

Report of: Head of Service, Commissioning and Market Management Team

Report to: Chief Officer, Partnerships and Health

Date: 17th October 2019

Subject: Authority to waive CPR 8.2 to award a contract to supply bespoke branded period poverty supplies to schools and community venues.



Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open 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: 10.4 (3) Appendix number: 1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary

1. Main issues

- Period poverty refers to having a lack of access to sanitary products due to financial constraints, and is an area of social exclusion with increased national attention over the last two years.
- Leeds City Council has committed to ending period poverty in the city through the provision of free supplies in schools and selected community venues.
- Leeds has partnered with a number of organisations to fulfil this ambition. Providing supplies that are branded with partner logos and promoting the city’s commitment to ending period poverty will ensure that funding for the project is secured.
- A supplier, through a market sounding exercise, has come forward offering a substantial discount and in kind support that will significantly increase the availability of products purchased through this scheme.
- In response to the climate change emergency, the specification requires the supplier to consider the environmental impact of the delivery of the contract and identify ways of reducing the carbon footprint throughout the term.

2. Best Council Plan Implications

The project supports the following Best Council Plan 2019/20 priorities:

- Helping people out of financial hardship
- Targeting interventions to tackle poverty in priority neighbourhoods

3. Resource Implications

- The budget available for the scheme is £50,000 funded mainly from the Children and Families directorate revenue account, with contributions from Community Committee Wellbeing grants and financial donations from partner agencies and private companies.

Recommendations

The Chief Officer, Partnerships and Health is recommended to waive contract procedure rule 8.2 – Intermediate Value Procurements, and award a two year contract to Toiletry Sales Limited at a value of £25,000 per year with the option to extend for a further twelve months, up to a total potential value of £75,000. The contract shall commence on the 1st January 2020 and expire on the 31st December 2022 with the option to extend for a further twelve months.

1. Purpose of this report

- 1.1 The report seeks authority from the Chief Officer, Partnerships and Health to waive CPR 8.2 and directly award a two year contract of up to £50,000 with the option to extend for a further twelve months, up to a total potential value of £75,000 to Toiletry Sales Limited (TSL).
- 1.2 The report sets out the background to the waiver request and outlines why it represents best value for the Council.

2. Background information

- 2.1 Period poverty is an area of social exclusion with increased national attention over the last two years. Period poverty refers to having a lack of access to sanitary products due to financial constraints.
- 2.2 Alongside the problems that individuals who can't afford sanitary protection face, there are also issues of stigma and embarrassment around discussing menstruation. This can lead to a situation where individuals can't afford sanitary protection, and are too embarrassed to discuss the problem. There is a lack of data and research around this topic, although there have been links with period poverty and a lower school attendance.
- 2.3 As part of a partnership approach to eliminating period poverty in Leeds, the Council is seeking to distribute supplies of tampons and sanitary towels to schools and selected community venues that will be given free of charge to anyone who needs them. In order to demonstrate our partnership approach, and to promote the Council's commitment to the strategy, the free products to be issued in packs with our own bespoke branding.
- 2.4 A competition open to young people across the city was launched to select a design for the packaging. The winning design is being worked up by a design agency for the tampon boxes and towel packs to the specification provided by TSL.

2.5 On approval to award, a contract will be entered into using the council's standard tender documentation and terms and conditions. The contract will be registered on YORtender and Contracts Finder.

3. Main issues

3.1 In order to establish demand and test the logistics of supplying the products, an interim order was placed with TSL to supply plain packaged products following the receipt of quotes from four suppliers.

3.2 The interim contract ends on 31st December 2019, and a two year scheme has been approved.

3.3 In September 2019, the Children and Families Commissioning and Market Management Team conducted a market sounding exercise in order to establish:

- Level of market interest in supplying branded products within the budget available
- Ability to supply through multiple orders and at multiple locations
- Estimated price of the goods
- Minimum order quantity

3.4 Three suppliers completed the market sounding exercise, with two confirming they could supply goods as per the project plan and one stating that the value of the contract was too small.

3.5 The prices quoted through the market testing are commercially sensitive and as a result are included in the confidential appendix attached.

3.6 TSL presented a proposal that would significantly increase the number of products available through the project compared with the second supplier and our own market research and previous quotes obtained.

3.7 It is therefore recommended that the Council partner with TSL to supply the products.

Consequences if the proposed action is not approved

3.8 If the waiver is not approved, a tender process will commence to advertise the opportunity and appoint a supplier. Over 80 schools have already requested supplies under the interim contract, and demand for products is likely to be higher than originally anticipated. Delaying the process of appointing a provider with bespoke packaging risks not having products available in the new year and not promoting the scheme to the wider community with the competition winner and partners as planned.

