

Report of: Head of Business Planning & Risk

Report to: Chief Officer – Financial Services

Date: 26 June 2020

Subject: Request to waive Contracts Procedure Rules 8.1 and 8.2 to award a new contract to CIPFA Newco Ltd (trading as CIPFA C.Co Ltd) for two service reviews

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: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary –

1. Main issues

- On 24 June 2020, the council’s Executive Board considered a report setting out the unprecedented scale of the financial challenge facing the authority. The report – publicly available [here](#) at item 9 – explains the impact of Covid-19 upon the financial position for 2020/21 and 2021/22: a projected overspend of £198m for this year and projected budget gap of £118m next year. The report also explains how the council is responding, with a number of immediate measures taken to limit non-essential spending and making the case to Government for additional support.
- As part of the response, we are also carrying out reviews across all services to identify where further efficiencies can be made for 2021/22, with the aim of presenting a set of proposals to this September’s Executive Board and feeding into next year’s Budget process. In order to meet this timescale, the reviews must be completed over the coming 6 weeks.
- Whilst the vast majority of service reviews are being carried out in-house, external expertise is required for a small number of more complex or specialist reviews. C.Co (CIPFA’s – the Chartered Institute of Public Finance & Accountancy – consultancy service) has such expertise to lead two specific service reviews: one for Revenues and Benefits, the other for Financial Services. Due to the urgent requirement to start the reviews as soon as possible, this report seeks to directly award a short-term contract to C.Co for the purposes of these two reviews.

2. Best Council Plan Implications (see the [latest version of the Best Council Plan](#))

- The service reviews directly support our Best Council ambition to be a more Efficient, Enterprising and Healthy organisation, whilst ensuring the council remains financially sustainable also underpins the delivery of all Best City priorities as set out in the Best Council Plan.

3. Resource Implications

- The service reviews will identify a range of options to secure greater efficiencies, thereby contributing to the council's financial strategy.
- The total cost of the contract to C.Co is fixed at £44,500, with expenses capped at 5% of the contract fee.

Recommendations

- a) The Chief Officer – Financial Services is recommended to approve the waiver of the following Contracts Procedure Rules: Contracts Procedure Rules No. 8.1 and 8.2 – Intermediate Value Procurements, using the authority set out in CPR 1.3 and award a fixed term contract to CIPFA Newco Ltd (trading as CIPFA C.Co) without competition in the sum of £44,500 with expenses capped at 5% of the contract fee. The contract shall commence on 29 June 2020 and expire on 31 August 2020.

1. Purpose of this report

- 1.1 This report seeks approval to waive Contracts Procedure Rules 8.1 and 8.2 in order to award a fixed term contract to CIPFA Newco Ltd (trading as CIPFA C.Co) without competition to lead two service reviews during July and August 2020.

2. Background information

- 2.1 As part of the council's response to the unprecedented financial challenge it faces, we are carrying out reviews across all services to identify options for achieving efficiencies. This is a significant programme for which a small number of review areas require independent, specialist expertise and capacity to ensure the reviews can be completed within the timescales required to enable a set of proposals to be presented to this September's Executive Board.

3. Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 All service reviews must be carried out from end June/early July and completed by August. The reviews for Revenues & Benefits and Financial Services are both of sufficient specialism that equivalent specialist independent expertise and capacity is required. C.Co has the requisite expertise and experience of carrying out such reviews and, as the consulting arm of CIPFA, has particular experience in public services and in local authority financial management.
- 3.2 The urgent timescales prevent advertising this opportunity whilst C.Co brings particular specialist experience to these two review areas. The contract would start on 29 June 2020 with the review activity taking place during July and C.Co's report

back to the organisation for the Financial Services review to be received no later than 14 August, and the Revenues and Benefits review to be received by 7 August.

- 3.3 Once approval to award has been obtained, a contract will be entered into using the council's standard terms and conditions.

Consequences if the proposed action is not approved

- 3.4 C.Co has an established record of carrying out this type of review with local authorities and is able to complete the reviews within the urgent timescales required. Should the contract not be awarded, there is a high risk that the efficiency savings required in these two service areas will not be achieved.

Advertising

- 3.5 It is not proposed to advertise this opportunity for the reasons set out in paragraphs 3.1 and 3.2 above.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Procurement and Finance colleagues have been consulted in the preparation of this report and in discussions with C.Co.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 All service reviews will have due regard to equality.

4.3 Council policies and the Best Council Plan

- 4.3.1 The service reviews directly support our Best Council ambition to be a more Efficient, Enterprising and Healthy organisation, whilst ensuring the council remains financially sustainable also underpins the delivery of all Best City priorities as set out in the Best Council Plan.

Climate Emergency

- 4.3.2 This includes the delivery of our Climate Emergency ambition, which, alongside Inclusive Growth and Health and Wellbeing, is a key driver for our Best City aim to be a Strong Economy in a Compassionate City.

4.4 Resources, procurement and value for money

- 4.4.1 The cost of the contract will be £44,500 and can be funded within existing resources. C.Co are providing the reviews on a fixed fee basis, which represents value for money for the Council. By undertaking the reviews using a specialist Provider, the Council will realise savings efficiencies.

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

- 4.5.1 This is a Significant Operational Decision which 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 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 for the procurement of public services contracts and therefore it is not subject to the full EU procurement rules. However, the council's Contracts Procedure Rules 8.1 and 8.2 require competition for procurements valued between £25K and £100K and the invitation of at least three written tenders. A waiver of these Contracts Procedure Rules is required to award a contract direct to C.Co. Awarding the contract directly to C.Co in this way could leave the council open to a potential claim from other potential providers, 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 always consider whether contracts of this value should be subject to a degree of European wide advertising and that it is the council's decision as to the appropriate degree of advertising. 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.
- 4.5.3 The Head of Business Planning and Risk has considered this and, due to the specialist nature of the services being delivered, the relatively low value and short length of the contract and the requirement to carry out the reviews within the next 6 weeks, is of the view that the scope and nature of the services is such that it would not be of interest to contractors in other EU member states.
- 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. 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 and 8.2, the above comments should be noted. In making their final decision, the Chief Officer Financial Services should be satisfied that the course of action chosen represents Best Value for the council.

4.6 Risk management

- 4.6.1 C.Co has the requisite experience to carry out the two service reviews required and has confirmed its availability to undertake them within the requisite timescales. The contract is short-term and of relatively low value. Taking these factors into account, it is therefore anticipated that there is a low risk of challenge from other providers.

5. Conclusions

- 5.1.1 C.Co has a proven track record of leading service reviews across public service organisations with a particular specialism in local authority financial management. As part of a wider programme of service reviews across the council, specialist support is required to lead the reviews into Revenues & Benefits and Financial Services which C.Co is able to provide. C.Co is also able to begin the work immediately upon contract award, enabling the reviews to be completed in August and thereby meeting the council's required timescales.

6. Recommendations

6.1 The Chief Officer – Financial Services is recommended to approve the waiver of the following Contracts Procedure Rules: Contracts Procedure Rules No. 8.1 and 8.2 – Intermediate Value Procurements, using the authority set out in CPR 1.3 and award a fixed term contract to CIPFA Newco Ltd (trading as CIPFA C.Co) without competition in the sum of £44,500 with expenses capped at 5% of the contract fee. The contract shall commence on 29 June 2020 and expire on 31 August 2020.

7. Background documents¹

7.1 There are no background documents.

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.

Appendix

What is your reason for waiving CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process (e.g. to deal with the consequences of extreme weather).	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Other (please provide summary here) The requirement is urgent in nature and therefore there is no time to undertake a procurement exercise.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No