

Procurement of a Main Production Contractor – Waiver of Contracts Procedure Rule 9.1 and 9.2 High Value Procurement

Date: July 2022

Report of: Assistant Carnival and Events Manager

Report to: Chief Officer Parks & Countryside

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Black Music Festival has taken place in Potternewton Park and surrounding streets for over 25 years and is the City's largest fringe event attracting an audience of over 20,000.

Plans are being developed to procure the services of a production company to provide all the infrastructure required such as stages, power, and lighting to host Black Music Festival. This method was going to be introduced on a trial basis for the 2020 event and if successful, a formal framework implemented. Unfortunately, due to the coronavirus pandemic the event has not taken place for 2 years, but is now sought to waive Contract Procedure Rules 9.1 & 9.2 and award a contract to Grace & Tailor Ltd with a value of up to £150,000. Estimated infrastructure costs equating to £100,000 and additional monies available to draw upon post event for unknown operational materials such as fuel which has accrued to an ever changing economic position.

Recommendations

- a) In respect of the procurement of a main production contractor for the Black Music Festival, the Chief Officer of Parks and Countryside is recommended to approve the waiver of the following Contracts Procedure Rule(s):
 - Contracts Procedure Rules No 9.1 and 9.2 Over £100k– High Value Procurements
- b) Furthermore to award a contract to Grace & Tailor Ltd in the sum of £150k. The contract shall commence on the 25th July 2022 and expire on the 31st March 2023.

What is this report about?

- 1 Leeds West Indian Carnival has taken place in Potternewton Park and surrounding streets for 55 years and is the City's largest event attracting an audience of over 100,000. The event is managed by Leeds City Council with artistic content and the history of its cultural heritage being delivered by the Leeds West Indian Carnival Committee. Black Music Festival, the artistic content of the fringe event held the day prior to the Carnival is delivered by Black Health Initiative.
- 2 It is worth noting that the management team for this event is very small in comparison to the scale of the event. In 2017 an audit of Leeds City Council's management arrangements was undertaken, to identify pressures and to provide assistance in creating a sustainable event with the required control mechanisms and the provision of using specialist services where required.
- 3 Legislation surrounding the management of events has changed significantly in recent years, granting the implementation of a Leeds City Council holistic multi-agency safety advisory approach has assisted in supporting the event management, however, it has also identified the requirement for increased counter terrorism measures, infrastructure, medical provision, security, and formal traffic management arrangements, creating additional management pressures.
- 4 Considering the recommendations of the audit report, Parks and Countryside are proposing to procure the service of a production company to provide all the infrastructure required to host Black Music Festival, such as stages, power, and lighting. This method was going to be introduced on a trial basis for the 2020 event and if successful a formal framework and tender process implemented. Unfortunately, due to the coronavirus pandemic the event has not taken place for 2 years, but approval is now sought to award a contract with a value of up to £150k which can be met through existing revenue budgets.

What impact will this proposal have?

- 5 This proposal will enable on a trial basis the appointment of a specialist production company to handle the detailed requirements of providing necessary infrastructure to host the Black Music Festival. This will allow key members of the team involved to focus on the overall event management planning and meet the demands of fulfilling around 700 third party event requests for events and activities on the Council's land.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 6 Leeds City Council is committed to the future of Black Music Festival. The best council plan for 2022-2025 includes commitments to tackle poverty and reduce inequality. The Black Music Festival embodies many of the City & Council's ambitions including:
 - Culture – focussing on enhancing the image of Leeds through major attractions and events
 - Safe, Strong Communities – building thriving and resilient communities
 - Child Friendly City – improving social, emotional, and mental health and wellbeing.
- 7 The proposal will make a contribution to the following Best Council Plan priorities:
 - Health and wellbeing by supporting healthy, physically active lifestyles.

- Safe, strong communities by continuing to hold a long-standing community inclusive event, showcasing community resources for local people and visitors from further afield.
- Growing the cultural sector through promoting and sharing the heritage of the first West Indian Carnival fringe event held in the UK, ensuring that it can be more widely experienced for future years.
- Child Friendly Leeds through improving health and wellbeing, a fun and entertaining cultural event and a place for children to exercise the 5 main senses through music, dancing, cuisine and community cohesion.
- The proposal would help achieve the Key Performance Indicator of allowing more people to enjoy green spaces through various events and activities

What consultation and engagement has taken place?

Wards affected: Chapel Allerton

Have ward members been consulted? Yes No

- 8 Parks & Countryside have consulted with colleagues in the Procurement and Commercial Services to establish which Contract Procedural Rules to waive in order to undertake trialling a main production company. If successful, Parks & Countryside plan to carry out a competitive procurement exercise to establish a framework and call-off from this framework for future production events. This will be subject to a separate decision.

What are the resource implications?

- 9 If a production contractor is not in place for these 2022 events, the Parks and Countryside service cannot assess the suitability of procuring this service on an annual basis to establish a framework to award a future contract(s). In addition to this, the event would be unduly impacted, with unsustainable pressure placed on a small number of individuals.

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

10 Financial

- Parks & Countryside are managing financial risks by providing a detailed specification of all infrastructure hired and external services booked at this event previously and have reviewed annual budgets to be able to ensure the quotes received are competitive and demonstrate 'Good Value for Money' while also taking into consideration inflation and the current economical climate.

Legal

- Health and Safety is paramount when organising an event and as landowner Parks & countryside have to adhere to many pieces of legislation. The legal risk is negated as much as practically possible by providing a thorough specification of infrastructure and services for an event of this size in conjunction with key agencies such as West Yorkshire Police, Leeds City Council Building Control, Leeds City Council Emergency Planning & Yorkshire Ambulance Service
- 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, however it should be noted that the procurement of a single production company is on a trial basis for one year only

Equality

- The risk has been managed by undertaking a separate Equality, Diversity, Cohesion and Integration Screening.

What are the legal implications?

11 This is a Significant Operational Decision which is not subject to call-in. The report does not contain any exempt or confidential information under the Access to Information Rules.

The value of the direct award to Grace and Tailor Ltd is below the UK services threshold for the application of the Public Contracts Regulations 2015 and therefore it is not subject to the Public Contracts Regulations 2015. However, the Contracts Procedure Rules 9.1 and 9.2 require competition for procurements valued over £100k and the invitation of at least 4 written tenders. A waiver of these Contract Procedure Rules is required to award a contract direct to Grace and Tailor Ltd.

Awarding a contract direct 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 wholly been transparent. In terms and transparency, it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors throughout the UK and beyond and, if it could, the opportunity should be subject to a wide degree of 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.

The Chief Officer of Parks & Countryside has considered this and, due to the nature of the services being delivered and the physical location of the event is of the view that the scope and nature of the services is such that it would not be of interest to other providers.

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.

Although there is no overriding legal obstacle preventing the award of this contract, in making their final decision, the Chief Officer of Parks & Countryside should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

Options, timescales and measuring success

What other options were considered?

12 The option to consider a specialist production company is an alternative to the existing option of undertaking the procurement role within the team itself which has proven to be demanding given the limited capacity of the team.

How will success be measured?

13 An evaluation of the trial will be undertaken once the event over the bank holiday weekend is complete.

What is the timetable and who will be responsible for implementation?

14 The production company will commence work as soon as approval is granted to ensure everything required is in place for the end of August 2022.

Appendix 1

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 type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input 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 type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other (please provide summary here) To procure the service of a production company on a trial basis to provide all the infrastructure required to host Leeds West Indian Carnival and its fringe events, such as stages, power, and lighting.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Background papers

- None.