. On 31st January 2018, the Leader of the Council announced a commitment to invest fully in the plans for Leeds 2023 and invited the Leeds 2023 Independent Steering group to remain in place for an additional 12 months. Since this decision the project team have continued to seek advice from Culture Creativity Place (Limited) as plans have been recasted in the new project environment.

3. Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 If the team are to continue using Culture Creativity Place (Limited) services it is necessary to enter into a formal arrangement with the supplier in order to comply with the council's Contract Procedure Rules. The duration of the contract will be 8 months with an agreed review date of 31st March 2019 which is when we expect to have moved the management of the project to an external delivery body. The

contract value will not exceed £25,000.

- 3.2 It is recommended that Leeds City Council formalises the current arrangement with Culture Creativity Place (Limited) as to undertake a new procurement exercise would be costly in terms of staff time and a new consultant would need to be briefed on the history of the project and build a new relationship with the team for what we know will be an interim arrangement
- 3.3 The contract will cover the period of time Leeds 2023 is being managed through Leeds City Council with an agreed review date of 31st March 2019 which is when it is expected that the management of the project will be moved to an external delivery body.

4. Consequences if the proposed action is not approved

- 4.1 Failing to reappoint Culture Creativity Place (Limited) could result in the Leeds 2023 team being unable to fairly use the supplier, having a negative effect on the success of the project. These are:
 - Leeds 2023 is now entering a critical stage of the project; setting up the governance arrangements to move the management of the project to an independent company by June 2019. During this period it is essential the team continues to receive expert advice from Culture Creativity Place (Limited) on on budgeting, fundraising and governance.
 - Culture Creativity Place (Limited) has worked with the Leeds 2023 team from the inception of the project in 2015 and has built relationships with the project's funders and partners. With this being a crucial part of the contract, conducting a full procurement exercise will be counterproductive at this stage of the project. The consultant has an indepth knowledge of the project and has built the unique relationships required to give the advice needed at this stage of the project – appointing a new consultant at this stage would be a set back to the project, whilst the new consultant built up the same knowledge and working relationships.

Corporate Considerations

5. Consultation and Engagement

- 5.1 The appointment of Culture Creativity Place (Limited) was approved by the Chief Officer of Culture and Sport on 17th November 2015. The Leeds 2023 Independent Steering Group approved the appointment of Culture Creativity Place

(Limited) in 2015.

- 5.2 On 31st January 2018, the Leader of the Council announced a commitment to invest fully in the plans for Leeds 2023 and invited the Leeds 2023 Independent Steering group to remain in place for an additional 12 months.

6. Equality and Diversity / Cohesion and Integration

- 6.1 To be successful it is critical that the forward development of Leeds 2023 is felt to be accessible to all. The diverse background of all potential users and participants has been recognised and the offer will be provided to accommodate and harness this diversity.
- 6.2 Equality and diversity, cohesion and integration have and will be continued to be picked up and supported at all stages of continued implementation.

7. Council policies and City Priorities

- 7.1 Leeds 2023 will work towards delivering the Best City 2030 ambitions, most notably 'enjoy happy, healthy, active lives' and 'enjoy greater access to green spaces, leisure and the arts'.
- 7.2 The Leeds 2023 project has accelerated a series of plans already in development to achieve the Council's Best City By 2030 ambitions and has been a catalyst in embedding culture firmly into the ongoing development of the city. The project has succeeded in engaging its citizens and impact on some of the economic and social issues the city faces as well as celebrating and promoting its strengths and position in the UK and Europe.

8. Resources and value for money

- 8.1 Entering into a formal arrangement with Culture Creativity Place (Limited) will ensure compliancy with the council's Contract Procedure Rules and therefore will uphold the council's value of spending money wisely. Furthermore reappointing a consultant who we have received a very positive service from will represent better value for money in terms of staff time. A new procurement exercise would be costly and a new consultant would need to be briefed on the history of the project and build a new relationship with the team for what we know will be an interim arrangement.

9. Legal Implications, Access to Information and Call In

- 9.1 This is a significant operational decision which is not subject to call-in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 9.2 Awarding these contracts directly to this consultant may leave the Council open to a potential claim from other consultants, to whom this contract could be of interest that it has not been wholly transparent as the opportunity is not being advertised. In terms of transparency, it should be noted that case law suggests that the Council should always consider whether contracts of this value would be of interest to providers in other Member States and if it would, subject the matter to a degree of European wide advertising.
- 9.3 This has been considered and due to the nature of the services being delivered, the requirement to physically deliver the service in Leeds, and the relatively low value of these contracts is of the view that it would not be of interest to contractors in other EU Member States.
- 9.4 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.
- 9.5 Although there is no overriding legal obstacle preventing the waiver of PR 8.1 and 8.2, the content of the report should be noted. In making their final decision, the Chief Officer of Culture and Sport should be satisfied that the approved course of action represents best value for the council.

10. Risk Management

- 10.1 The Leeds 2023 team have worked with Culture Creativity Place (Limited) since appointment in March 2015 and have had very positive service from the supplier.
- 10.2 Discontinuing work with this supplier could have a negative impact on the Leeds 2023 project going forward. A project of this nature and scale is a first for Leeds and the right expertise is not held in-house, it is therefore integral to the success of the project that we continue to receive specialist advice.
- 10.3 To go through the full procurement process again will delay the progress of the project and impede us in reaching important milestones. This is a short term arrangement until June 2019, when it is anticipated that the management of the

project will be moved to an external company.

- 10.4** The authority risks losing valuable preparation time and the goodwill, commitment and buy-in from partners if we cannot continue the supplier's service in this interim year when the public profile of Leeds 2023 needs to remain high, with the independent delivery organisation on track to be established by June 2019.

11. Conclusions

- 11.1 The optimum action in terms of both value for money and supporting the success of Leeds 2023 is to appoint Leeds 2023 external advisor Culture Creativity Place (Limited) through a waiver of CPRS 8.1 and 8.2 so we can continue the service for the duration the project is being managed in-house.

12. Recommendations

- 12.1 The Chief Officer for Culture & Sport is requested to:

Approve the request to waive of Contracts Procedure Rules 8.1 and 8.2 using the authority to award a contract for the Leeds 2023 external advisor to Culture Creativity Place (Limited) under the previous terms and conditions.

13 Background documents

- 13.1 None.