



**Report of: Senior Civil Enforcement Officer**

**Report to: Chief Officer Elections and Regulatory**

**Date: 18 November 2020**

**Subject: Request to waive Contracts Procedure Rules 8.1 and 8.2 to enable the Council to award a new contract to Keltic Limited for the Provision of Civil Enforcement and Associated Workwear**

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 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

- A competitive procurement exercise to appoint a Provider to provide Civil Enforcement and Associated Workwear was undertaken in early 2020. Due to the Covid-19 pandemic, the evaluation of the procurement was delayed to July 2020. Upon evaluation, it became evident that neither of the bids were able to meet the Council's full requirement and as such the tender exercise was abandoned.
- The Council is now seeking to award a 12 month contract to Keltic Limited, who are able to provide most of the Council's requirement. This 12 month contract will give the service time to ascertain what the likely requirement will be long term and conduct a suitable procurement process.
- There is a requirement within a number of services for good quality outdoor clothing, to protect officers against weather conditions whilst they are working outdoors.
- A Provider has been identified as being able to provide the services required beginning on the 1<sup>st</sup> December 2020. Following discussions with Procurement and Commercial Services, this report seeks a waiver of CPRs 8.1 and 8.2 to award a contract directly to Keltic Limited for a period of 12 months, with a 1 x 12 month extension period available, in order to allow a second tendering exercise to be

completed for a long term solution. The contract value will be no more than £60,000, including the extension period.

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

- The award of this contract feeds in to the Best Council Plan 2019/20 to 2020/2021 and the stated ambition to be an efficient, enterprising and healthy organisation. It ensures that the Council spends its money wisely by seeking to achieve the best price possible for strategically important goods and that those Council employees who require workwear have access to the best up to date products to support them in their tasks.

## **3. Resource Implications**

- This contract is contained within the budget of the services who require suitable workwear for officers working outdoors.

## **Recommendations**

The Chief Officer Elections and Regulatory is asked to:

- a) note the content of this report;
- b) approve a waiver of CPRs 8.1 and 8.2 using the authority set out in CPR 1.3 in order for a contract to be directly awarded to Keltic Limited for a period of 12 months commencing on 1<sup>st</sup> December 2020, with a 1 x 12 month extension available. The contract value will be no more than £60,000.

### **1. Purpose of this report**

- 1.1 Contract Procedure Rules 8.1 and 8.2 require competition for contracts that are valued at £25k and above.
- 1.2 This report seeks to waive these CPRs, in accordance with CPR 27, in order to award a contract directly to Keltic Limited without further competition.

### **2. Background information**

- 2.1 Leeds City Council has an ongoing requirement for workwear for officers who are predominantly based outdoors, including those within Parking Services and the Safer Leeds team.
- 2.2 A contract was awarded in 2016 to Keltic Limited, for the provision of this type of workwear. The contract was awarded via a waiver. At the point of the contract expiring, a decision was taken to go out to competition to appoint a provider of this type of work wear, as it was not suitable to be incorporated into the Council's main PPE framework.

### **3. Main issues**

- 3.1 A competitive tendering exercise was undertaken in early 2020, with two bids submitted. The evaluation was then immediately suspended due to the Covid-19 pandemic, as Civil Enforcement staff were redeployed temporarily in order to

support colleagues across the Council in their response to the pandemic and restrictions imposed by the Government.

- 3.2 The evaluation then took place in July 2020 and the evaluation panel concluded that neither of the bids submitted met the stated evaluation criteria. As such, the tender process was abandoned and bidders were informed of this.
- 3.3 Since the tender process has been abandoned, some of the Council's requirement has been sourced under the current PPE framework. However, the framework is not suitable for the majority of the items required. Keltic Limited, one of the bidders in the procurement process, are able to provide most of the Council's requirement at a reasonable price. The service is assured of the quality of these items, as Keltic were a supplier under the previous contract.
- 3.4 At present, it is not clear to the service what the long term requirements for these items will be, due to the potential of staff leaving the Council or restructures of services.
- 3.5 Due to the nature of the service provided under this contract, there is an urgent need to appoint a provider. The Council has a duty of care to all staff to provide them with appointments with appropriate workwear. Awarding this short term contract will allow the Council to consider its position in the next 12 months, and undertake a further tendering process if required.

#### **4. Corporate considerations**

##### **4.1 Consultation and engagement**

- 4.1.1 The contract is to be used by the services across the Council. Civil Enforcement Services and Safer Leeds have been consulted with during the process as the biggest users of the contract. Procurement and Commercial Services have advised on the procurement processes.

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

- 4.2.1 The proposed action has no specific or new implications for equality and diversity, cohesion and integration – although it does, of course, help the council meet its general duties under the Equality Act and to treat people fairly.

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

- 4.3.1 The award of this contract feeds in to the Best Council Plan 2019/20 to 2020/2021 and the stated ambition to be an efficient, enterprising and healthy organisation. It ensures that the Council spends its money wisely by seeking to achieve the best price possible for strategically important goods and that those Council employees who require workwear have access to the best up to date products to support them in their tasks.

##### Climate Emergency

- 4.3.2 Efforts will be made during the lifetime of the contract to reduce any carbon emissions. Deliveries will be kept to a minimum in order to minimise carbon emissions.

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

4.4.1 The proposed provider offers value for money and has delivered quality products under the previous contract. Before any future contracts are awarded, a tendering process will be followed in order to ensure the Council is obtaining value for money.

#### **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 Awarding the contract direct to Keltic 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. 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. 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.

4.5.3 The Chief Officer Elections and Regulatory has considered this and, due to the nature of the services being delivered, the relatively low value of these contracts and the requirement to be physically located in Leeds, 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.

4.5.4 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.

4.5.3 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 Director of Communities and Environment should be satisfied that the course of action chosen represents Best Value for the Council.

#### **4.6 Risk management**

4.6.1 The Council has a duty of care to its employees in order to provide appropriate workwear for outdoor work.

4.6.2 The contract with Keltic Limited is a temporary provision until a further tendering exercise is undertaken in order to appoint a suitable provider. There is a need to understand what the Council's structure will look like following service reviews, in order to ascertain the long term requirements for services going forward.

### **5. Conclusions**

5.1 The Council has a need for a supplier to provide outdoor workwear for officers who predominantly work in an outdoor setting. As the long term requirements are

uncertain at this stage, a direct award will allow the service time to consider the options and engage in a procurement process once it is clearer what the requirements will be in the future.

## **6. Recommendations**

6.1 The Chief Officer Elections and Regulatory is asked to:

- note the content of this report;
- approve a waiver of CPRs 8.1 and 8.2 using the authority set out in CPR 1.3 in order for a contract to be directly awarded to Keltic Limited for a period of 12 months commencing on 1st December 2020, with a 1 x 12 month extension available. The contract value will be no more than £60,000.

## **7. Background documents<sup>1</sup>**

7.1 None

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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.