

Report of Head of Electoral Services

Report to Chief Officer, Elections and Regulatory

Date: 3 December 2020

Subject: Approval to use Regulation 72 (5) of the Public Contract Regulations 2015 to vary the Council's Electoral Services printing contract with Print Image Network Limited

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

- Tom Riordan has been appointed as the Combined Authority Returning Officer (CARO) for the West Yorkshire Combined Authority (WYCA) Mayoral Elections scheduled to take place on Thursday 6 May 2021.
- These elections were not scheduled in 2017, when the procurement exercise for a printing contract for Electoral Services was undertaken.
- The CARO is responsible for the production and distribution of an 'election booklet' containing candidates' election address to every voter in the combined authority area.
- It is therefore necessary to vary the current Electoral Services printing contract with Print Image Network Limited to accommodate these additional requirements.
- In formalising this variation the Council is relying on Regulation 72 (5) of the Public Contract Regulations 2015 whereby a contract may be modified without a new procurement procedure provided that:
 - the value of the modification is below both the EU threshold of £189,330 and represents no more than 10% of the initial contract value

- the modification does not alter the overall nature of the contract

The variation would represent a contract value of £150k which is approximately 7% of the overall contract value.

- This report seeks approval to vary the existing Electoral Services printing contract with Print Image Network Limited to for the production of the booklet.

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

- By utilising the existing contract, the CARO will be able to undertake his responsibility efficiently and making the best use of his resources to produce this communication.

3. Resource implications

- WYCA will lead on the on production of the artwork for the booklet which will be signed off by the CARO.
- The cost of the booklet will be reimbursed by WYCA, who are financially responsible for any costs relating to the Mayoral Elections.
- The Head of Electoral Services will oversee the production of artwork and the physical production of the booklet.

Recommendations

- a) It is recommended that the Chief Officer Elections and Regulatory approves the use of Regulation 72 (5) of the Public Contract Regulations 2015 to vary scope of the current Electoral Services printing contract with Print Image Network Limited to include the printing of an election booklet at a contract value of £150,000 under the same terms and conditions and rates.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval to use Regulation 72 (5) of the Public Contract Regulations 2015 to vary the current Electoral Services printing contract with Print Image Network Limited for with a contract value of £150,000 under the same terms and conditions and rates.
- 1.2 This is to allow the CARO to use the contract to fulfil his statutory obligation for the West Yorkshire Combined Authority (WYCA) Mayoral Elections to produce an information booklet for each elector in the combined authority area.

2. Background information

- 2.1 The first elections to elect a Mayor for the West Yorkshire Combined Authority area are scheduled to take place on Thursday 6 May 2021.
- 2.2 [Regulation 6\(1\) of The Combined Authorities \(Mayoral Elections\) Order 2017](#) (the regulations) requires the Combined Authority to appoint one of its officers, or one of the officers of a constituent council, to be the CARO in relation to the election.
- 2.3 The WYCA took the decision to appoint Tom Riordan, Chief Executive of Leeds City Council, to be the CARO for these elections.

2.4 [Regulation 8](#) of the regulations states:

- (1) Each candidate at a combined authority mayoral election shall be entitled (subject to and in accordance with the provisions of [Schedule 5](#)) to have an election address prepared on behalf of the candidate included in a booklet of election addresses –
 - a. Prepared by the Combined Authority Returning Officer
 - b. Delivered by that office to each person entitled to vote at that election
- (2) Candidates' election addresses shall be delivered at the expense of the combined authority.

2.5 At the time of the procurement exercise for the existing Electoral Services printing contract, the WYCA elections were not scheduled. Therefore the requirement to print an election booklet was not included in the specification when Electoral Services went out to tender.

