

**Report of: Chief Officer Civic Enterprise Leeds**

**Report to: Director Resources and Housing**

**Date: 1<sup>st</sup> June 2020**

**Subject: Approval to use Contract Procedure Rule (CPR) 10.2 and award a contract under Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 - Negotiated Procedure without prior publication of a Contract Notice for the provision of Totalmobile Connect.**

Are specific electoral wards affected?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

**Summary**

**1. Main issues**

- Leeds Building Services (LBS) currently uses Total Repairs, (which includes Total Mobilise, Optimise, and Sub-contractor portal modules) as its Property Maintenance IT system, and is used as a mechanism for receiving jobs, allocating work to operatives or sub-contractors, charging for work completed and paying invoices in the management of its property assets.
- The current Total Repairs system is an on-premise system and has been operational for a number of years, however Totalmobile Ltd have advised that this system is now “end of life” and will no longer be supported. This will mean that LBS will no longer receive support & maintenance and updates and fixes for the current Total Repairs system.
- The Council’s current contract for Total Repairs (DN322146 – ITS201018 Totalmobile Property Maintenance Software) expires 21/02/2021.
- The current system is dated, not well integrated and no longer has the capability to deliver LBS operational business requirements. Performance issues have also been experienced which have impacted negatively on service delivery.

- Given the limitations with the current system, and the product reaching its end of life and will therefore be unsupported, a replacement Property Maintenance IT system is needed to support LBS in delivering both its current operational business requirements, as well as the planned growth of LBS, the key areas being the insourcing of the Repairs, Voids and Cyclical maintenance in the south of the City in 2021.

## 2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

The award of a contract for the provision of a new Property Maintenance IT system will support and contribute to the delivery of the following Council policies and priorities:

- Becoming a more efficient and enterprising Council
- Sustainable Infrastructure
- Inclusive Growth – supporting growth and investment

## 3. Resource Implications

- Whilst there is an upfront internal implementation cost, this will be funded through existing budgets and the operational efficiencies generated will deliver an overall saving to the Council over the lifetime of the contract.
- Approving the award of a contract to Totalmobile Ltd for the provision of Totalmobile Connect will enable LBS to deliver operational efficiencies and cost savings.

## 4. Recommendations

Director Resources and Housing is recommended to approve the use of CPR 10.2 to award a contract using Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 Negotiated Procedure without prior publication of a Contract Notice to Totalmobile Ltd for the provision of Totalmobile Connect.

The contract will commence on the 19<sup>th</sup> June 2020 unless the parties agree a new commencement and expiry date, but in any event the duration of the contract will be 5 years.

The annual costs for the contract are:

- Year 1: £172,010.00
- Years 2 to 5: £119,490.00 per year

The total contract cost is £649,970.00.

- 5.1 The purpose of this report is to set out the reasons for seeking approval to use Contract Procedure Rule (CPR) 10.2 and award a contract to Totalmobile Ltd under Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 - Negotiated Procedure without prior publication of a Contract Notice for the provision of Totalmobile Connect. The contract will commence on the 19<sup>th</sup> June 2020 unless the parties agree a new commencement and expiry date, but in any event the duration of the contract will be 5 years.

## **6. Background information**

- 6.1 LBS is Leeds City Council's Internal Service Provider (ISP) for construction, repairs and maintenance works. LBS currently provides responsive repairs, voids and cyclical maintenance for circa 17,000 properties in the east of the City.
- 6.2 LBS has a current annual turnover of circa £70m and currently budgets for 666 staff consisting of 436 operatives, 47 apprentices and 183 office staff.
- 6.3 LBS is planning to expand its operation and geographic spread from mid-2021 and provide repairs and maintenance to properties in the south of the City, which will add a further 14,000 properties to its portfolio and result in additional staff joining LBS via TUPE.
- 6.4 In addition to domestic properties, LBS also maintains the Council's civic estate which includes 2,100 buildings over 800 sites across Leeds as well as the delivery of city wide adaptations in Council properties and cyclical maintenance programmes.
- 6.5 LBS has evolved as a result of the merging of services over the years, however each has brought with them processes of working which have not merged effectively to provide a coherent single business model. To meet the outcomes and business improvements required by the Council, the strategy for LBS is to move away from the current regime of operating, which is resource heavy, does not provide transparency across the service and does not provide the required information in a timely enough manner. The aim is to implement a new digital system, supported by robust processes and daily disciplines which will allow all aspects of the business to be managed by exception and in real-time, and reduce the reliance on formal reports.
- 6.6 The award of a contract for the provision of Totalmobile Connect will support LBS in this aspiration by providing a single system that will unify the service, improve the end to end process, and allow all relevant information on works to be collated in one place. It will also support LBS in providing more accurate reporting and budget forecasting to other areas of the Council.

