

Request to award a contract, using Contracts Procedure Rule 9.5 to Sonova UK for the supply of Phonak assistive listening devices.

Date: 10/03/2022

Report of: Commissioning Manager, Commissioning & Market Management

Report to: Deputy Director of Learning

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- This report seeks approval to use Contracts Procedure Rule (CPR) 9.5 to award a contract, without competition, to Sonova UK for the supply of Phonak assistive listening devices for children and young people (C&YP) on the grounds that they are genuinely the only provider that can meet the Council's specific requirements. This would be a continuation of an existing service.
- The value of the contact will be up to £50,000 per annum and it will have a maximum length of 3 years (two years plus one) this means the maximum value over the contract period, should all extensions be utilised, will be up to £150,000.
- The current contract with Sonova UK is due to end on 31/03/2022 having been commissioned by LCC for several years. The contract will be a call-off, based on medical need and expenditure varies each year but currently stands at approximately £40K per annum. Expenditure has previously been a little higher and is expected to rise again as children return to school following the pandemic.
- Sonova provides Phonak assistive listening devices to children and young people based on their medical needs and the devices are fully compatible with the Phonak hearing aids issued by the NHS – this compatibility is vital for them to function.
- This contract will enable C&YP with SEND to engage in learning and will directly impact on one of the five outcomes identified in the children and young people's plan 2018-2023 – to 'do well at all levels of learning'. It will help deliver the ambition of becoming an inclusive Child Friendly City – to make Leeds the best city in the UK for children and young people to grow up in.

Recommendations

- a) Approve to award a contract using contract procedure rule 9.5 and award Sonova UK with a call-off contract for supply of Phonak assistive listening devices on the grounds that they are genuinely the only provider that can meet the Council's specific requirements. The contract will run from 01/04/22 to 31/03/2024 initially and there will be one option to extend the contract by a further twelve-month period. If all the extensions are utilized, the contract will end on 31/03/2025.
- b) Approve the annual expenditure of up to £50,000 per annum for twenty-four months with the option to extend for a further twelve-month period (overall value including extensions will be up to £150,000).

Why is the proposal being put forward?

- 1 This service is delivered on a medical needs basis and the decision will ensure continuity of the provision of Phonak assistive listening devices, compatible with hearing aids issued by the NHS.
- 2 The service is delivered on a medical needs basis.

What impact will this proposal have?

Wards affected:

Have ward members been consulted?

Yes

No

- 3 The supply of Phonak listening devices enables children and young people to engage in education and they will continue to be purchased whether a contract is in place or not given the identified medical need. The devices are deemed to be high quality and fully compatible with the software available to the Deaf & Hearing Inclusion Team (DAHIT). C&YP will directly benefit in the classroom by having access to a good quality, fully compatible device enabling communication with their teacher.
- 4 Should this decision not be approved, Phonak assistive listening devices will still need to be purchased due to medical need ,however the Council will not benefit from a discounted rate which would be applied if the current contractual arrangements continue.

What consultation and engagement has taken place?

- 5 The current provider is happy to continue delivering the service. Colleagues in DAHIT are confident the current service meets the needs of C&YP and delivers a good quality product compatible with NHS hearing aids.
- 6 Councillor Venner (Lead Member for Children & Families) has been briefed on the proposal.

What are the resource implications?

- 7 The value of the contract will be up to £50,000 per annum and it will have a maximum length of 3 years (two plus one) this means the maximum value over the contract period, should all extensions be utilised, will be up to £150,000.
- 8 There is a budget of £50,000 per annum in place to cover the value of this decision over the potential three-year period.
- 9 This option represents best value for money because it secures vital services to enable children and young people have access to a good quality listening device assisting with communication in the classroom. Sonova are genuinely the only provider that can meet the Council's specific requirements, and there are no savings or benefits to gain from considering a change of provider at this point in time.
- 10 The service is delivered on a medical needs basis. The Service purchases the equipment initially and schools then buy the equipment under the public services Equality Act 'reasonable adjustments'. Schools pay the first £1,000 towards the cost of the equipment and the Children and Families service area funds the balance (£500 approximately).
- 11 The commissioning team have engaged with the supplier and have agreed the continuation of a discounted rate (20% off catalogue price) in lieu of the signing of a 24 month contract and expenditure of up to £50,000 per annum.

What are the legal implications?

- 12 The decision is a significant operational decision and will not be subject to call-in process under the Constitution. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 13 Awarding a contract directly to Sonova UK without competition could leave the Council open to a potential challenge from other providers, to whom this contract could be of interest, that it has not been wholly transparent however due to the very limited market it is considered that such a challenge risk is low. Although there is no legal obstacle preventing the use of CPR 9.5, the above comments should be noted when making the final decision, and the decision maker should be satisfied that the course of action chosen represents Best Value for the Council.

What are the key risks and how are they being managed?

- 14 No personal data will be processed as part of this contract.
- 15 Awarding a contract directly to Sonova UK in this way could leave the Council open to a potential challenge from other providers to whom this contract could be of interest, however this risk is considered low for the reasons explained in the legal implications section above

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 16 The ability to communicate in the classroom is vital for children and young people to do well in all aspects of learning.

Options, timescales and measuring success

What other options were considered?

17 To carry out a full competitive tender at this point in time would not represent best use of Council funds or resources.

How will success be measured?

18 Sonova will continue to have regular conversations with the DAHIT Team, ensuring the devices are delivered in a timely manner and remain the best product to meet the needs of children and young people who are issued with a hearing aid.

What is the timetable for implementation?

19 The contract will start on 1st April 2022 for a twenty four-month period with one option to extend for a further twelve month periods.

Appendices

20 EDCI

Background papers

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