

Report of: Application Manager, Shared Services and Housing Hub

Report to: Director of Resources and Housing

Date: 25th November 2019

Subject: Approval to use Regulation 72 (1) (c) of the Public Contract Regulations 2015 to modify the Council's current contract with Orchard Information Systems Ltd for the support and maintenance of the Orchard Housing system.

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: 10.4 (3) Appendix number: 1 & 2	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Council's current contract (DN200088 (ex AARE-QZNB5G) ITS160024) was awarded to Orchard Information Systems Ltd for the period 31st March 2016 to 31st December 2018 with options to extend by a further 2x 6 month periods. All options to extend have been taken and the contract now expires 31st December 2019.
2. Delays in implementing the replacement Housing IT system, to be provided by Civica UK Ltd means there is now a requirement to continue to use and receive support and maintenance for the Orchard Housing system until such time as the new Housing IT system is operational, with an expected "Go-Live" date of November 2020.

Recommendations

3. The Director of Resources & Housing is recommended to approve the use of Regulation 72 (1) (c) of the Public Contract Regulations 2015 to modify the current contract with Orchard Information Systems Ltd for the support and maintenance of the Orchard Housing system and vary the end date from 31st December 2019 to 31st December 2020.

1 Purpose of this report

- 1.1 To seek approval to modify the current contract under Regulation 72 (1) (c) of the Public Contract Regulations 2015 (“Regulations”) and vary the end date of the current contract with Orchard Information Systems Ltd for the support and maintenance of the Orchard Housing system to 31st December 2020.

2 Background information

- 2.1 The software systems supporting the management of the Council's housing assets by Housing Leeds have been in place for a considerable number of years. Whilst these systems continue to meet the functional requirements of Housing Leeds, they are proving difficult to maintain in a complex technical environment and are no longer delivering best value for money.
- 2.2 In January 2017 a contract was awarded to Civica UK Ltd to provide a Housing IT system to replace a number of the Council's legacy Housing systems which would deliver operational efficiencies and support the vision of the Service.
- 2.3 Due to the size and complexities of this project, the Council has experienced delays in implementing the new Housing IT system. The anticipated date for having the new Housing IT system operational is now November 2020.
- 2.4 No support and maintenance is being paid to Civica UK for the business critical functionality that exists within Orchard. Support and maintenance relating to our Contract with Civica UK starts as products are signed off by the business. As stated in 2.3, the current 'go live' date is in November 2020. With such an implementation, full sign off will take place approximately 3 months after go live.
- 2.5 Assurance has been sort from the Program Manager relating to support and maintenance costs. No duplication of costs are (or will) occur whilst the Civica CX product is not functional or signed off.

3 Main issues

- 3.1 The delay in implementing the new Housing IT system, to be provided by Civica UK Ltd, means there is a requirement to continue using the existing Orchard Housing system until such time as the new Housing IT system is operational.
- 3.1 The current contract for the support and maintenance of the Orchard Housing system expires on the 31st December 2019 with no options to extend.
- 3.2 The Orchard Housing system is proprietary to Orchard Information Systems Ltd, and as such only they are able to provide the required levels of support and maintenance, including updates and fixes.
- 3.3 Varying the end date of the current contract with Orchard Information Systems Ltd to 31st December 2020 will ensure business continuity until such time as the new Housing IT system, to be provided by Civica UK Ltd, is operational.

Consequences if the proposed action is not approved

- 3.5 To undertake a full procurement exercise for an alternative interim Housing system (as a temporary solution whilst the Housing IT system is operational is neither practical nor best use of Council funds and resources. A full procurement and implementation of a replacement Housing system would take approx. 6-9 months to complete, by which time the new Housing IT system, provided by Civica UK Ltd, would be ready to go-live.

The Council could continue to use the current Orchard Housing system, but this would be on an unsupported basis. This would present considerable operational risks to the Council, and any potential disruption to current services could have severe consequences which would cause significant reputational damage to the Council.

4 Corporate considerations

4.1 Consultation and engagement

4.1.1 Appropriate consultation has taken place with all relevant stakeholders, and with the Council's Professional and Commercial Services and Strategic Sourcing teams, who all support the decision to vary the end date of the current contract to Orchard Information Systems Ltd.

