

**Report of the Head of Projects & Programmes**

**Report to the Director of Childrens & Families**

**Date: 18<sup>th</sup> December 2019**

**Subject: Waiver of Contract Procedure Rules (CPR's) for the removal of Authority owned modular accommodation at Moor Allerton Hall Primary School**



Are specific electoral wards affected? If yes, name(s) of ward(s): Moortown	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<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
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: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main Issues**

- The purpose of this report is to seek approval from the Director of Childrens & Families to waive Contract Procedure Rule 8.1 and 8.2 to facilitate the removal and storage of volumetric modular buildings from Moor Allerton Hall Primary School by a specialist sub-contractor and its storage at Portakabin Ltd. Leeds facility until a new location can be determined that supports the wider aims of the Learning Places Programme. The subsequent relocation at a future date will be subject to a separate waiver once the site has been determined and scale of work priced. This waiver is to cover removal from Moor Allerton Hall to Portakabin Ltd. Leeds facility only.
- Removal of the building, and subsequent storage until a new location can be determined, is critical to ensure completion of the school expansion project at Moor Allerton Hall Primary School. The modular building must be disconnected and the ground underneath made good over the February 2020 half term, with the school closing on Friday 14<sup>th</sup> February 2020 and re-opening on Monday 24<sup>th</sup> February 2020. Any delay to the removal of the unit will result in programme overrun of the main school expansion projects programme and an unknown additional cost to the Authority.
- Appointment of Portakabin Ltd. to facilitate this removal and relocation is based on; the competitive quotation provided, provision of skilled expertise, protection of all warranties and guarantees associated with the Council owned modular building (being a proprietary

product purchased from Portakabin Ltd. in 2017) and the offer of free storage at the Portakabin Ltd. Leeds facility until relocation can be secured.

## 2. Best Council Plan Implications

- This scheme is due to be delivered under the City Council's Learning Places Programme and is required to fulfil the Local Authority's statutory responsibility to provide sufficient school places. In providing places close to where the children live the proposals will improve accessibility of local and desirable school places, and thus reduce any risks of non-attendance.
- This contributes to the 2019/2020 Best Council Plan outcomes for everyone in Leeds to 'Do well at all levels of learning and have the skills they need for life'; 'Be safe and feel safe' and 'Enjoy happy, healthy, active lives'. It also supports the vision in the supporting Children and Young People's Plan 2018-23, 'Leeds to be the best city in the UK and the best city for children and young people to grow up in. We want Leeds to be a child friendly city'. The programme seeks to deliver a supply of good quality accessible local school places which can contribute to these outcomes.

## 3. Resource Implications

- This project seeks to generate efficiencies and value by re-using legacy assets for future Authority priorities. Being a proprietary volumetric modular building system it is critical that the original installer is re-commissioning to facilitate any removals or relocations to ensure the integrity of the product, maintenance of all associated warranties and guarantees and to prevent damage and replacement conflicts if a third party was to relocate the building.
- Portakabin Ltd. have provided a budget cost estimate for removal of the building from Moor Allerton Hall Primary School only, as the new home for the provision is not yet known. However, it is highly likely to be an educational facility where installation can only take place over a summer shut down period, Portakabin Ltd. have offered free storage at their Leeds yard for the intervening period.

## 4. Recommendations

The Director of Children and Families is recommended to:

- 1) Approve the waiver of the following Contracts Procedure Rule to enable removal of a proprietary modular build system teaching block from Moor Allerton Hall Primary School and it's storage at Portakabin Ltd. Leeds yard.
  - **CPR 8.1** Where no appropriate internal provider, Exclusive Supplier, existing provider, LCC Approved Framework Agreement or Approved Framework Agreement exists, competition is required for procurements valued over £100k.
  - **CPR 8.2** Where there are sufficient numbers of providers at least four written tenders will be invited.
- 2) Award a contract to Portakabin Ltd. in the sum of £44,623. The contract shall commence on, approximately, the 15<sup>th</sup> February 2020 and expire on the 28<sup>th</sup> February 2020, noting that the building will be stored free of charge at Portakabin Ltd's Leeds facility until the expiry of the summer shutdown period 2020.
- 3) Note; removal costs will be funded from existing financial provision held within the Learning Places programme; any further financial approvals that may be required will be sought as part of the final account resolution process.