3.9 TSL's lead time for branded products is 18 weeks.

Advertising

3.11 A market sounding exercise was advertised on YORtender. Only three companies responded, with one saying the value of the contract was too low. Eight organisations in total viewed the documents, including larger nationwide suppliers. Due to the contract value and length, the opportunity is unlikely to be of interest to organisations in other EU Member States.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The scheme has been designed following consultation with young people through a project in Carr Manor School, with campaign groups including Leeds based Freedom For Girls, and with schools, partner agencies and the Community Hub teams.
- 4.1.2 Feedback is being sought from schools and venues currently participating in the project and this will be reflected in logistics and publicity plans under the new contract.
- 4.1.2 The Executive Member, Learning, Skills and Employment has been consulted on and endorsed the scheme.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 The contract directly contributes to the council's efforts to reduce poverty and inequality. Supplies will be made available to schools across the city and in community hubs, which are mostly located in disadvantaged areas.

4.3 Council policies and the Best Council Plan

- 4.3.1 The project supports the following Best Council Plan 2019/20 priorities:
 - Helping people out of financial hardship
 - Targeting interventions to tackle poverty in priority neighbourhoods
- 4.3.2 It also contributes to the Children and Young People's Plan priorities of:
 - Increase the number of children and young people engaging and participating in learning
 - Ensure the most vulnerable are protected

Climate Emergency

- 4.3.1 The specification requires the supplier to consider the environmental impact of the delivery of the contract and identify ways of reducing and offsetting their carbon footprint.

4.4 Resources, procurement and value for money

- 4.4.1 The core budget for the project is from the Children and Families revenue account and includes contributions from Community Committees and local partners.

- 4.4.2 TSL are making an in kind contribution to the project, enabling the Council to have more budget available for products.
- 4.4.3 The confidential appendix outlines how awarding a contract to TSL provides exceptional value for money.
- 4.4.4 Procurement have been consulted on the proposal to waive CPR 8.2. They have advised that a market sounding exercise may not provide sufficient evidence to justify a direct award as there are a number of companies who may be able to fulfil the contract. A tender process may attract more bidders, potentially resulting in a better value for money contract for the Council
- 4.4.5 The UK government recently announced that free period poverty supplies would be made available to all schools in England. There has been little information following the announcement, and no supplier has been appointed. Due to the impact period poverty is having on girls and women now, it is recommended that the Leeds scheme be put in place as soon as possible. Should the government provide sufficient supplies to schools during the life of the contract, the Leeds products will still be made available through community hubs, children's centres, youth services and other community partners and demand will be reviewed as required.

4.5 **Legal implications, access to information, and call-in**

- 4.5.1 Awarding a new contract directly to the provider in this way without seeking competition could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that the Council has not been wholly transparent. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising would be 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.
- 4.5.2 The Chief Officer Partnerships and Health has considered this and, due to the nature of the services being delivered and the relatively low value of the contract, is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states
- 4.5.3 The decision is a significant operational decision and is not subject to call in. Other than confidential Appendix 1, there are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.4 The information in Appendix 1 of this report has been identified as exempt/confidential under the Access to Information Rules 10.4 (3). The public interest in maintaining the exemption in relation to the confidential Appendix outweighs the public interest in disclosing the information and financial details which, if disclosed would adversely affect the business of the Council and the business affairs of a number of individual companies.
- 4.5.5 In making their final decision, the Chief Officer Partnerships and Health should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

4.6 **Risk management**

- 4.6.1 The main risk attached to the decision is outlined above.
- 4.6.2 Risks relating to the availability of products, logistics and take up have been considered have been listed in a risk register which is continually updated.

5. Conclusions

- 5.1 Period poverty is thought to affect a large number of girls and women in Leeds, and there are reports of young people missing school due to not having the products they need.
- 5.2 The Council has secured funding from its own budget plus contributions from partners to set up a scheme to distribute period products to schools and community venues for anyone to pick up free of charge.
- 5.3 Demand for the products is likely to be high, and it is important that the Council achieves value for money to maximise the number of packs available.
- 5.4 A market sounding exercise indicated that there are very few suppliers in the market interested in a contract with bespoke packaging for the budget available.
- 5.5 Through the market sounding exercise, a local supplier, TSL indicated that they would be willing to partner with the Council to provide a significant in kind contribution and discount on their wholesale prices to support the project.
- 5.6 Waiving CPRs can open the Council to legal challenge when there is competition in the market. For this scheme, there was very limited interest the market sounding exercise, and previous quotes and general market research indicates that only TSL can supply products at a price that makes the project financially viable.

6. Recommendations

- 6.1 The Chief Officer, Partnerships and Health is recommended to waive contract procedure rule 8.2 – Intermediate Value Procurements, and award a two year contract to Toiletry Sales Limited at a value of £25,000 per year with the option to extend for a further twelve months, up to a total potential value of £75,000. The contract shall commence on the 1st January 2020 and expire on the 31st December 2022 with the option to extend for a further twelve months.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.