3. Main issues

- 3.1 In order to use the existing contract, a variation is required under [Regulation 72 \(5\) of the Public Contracts Regulations 2015 \(Regulations\)](#) which provides for a modification to a contract originally procured in line with the Regulations to be varied by up to 10% of the initial contract value, providing the value of the modification is below the current threshold for goods/services (currently £189,330) and does not alter the overall nature of the contract.
- 3.2 The initial total contract value was £2.3m and the cost of printing the booklet has been quoted as £150k, which represents an increase in scope of the original contract value of approximately 7%
- 3.3 The required variation requires approval from the Chief Officer, Elections and Regulatory.
- 3.4 If approval at 3.1 above is obtained, a Variation Agreement will then be issued to Print Image Network Limited to obtain their acceptance of the variation.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Consultation was not required to inform the decision in this report.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 There are no specific implications in respect of equality and diversity.

4.3 Council policies and the Best Council Plan

- 4.3.1 This contract variation will allow the CARO to undertake his responsibility efficiently and making the best use of his resources to produce this communication.

[Climate Emergency](#)

- 4.3.2 The supplier will meet all Legislation, Guidance and Good Industry Practice in environmental management and meet the objectives of the Council's sustainability policies, as confirmed during the original procurement exercise.
- 4.3.3 The contract specifies environmental considerations specifically in relation to the use of recycled paper (which represented a total of 6% of the overall tender evaluation when the contract was awarded).

4.4 Resources, procurement and value for money

- 4.4.1 As stated in Summary (3) above the cost of the booklet will be met by the WYCA.
- 4.4.2 Any LCC Officer time related to the production of the booklet will be recharged to the combined authority.
- 4.4.3 The contract variation is considered the best option since the current supplier, Print Image Network Limited, has already demonstrated value for money through the original tender exercise and as such, the cost and resources required to run a further competitive exercise have been avoided.

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

- 4.5.1 The Chief Officer, Elections and Regulatory has the required authority to make the proposed decision under the [Director of Communities and Environment's sub-delegation scheme](#).
- 4.5.2 This is a Significant Operational Decision and is not eligible for call in as the value of the variation is below £500k.
- 4.5.3 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.4 Under the Regulations the provisions of Regulation 72 (5) states that where the value of the modification is below both of the following values:—
 - (a) the relevant threshold mentioned in regulation 5, and
 - (b) 10% of the initial contract value for service and supply contractsThe variation is permitted provided that the modification does not alter the overall nature of the contract.
- 4.5.5 It is considered that all the above conditions are met due to the reasons set out at section 3 above. However, if this Regulation is used incorrectly, and it is subsequently determined that the above conditions are not met, the Council may 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.
- 4.5.6 The above comments should be noted. In making their final decision, the Chief Officer Elections and Regulatory should be satisfied that the course of action chosen represents best value for the Council.

4.6 Risk management

- 4.6.1 The contract is proactively managed and monitored regularly to ensure the benefits of the services are maximised. As already agreed at the time of award, the Contractors' performance will be continuously measured over the life of the contract.

5. Conclusions

- 5.1 In order to allow the appointed CARO to fulfil his statutory responsibility to produce the election booklet, the decision requested in this report will provide the resource and support required to be able to do so.
- 5.2 By using the existing contract with this experienced electoral printer, the CARO will have reassurance of the process being carried out in accordance with regulations to meet his statutory obligation. A variation is therefore required under [Regulation 72 \(5\) of the Public Contracts Regulations 2015](#) which provides for a modification to a contract originally procured in line with the Regulations to be varied by up to 10% of the initial contract value, providing the value of the modification is below the current threshold for goods/services (currently £189,330) and does not alter the overall nature of the contract.

6. Recommendations

- 6.1 It is recommended that the Chief Officer Elections and Regulatory approves the use of Regulation 72 (5) of the Public Contract Regulations 2015 to vary the scope of the current Electoral Services printing contract with Print Image Network Limited to include the printing of an election booklet at a contract value of £150,000 under the same terms and conditions and rates.

7. Background documents¹

- 7.1 None.

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.