- 4) Note; a subsequent waiver will be required to relocate the unit from Portakabin's Leeds facility once a new location has been determined. This will be subject to a separate pricing and scoping exercise once identified.
- 5) Note that the officer responsible for implementation is the Head of Service Learning Systems.

## **1.0 Purpose of this report**

### **1.1. The purpose of this report is:**

- To provide background information and detail to the Director of Children's Services for the proposed relocation of existing modular units at Moor Allerton Hall Primary School. The removal from site will facilitate the completion of the Learning Places Programme expansion of that school and will meet future requirements of the programme by being utilised at another educational establishment at a future date.
- Seek authority to waiver CPR 8.1 and 8.2 and allow the commissioning of an appropriate contractor through the invitation, receipt, evaluation and award of a single tender from Portakabin Ltd to remove an existing Authority owned Portakabin branded modular building from Moor Allerton Hall Primary School and store it at Portakabin Ltd. Leeds facility until expiry of the summer 2020 school shut down period.

## **2.0 Background information**

- 2.1. The Learning Places programme represents the Council's response to the demographic growth pressures in school place provision. The increasing birth rate in Leeds has required Leeds City Council to approve an increasing number of new school places since 2009 in order to fulfil its statutory duty. The scale of the response cannot be met through the existing estate; therefore the expansion of existing schools or the creation of new schools has been required in many instances. The capital school building solutions to the demographic need is managed via Childrens & Families Learning Places Programme. Project management of schemes arising from this process are delivered by City Development's Projects & Programmes Team.
- 2.2. This proposal has been brought forward to meet the projected demand for primary school places within North Leeds, current demographic data suggests that there is a need for additional secondary places within the vicinity of Moor Allerton Hall Primary School. The proposed works outlined in this report is a response to this demand and will ensure there are sufficient school places available for local children. This proposal builds upon the previous instances where temporary 'bulge' cohorts have been placed at Moor Allerton Hall Primary School over a number of years.
- 2.3. A report to and approved by Executive Board on 19<sup>th</sup> September 2018 detailed the outcome of consultation on the proposal to expand primary provision at Moor Allerton Hall Primary School from a capacity of 420 pupils to 630 pupils with an increase in the admission number from 60 to 90 with effect from September 2018. The report was subsequently called-in by Members and a Scrutiny Board held on the 10<sup>th</sup> October 2018 wherein the decision was ratified and released for implementation.
- 2.4. The formal expansion of Moor Allerton Hall Primary School has been preceded by two consecutive years of 'bulge' cohorts, effective from the commencement of the 2017/18 academic year and 2018/19 academic year respectively. The first of these two projects placed a temporary modular classroom provision at Moor Allerton Hall Primary School, this provided sufficient accommodation for the two 'bulge' years only with the permanent expansion requiring the generation of additional teaching space. The temporary modular building located at Moor Allerton Hall Primary School is not part of the permanent expansion plans, having seven years planning permission only, and will be removed from site at the end of the permanent expansion construction programme. This will be utilised elsewhere as part of a separate project to the one detailed herein.
- 2.5. The main construction project is now well underway and is scheduled for completion for the 5<sup>th</sup> February 2020. A period of decant and occupation will then take place with a view to the building opening to pupils from the 24<sup>th</sup> February 2020. To facilitate this it is essential that the temporary modular accommodation placed on-site for the 2017/18 academic year, to

support the 'bulge' cohort, must be removed from site to allow handover of the building and external play areas. This work can only take place within a school shut down period.

### **3.0 Main Issues**

3.1. The works covered by this waiver are as follows:

- Removal of the Authority owned seven bay modular building from Moor Allerton Hall during the February 2020 school half term. Includes for co-ordination with Geo Houlton & Sons Limited who are delivering the expansion project associated with Moor Allerton Hall Primary, and subject to separate previously acquired approvals.
- Storage of the Authority owned seven bay modular building at Portakabin Ltd. Leeds office until a new location can be established. Wherein a new project will be instigated to facilitate the relocation works.

