

Report of Executive Programme Manager (Sustainable Energy & Air Quality)

Report to Director of Resources and Housing

Date: 28 February 2019

Subject: Approve the waiver of CPR 8.1 and CPR 8.2 to enter into a new contract with Exterion Media without seeking further competition, for a period of 12 months.

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:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

1. Leeds City Council is committed to improving local air quality in Leeds in order to improve the health of its citizens. This ambition and commitment will only be fulfilled with the help of businesses and residents across our city to make changes to their behavior and the way they travel.
2. Leeds City Council has developed a number of successful Clean Air Leeds campaigns and has recently secured further funding to support some of the key communications around the implementation of the clean air zone and further work to improve air quality in the city. The campaigns identified going forward are;
 - Promotion of support packages to those affected by the clean air zone;
 - Communications around the implementation of the zone
3. The decision to implement a Clean Air Zone in the city brings with it significant challenges from a communications perspective, including making sure that the relevant audiences are aware of any changes before January 2020.
4. It is vital for the success of these future campaigns that Leeds City Council acquire high footfall advertising sites around the city and wider region for the promotion of the campaigns detailed above and to ensure people and businesses are aware of what is happening.

5. Exterior Media are the single source supplier for Leeds bus and rail advertising, and therefore the Director of Resources & Housing is recommended to waive Contract Procedure Rules (CPRs) 8.1 and 8.2 requiring a competitive procurement and at least three written tenders to be invited to procure, to ensure that these important sites at busy public locations can be secured.

Recommendations

6. The Director of Resources & Housing is recommended to approve the waiver of the CPRs 8.1 and 8.2 and award a contract to Exterior Media in the sum of £30,000. The contract shall commence on the 13 March 2019 and expire on the 30 January 2020.

1 Purpose of this report

- 1.1 This report seeks approval from the Executive Programme Manager (Sustainable Energy & Air Quality) to approve the waiver of CPR 8.1 and CPR 8.2 and enter into a new contract with Exterion Media (without seeking further competition), for the purchase of bus advertising for a period of nine months from 13 March 2019.

2 Background information

- 2.1 Clean air is vital for health, quality of life and the environment around us. Polluted air can have a harmful effect on the health of residents of Leeds, reducing life expectancy and increasing health inequalities.
- 2.2 Leeds City Council will be xxxxxx
- 2.3 In order to improve air quality across the city, Leeds City Council needs residents and businesses across the city to make small changes in their behaviour to reduce emissions.
- 2.4 campaigns will be aimed at the public and businesses affected by the clean air zone and will continue to raise awareness of what they can do to improve air quality in the city and how they will be affected by the Clean Air Zone.
- 2.5 To guarantee that campaign artwork will be located at prime sites in places visible by the public, and with high footfall, the Council's communications and marketing team have advised that bus advertising is one of the most appropriate locations for these campaign materials alongside other methods, and recommend securing these sites for Clean Air Leeds messages. These sites will be one part of a wider communications strategy targeting the city and wider region and informing people of the changes coming into effect as of January 2020.
- 2.6 Exterion Media is the single source supplier for these sites, both inside bus panels and on posters at rail stations, across Leeds. Therefore it is recommended that CPRs 8.1 and 8.2 are waived on this occasion, to ensure that these sites can be secured.
- 2.7 Additionally, to spend money wisely, annual media packages ensure the most cost effective deals on advertising. Therefore it is recommended that Leeds City Council enter into a contract with Exterion Media to provide the following;
- 100 bus rears from 1 April 2019 for four weeks at a cost of £10,750, a saving of £20,850 off the full rate card price.
 - 50 bus rears from 30 September 2019 for 12 weeks at a cost of £15,450, a saving of £31,950 off the full rate card price.
 - 200 interior bus panels from 30 September 2019 for 12 weeks at a cost of £3,800, a saving of £12,400 off the full rate card price.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 Exterion Media have a monopoly in Leeds on the advertising sites inside buses and on indoor panels across the city.