4.2 Equality and diversity / cohesion and integration

4.2.1 There are no specific Equality, Diversity, Cohesion and Integration impacts relating to this decision to vary the end date of the current contract with Orchard Information Systems Ltd.

4.3 Council policies and city priorities

4.3.1 This Contract is directly relevant to several of the cross-cutting themes which have been adopted by the Council. In particular the suite of housing systems will:-

- ensure the Council can effectively manage its estate of residential social housing including new builds resulting from housing growth
- assist tenants in improving the energy efficiency of their homes
- contribute to helping individuals in escaping domestic violence
- contribute to making Leeds a good place to grow old

Climate Emergency

4.3.2 This report relates to a software system, its impact on climate change initiatives is mainly through the support it gives those services using it. By enabling Housing Management to continue to work with Orchard Information Systems, the council is able to maintain data that may help the organisation in its activities to address the climate emergency going forward.

4.3.3 This system directly contributes by facilitating digital working – e.g. electronic document management removing the need for paper copies of letters. Through the Self Service Portal members of the public can access information without the need to travel to an enquiry office, supporting flexible working for staff – reducing the need for travel to Council offices.

4.4 Resources and value for money

4.4.1 The current contract was awarded to Orchard Information Systems Ltd for the period 31st March 2016 to 31st December 2018 with options to extend by a further 2x 6 month periods. All options to extend have been taken and the contract now expires 31st December 2019.

- 4.4.2 The decision to vary the end date of the current contract with Orchard Information Systems Ltd for the support and maintenance of the Orchard Housing system for the period 1st January 2020 to 31st December 2020 represents best use of Council funds.
- 4.4.3 There are no resource implications connected to this decision.
- 4.4.3 With the new Housing IT system due to be operational in November 2020, to undertake a full procurement exercise for an alternative interim Housing system (as a temporary replacement for the current Orchard Housing system) is neither practical nor best use of Council funds and resources.
- 4.4.4 The cost for varying the current contract for a further 12 month period form 1st January 2020 to 31st December 2020 is £225,000.00.

4.5 Legal implications, access to information and call in

- 4.5.1 The decision to award a contract at this value is a Significant Operational Decision and 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 Under the Regulations the provisions of Regulation 72 (1) (c) state that a contract can be modified when all of the following conditions are met –
- “(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
 - (ii) the modification does not alter the overall nature of the contract;
 - (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement”.
- 4.5.3 It is considered that all the above conditions are met due to the reasons set out at section 3 above. If this Regulation is used incorrectly, and it is subsequently determined that the above conditions are not met, the Council will be open to legal challenge that it has breached the procurement rules. Further, an aggrieved contractor could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity.
- 4.5.4 It is also a requirement of Regulation 72 (3) that, when using Regulation 72 (1) (c), a notice to that effect must be published in OJEU to alert the market that such a modification to the contract has taken place (or is to take place). Once the notice is published it will start time running for bringing a claim for a breach of the Regulations, which must be brought within 30 days of the date that an aggrieved party knew, or ought to have known, that a breach had occurred.
- 4.5.5 The above comments should be noted. In making their final decision, the Chief Officer, Housing Management Leeds, should be satisfied that the course of action chosen represents best value for the Council.

4.6 Risk management

- 4.6.1 There are no risks associated with varying the end date of the current contract with Orchard Information Systems Ltd. The Orchard Housing system is a mature system and has been used by the Council for a number of years.

4.6.2 Any risks which are highlighted during the term of the varied contract will be managed and mitigated through regular account management/supplier review meetings.

5 Conclusions

5.1 The current contract ends on 31st December 2019. There is a requirement to continue to use the Orchard Housing system until such time as the new Housing IT system, to be provided by Civica UK Ltd, is operational.

6 Recommendations

6.1 The Director of Resources & Housing is recommended to approve the use of Regulation 72 (1) (c) of the Public Contract Regulations 2015 to modify the current contract with Orchard Information Systems Ltd for the support and maintenance of the Orchard Housing system and vary the end date from 31st December 2019 to 31st December 2020.

7 Background documents

7.1 None