3.2. Due to delays encountered with the Geo Houlton & Sons Limited construction project at Moor Allerton Hall Primary School it has not been possible to provide a firm date for removal of the Portakabin buildings from site. Given the compressed and changing programme it has not been possible to identify firm dates for removal until December 2019, this has resulted in a tight timescale which does not conform to the time required for a formal tender exercise in-line with LCC's procurement guidelines. Completion of such an exercise would exceed the critical path and result in delay damages being incurred by the Local Authority on the Moor Allerton Hall Primary expansion construction contract. Furthermore, this would push the removal of the units back from February 2020 half term to the Easter break, as these activities cannot take place in term time. This equates to a delay of approximately eight weeks.

3.3. The internal service provider cannot provide these services, having declined work of this nature historically on the following grounds;

3.3.1. The internal service provider does not have direct access to the equipment required for relocating modular accommodation and this type of work would notionally be tendered to an external contractor.

3.3.2. To carry out an open competition through the use of an existing Framework Agreement, such as Constructionline, would require specific tender documents to be produced. This process, in addition to the competition itself, is estimated to take a minimum of 2 – 3 months. This would have major implications on delivery for September 2015. An external consultant would be required to complete this process at further cost and time.

3.4. As the previous installer of the building Portakabin Limited have been approached to provide a cost for relocating the building, on the premise all warranties are maintained and that storage is provided at no cost to the Authority up to summer 2020. Portakabin have confirmed their availability to undertake this work-stream and have provided the necessary expertise to scope and complete the project.

### **Consequences if the proposed action is not approved**

3.5. If the proposed waiver is not approved, a full tender process will have to be undertaken. This process would exceed the critical date to remove and relocate the modular unit due to the time required to complete tasks such as, but not limited to; advertise the requirement, liaise with potential contractors unfamiliar with the school site, co-ordination with Geo Houlton & Sons Limited, vet responses prior to undertaking a tendering exercise, tender evaluation and commissioning.

- 3.6. This process will increase the risk of failure to for the expansion of Moor Allerton Hall Primary School, as removal of the Portakabin building is critical to the success of this project. Failure to remove over the February 2020 half term will delay the handover of the new building and result in an extension of the construction contract at cost to the Local Authority.

### **Advertising**

- 3.7. No advertising has been undertaken to date due to the compressed timescale and the need to preserve warranties and guarantees associated with the proprietary modular building system. Completion of a competition would take between two to three months and would have a significant impact on the programme delivery.

## **4.0 Corporate considerations**

### **4.1. Consultations and engagement**

- 4.1.1. Consultation has been undertaken with the 'end user' and Geo Houlton & Sons Limited, with respect to the critical path dates. Portakabin have tailored their proposal to reflect the requirements of the wider construction project at Moor Allerton Hall Primary School, this will be reflected in their construction health & safety documentation.

### **4.2. Equality and diversity / cohesion and integration**

- 4.2.1. The recommendations contained in this report do not have any direct nor specific impact on any of the groups falling under equality legislation and the need to eliminate discrimination and promote equality. A screening document has been prepared for this scheme (attached at Appendix A) and the outcome of the screening is that an independent impact assessment is not required for the proposals set out in this report.

### **4.3. Council policies and the Best Council Plan**

- 4.3.1. This scheme is due to be delivered under the City Council's Learning Places Programme and is required to fulfil the Local Authority's statutory responsibility to provide sufficient school places. In providing places close to where the children live the proposals will improve accessibility of local and desirable school places, and thus reduce any risks of non-attendance.
- 4.3.2. This contributes to the 2019/2020 Best Council Plan outcomes for everyone in Leeds to 'Do well at all levels of learning and have the skills they need for life'; 'Be safe and feel safe' and 'Enjoy happy, healthy, active lives'. It also supports the vision in the supporting Children and Young People's Plan 2018-23, 'Leeds to be the best city in the UK and the best city for children and young people to grow up in. We want Leeds to be a child friendly city'. The programme seeks to deliver a supply of good quality accessible local school places which can contribute to these outcomes.

### **4.4. Resources, procurement and value for money**

- 4.4.1. The estimated cost to dismantle, transport and store the modular buildings, provided by Portakabin Limited following review of the site is £44,623. The tender will be awarded as a single contract and the cost will be met through the Learning Places programme. Removal costs will be funded from existing financial provision held within the Learning Places programme; any further financial approvals that may be required will be sought as part of the final account resolution process.

4.4.2. Value for money is being achieved through relocating and reusing existing Council owned modular units, which negates the requirement to purchase new units to support future projects at considerable additional cost.