- 3.2 It is recommended by the councils communications and marketing team that the most effective media to use for this city-wide campaigns include, along with radio, digital and outdoor media, the bus panel adverts which are owned by Exterior Media.
- 3.3 For an Intermediate Value Procurement, under CPR 8.1 there is an obligation to use the Waiver process to obtain permission to exclude competition and enter into a contract with a single supplier.
“Where no appropriate ISP, Exclusive Supplier, existing provider or Third Party Framework Agreement exists, competition is required for procurements valued at or over £10k but at or below £100k.”
- 3.4 Additionally, under CPR 8.2, there is an obligation to use the Waiver process to null the requirement for the invitation of at least three written tenders.
“At least three written tenders will be invited. These tenders may be invited by publishing either an open or a restricted tendering opportunity (restricted meaning that only selected suppliers are invited to tender) on the YORtender portal or inviting tenders from suppliers using Construction line (if applicable, please see the construction and housing category team for advice). Authorised Officers should consider CPR 1.1.3 when deciding which approach to take.”
- 3.5 The decision will be taken in accordance with CPR27.

Consequences if the proposed action is not approved

- 3.6 If a decision was taken to open the procurement to competition and require three or more written tenders, there is a risk that the prime advertising sites would not be secured and this would compromise the success of the campaign. With only one supplier of the bus sites in question we would narrow down our advertising options significantly.

Advertising

- 3.7 No advertising has been undertaken for this tender, as this Waiver report requests that a competitive tender is not used, and instead replaced with a contractual agreement between Leeds City Council and Exterior Media, a single source supplier for the bus and rail poster sites.

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The communications and marketing team were consulted with during these proposals and will be engaged with throughout the procurement.
- 4.1.2 It was not deemed necessary to consult with members of the public or any Councillors when taking this decision.

4.2 Equality and diversity/cohesion and integration

- 4.2.1 An informal analysis of this procurement has found that it is unlikely that this decision will have any impact on equality and diversity/cohesion and integration.

4.3 Council policies and best council plan

4.3.1 This procurement meets the Health & Wellbeing, Transport & Infrastructure and Low Carbon ambitions of the Best Council Plan by committing to improve air quality through a behavioural change campaign which will improve the health of residents, increase public transport patronage and contribute to reducing emissions across the city.

4.4 Resources and value for money

4.4.1 The funding for this procurement has been secured from a competitive bid from DEFRA for Air Quality Communications over a three year period.

4.4.2 This procurement represents value for money through the bulk buying of media delivering a saving of £65,200 over 12 months compared to the standard rate card price. The breakdown of the total cost and savings per campaign are detailed in section 2.7 of this report.

4.5 Legal implications, access to information and call-in

4.5.1 The report is not subject to call in and there are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.

4.5.2 Awarding this contract directly to Exterior Media in the way proposed could leave the Council open to a potential claim from other contractors to whom this contract could be of interest that it has not been wholly transparent. In terms of transparency, it should be noted that case law suggests that the Council should decide the degree of advertising is appropriate.

4.5.3 It is suggested, due to the matters set out at section 3 above, that the risk of challenge is low in this instance.

4.5.4 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.

4.5.5 Although there is no overriding legal obstacle preventing the waiver of CPR 8, the above comments should be noted. In making their final decision, the Executive Programme Manager (Sustainable Energy & Air Quality) should be satisfied that the course of action chosen represents best value for money.

4.6 Risk management

- 4.6.1 The risk of not proceeding with the decision to waive CPRs 8.1 and 8.2 could result in the council not securing prime advertising sites for the city-wide air quality campaign. This would compromise the ability for such campaigns to raise awareness of the clean air zone coming to the city and also the business support packages which are to be made available.
- 4.6.2 The risk of not proceeding with this decision is that the council doesn't meet timescales for implementing the desired campaign and giving the business community enough time to make the necessary adjustments before the zone is implemented.

5 Conclusions

- 5.1 In summary, it is determined that approval to appoint Exterior Media without a full competitive tender exercise will enable the authority to secure prime advertising sites with high footfall for the next few campaigns centred around support and implementation of the Clean Air Zone. Exterior Media are the single source supplier for Leeds bus advertising and rail poster sites, and bulk buying annual media packages will deliver a saving of £65,200 pr year on these sites, leaving budget for additional advertising on other (radio or external) sites.

6 Recommendations

- 6.1 The Director of Resources & Housing is recommended to approve the waiver of the CPRs 8.1 and 8.2 and award a contract to Exterior Media in the sum of £30,000. The contract shall commence on the 13 March 2018 and expire on the 30 January 2020.

7 Background documents

- 7.1 None.