## **7. Main issues**

- 7.1 Leeds Building Services (LBS) currently uses Total Repairs, (which includes Total Mobilise, Optimise, and Sub-contractor portal) as its Property Maintenance IT system, and is used as a mechanism for receiving jobs, allocating work to operatives or sub-contractors, charging for work completed and paying invoices in the management of its property assets.
- 7.2 Total Repairs is an on-premise system and is heavily embedded in the Council's IT infrastructure and LBS operational processes and procedures, however, it is dated, not well integrated and no longer has the capability to deliver current and future LBS operational business requirements.
- 7.3 The Council's current contract with Totalmobile Ltd expires 21/02/2021. The existing Total Repairs system has reached its end of life and will no longer be supported by Totalmobile Ltd. LBS therefore requires a replacement Property Maintenance IT system to enable it to continue to provide effective maintenance services across the City.
- 7.4 The Council has considered a number of options:

- a) Continue to use the current on-premise Total Repairs system – this would mean that the Council would be using an outdated, unsupported system, and in the event that any issues arise through its use, LBS would not receive support & maintenance or updates and fixes.
  - b) Carry out a full procurement exercise for a new Property Maintenance IT system – this would require substantial resource. As this is a key business application, to carry out a full procurement exercise would be a major project for the Council, requiring significant resource and time to gather requirements, carry out a full procurement exercise, implement and train all staff in the use of a new system.
  - c) Award a contract for the provision of Totalmobile Connect – This is, in essence, a change from use of an on-premise system to the use of a cloud hosted system, and as such, much of the core functionality remains the same. The transition to using the cloud hosted system would be the least cost and most expedient option, requiring minimal time for implementation and training so would be operational immediately.
- 7.5 Awarding a contract to Totalmobile Ltd for the provision of Totalmobile Connect represents the most cost effective option and best use of Council resources and funds at this time, and will ensure that LBS can continue to manage the Council's property assets.
- 7.6 The decision to award a contract to Totalmobile Ltd for the provision of Totalmobile Connect is taken on technical grounds for the following reasons:
- The current Total Repairs system is heavily embedded in the Council's IT infrastructure and LBS operational processes and procedures;
  - The decision represents a change from use of an on-premise system to the use of a cloud hosted system, and as such, much of the core functionality remains the same;
  - Totalmobile Connect is proprietary to Totalmobile Ltd, and as such only they are able to provide the necessary levels of on-going Support & Maintenance, as well as upgrades and fixes to the system.

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

- 7.7 The existing contract with Totalmobile Ltd ends on 21/02/2021. If a contract is not awarded to Totalmobile Ltd for the provision of Totalmobile Connect, then LBS will no longer have use of a Property Maintenance IT system to support the management of its property assets. LBS would have to resort to paper based processes for receiving jobs, allocating work to operatives or sub-contractors, charging for work completed and paying invoices in the management of its property assets.
- 7.8 This would have a detrimental effect to LBS operational model and aspirations to achieving their longer term strategy/vision. It would also impact on the Councils' reputation in terms of service delivery and customer satisfaction, and in particular breach the Councils' obligation as a landlord to maintain and service its Council homes and property assets.

#### **Advertising**

- 7.9 This requirement has not been advertised. A review of the marketplace indicates there are currently very few alternative systems available. The Council intends to carry out a full review of its current and future requirements with a view to carrying out a full procurement exercise during the term of the contract.

## **8. Corporate considerations**

### **8.1 Consultation and engagement**

- 8.1.1 Key Stakeholders in LBS as well as members of the Council's Digital and information Service (DIS) have been consulted and support the decision to award a contract to Totalmobile Ltd for the provision of Totalmobile Connect.
- 8.1.2 Civic Enterprise Leeds Senior Management Team also support the proposal. Project and IT procurement staff have been involved throughout the process and commercial and legal advice has been sought from the Council's Procurement and Commercial Services.
- 8.1.3 Consultation has also been undertaken with Councillor Coupar, as Executive Member for Communities and Councillor Lewis as Executive Member for Resources.

### **8.2 Equality and diversity / cohesion and integration**

- 8.2.1 There are no specific issues relating to equality and diversity or cohesion and integration identified through the award of this contract.

### **8.3 Council policies and the Best Council Plan**

- 8.3.1 The award of this contract will contribute to the Best Council Plan outcomes of becoming a more efficient and enterprising Council. Having an effective Property Maintenance IT system in place will allow LBS to meet its ambitions to:
  - have housing of the right quality, type, tenure and affordability in the right places;
  - improve housing quality and standards;
  - enhance the city and achieving inclusive growth in Leeds;
- 8.3.2 The award of a contract for a new Property Maintenance IT system will provide LBS with a robust process to manage sub-contractors and ensure that they are improving the placement of work to local businesses. This will provide employment and skills opportunities in the region and facilitate inclusive growth.
- 8.3.3 In addition, it will contribute towards everyone living in good, quality affordable homes within clean and well cared for places; and for everyone to be safe and feel safe.