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

4.5.1. The proposal forming the subject of this report constitutes a significant operational decision and therefore is not subject to 'Call-In'. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

4.5.2. Awarding a contract directly to Portakabin Limited in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest that it has not been wholly transparent as the opportunity is not being advertised and at least three written tenders invited.

4.5.3. Case law suggests that the Council should consider whether contracts of this value should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is appropriate but 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.

4.5.4. 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 8.1 & 8.2, the above comments should be noted in making the final decision as to whether to award this contract and be satisfied that to do so represents best value for the Council, against the context of the Council's requirement to meet its statutory duty to ensure a school place for every child within the city.

#### **4.6. Risk management**

4.6.1. The waiver of CPR 8.1 & 8.2 would allow Childrens the Authority to commission an appropriate contractor without further competition and reduce the current risk of not delivering the Moor Allerton Hall Primary expansion within the critical path programme.

4.6.2. The bulge cohort programme of works will be managed through the application of 'best practice' project management tools and techniques.

#### **5.0 Conclusion**

5.1. As a consequence of the increased pressure on school places within Leeds it is necessary to deliver additional primary school places at Moor Allerton Hall Primary School. Critical to the success of this project is the timely removal of a seven bay Portakabin branded modular building. Completion of this removal exercise over the February 2020 half term is vital to ensure that the wider Moor Allerton project can be completed on-time and without delay damages attributable to the Authority.

5.2. Given their knowledge of the site and technical expertise, coupled with the proposed free storage and need to maintain associated warranties and guarantees, Portakabin Limited have been identified as the most appropriate contractor for this work. Having review the site, and co-ordinated logistics with Geo Houlton & Sons Limited, they have submitted a

tender sum of £44,623 for completing the works. This is in-line with previous benchmarked costs for activities of this nature undertaken as part of the Learning Places Programme.

- 5.3. Completion of a full tender exercise will take up to three months to complete and require additional professional services to compile the tender documents. This will result in considerable extra cost to the Authority, result in the loss of all warranties & guarantees associated with the Portakabin building (which is only three years old) and a programme delay of a minimum of eight weeks (as the building cannot be dismantled and removed during term time). This is not a viable process and as such a single source contract is recommended in this instance.
- 5.4. Removal and future relocation of the existing modular accommodation at Moor Allerton Hall will provide a future resource for use by the Authority on future obligations, this will reduce the capital burden on the Learning Places Programme by creatively re-using legacy assets.
- 5.5. Commissioning of an appropriate contractor without further competition will reduce the risk of not delivering the Moor Allerton Hall expansion project, remove the associated financial risk, remove the need for professional fees and loss of time attributable to full tender exercise.

## **6.0 Recommendations**

- 6.1. The Director of Children & Families is requested to:
  - 6.1.1. Approve the waiver of the following Contracts Procedure Rule to enable removal of a proprietary modular build system teaching block from Moor Allerton Hall Primary School and it's storage at Portakabin Ltd. Leeds yard.
    - **CPR 8.1** Where no appropriate internal provider, Exclusive Supplier, existing provider, LCC Approved Framework Agreement or Approved Framework Agreement exists, competition is required for procurements valued over £100k.
    - **CPR 8.2** Where there are sufficient numbers of providers at least four written tenders will be invited.
  - 6.1.2. Award a contract to Portakabin Ltd. in the sum of £44,623. The contract shall commence on, approximately, the 15<sup>th</sup> February 2020 and expire on the 28<sup>th</sup> February 2020, noting that the building will be stored free of charge at Portakabin Ltd's Leeds facility until the expiry of the summer shutdown period 2020.
  - 6.1.3. Note; removal costs will be funded from existing financial provision held within the Learning Places programme; any further financial approvals that may be required will be sought as part of the final account resolution process.
  - 6.1.4. Note; a subsequent waiver will be required to relocate the unit from Portakabin's Leeds facility once a new location has been determined. This will be subject to a separate pricing and scoping exercise once identified.
  - 6.1.5. Note that the officer responsible for implementation is the Head of Service Learning Systems.

## **7.0 Background documents<sup>1</sup>**

- 7.1. Appendix A - Equality Impact Assessment Screening Document

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<sup>1</sup> 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.