#### Climate Emergency

- 8.3.4 The Elected Members of Leeds City Council recently declared a Climate Change Emergency, giving a commitment to becoming carbon neutral by 2030. The award of a contract for the provision of Totalmobile Connect directly contributes to this commitment by facilitating digital working, enabling LBS to manage and maintain the Council's property assets using a digital platform and removing the need for extensive paper based systems.
- 8.3.5 Awarding a contract for the provision of Totalmobile Connect will also contribute towards providing a sustainable infrastructure by improving air quality, reducing pollution and noise and promoting a more competitive, less wasteful, more resource efficient, low carbon economy through the use of enhanced/effective scheduling of

jobs. The programme function for the allocation of jobs and use of materials will enable LBS to reduce vehicle journeys and stock wastage.

#### **8.4 Resources, procurement and value for money**

- 8.4.1 Whilst there are resource implications associated with the move to a cloud based solution rather than the use of an on-premise system this project and contract award will provide benefits to LBS through efficiency savings in the following ways:
- a. Improved user interface using existing functionality;
  - b. Additional functionality through use of the cloud hosted system Totalmobile Connect;
  - c. Use of a cloud-hosted system which is more reliable and sustainable
- 8.4.2 To carry out a full procurement at this point in time would not represent best use of Council funds or resources. A change of such a key system would require an extensive procurement exercise as well as a significantly sized project team to manage the procurement and lengthy implementation of any new system.
- 8.4.3 The decision to award a new contract to Totalmobile Ltd for the provision of Totalmobile Connect represents best value for money and the best use of Council funds and resources at this time.
- 8.4.4 Awarding this contract will incur total costs, including implementation costs, of £1.545m over 5 years which will be funded by a combination of existing budget provision of £1.110m and efficiencies within LBS £1.493m which the new system will enable giving net savings of £1.058m over 5 years. This is detailed within the supporting business case.
- 8.4.5 The implementation of the system will also provide a series of additional non-cashable benefits which are detailed in the business case.

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

- 8.5.1 The decision to award a contract to Totalmobile Ltd for the provision of Totalmobile Connect at a value of £649,970.00 is a key decision and is subject to call-in. This decision was added to the list of forthcoming key decisions on 28 April 2020.
- 8.5.2 The decision to award a contract to Totalmobile Ltd is allowed pursuant Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015, which states:
- 32.—(1) In the specific cases and circumstances laid down in this regulation, contracting authorities may award public contracts by a negotiated procedure without prior publication.
- (2) The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:—
- (b) Where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—
  - (ii) Competition is absent for technical reasons.
- 8.5.3 Due to the level of spend it is considered that there is the potential risk of challenge that organisations interested in providing these services have not been provided with an opportunity to tender for this work. In addition, there is also the potential risk of challenge that there are no real technical reasons justifying the use of the

Negotiated Procedure without publication of a Contract Notice in accordance with the Public Contracts Regulations 2015, and that the Council are simply seeking to circumvent the application of the rules. However, due to the reasons set out in this report these risks are perceived to be low.

- 8.5.4 In addition, these risks can be diminished somewhat by the publication of a voluntary transparency notice in OJEU immediately after the decision to award the contract has been taken and then waiting 10 days to see if any challenges are made. If no challenges are made the chances of a claim for ineffectiveness being brought are significantly reduced, and would only be successful if the Council had used the negotiated procedure without publication of a notice incorrectly. Further, publishing such a notice will also start time running for any other potential claim for 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.
- 8.5.5 However, it should be noted that voluntary transparency notices themselves can be challenged. The recent case of Italian Interior Ministry v Fastweb SpA (Case C-19/13) highlights the limited protection that the voluntary transparency notice route can offer to contracting authorities wishing to make direct awards without following an OJEU process. A grey area remains around whether the protection of a voluntary transparency notice will be available where the contracting authority genuinely, but mistakenly, considers it was entitled to award the contract without notice. It shows that the safe harbour will only be 'safe' to the extent that the justification for the direct award is in itself sound and ready to stand up to the increased scrutiny that the publication of the voluntary transparency notice may well invite.
- 8.5.6 These comments should be noted by Director Resources and Housing in making the final decision and should be satisfied that doing so represents best value for the Council.
- 8.5.7 This is a Key Decision and is eligible for call in.

## **8.6 Risk management**

- 8.6.1 Any risks highlighted during the term of the new contract will be managed and mitigated through regular account management/supplier review meetings.
- 8.6.2 A risk register will be established to capture and monitor key risks, and these will be reviewed on a monthly basis and updated accordingly.

## **9. Recommendations**

The Director Resources and Housing is recommended to approve the use of CPR 10.2 to award a contract using Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 Negotiated Procedure without publication of a Contract Notice to Totalmobile Ltd for the provision of Totalmobile Connect.

The contract will commence on the 19<sup>th</sup> June 2020 unless the parties agree a new commencement and expiry date, but in any event the duration of the contract will be 5 years.

The annual costs for the contract are:

- Year 1: £172,010.00
- Years 2 to 5: £119,490.00 per year

The total contract cost is £649,970.00.

**10. Background documents<sup>1</sup>**

10.1 None.

---

<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.