

Authority to Procure contracts for ‘Ambient Roadside Media Opportunities’.

Date: 30th July 2024

Report of: Head of City Centre Management

Report to: Chief Officer, Operations and Active Leeds

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief Summary

Approval is sought from the Chief Officer, Operations and Active Leeds to grant authority to:

- Procure advertising suppliers for a series of “Ambient Roadside Media Opportunities.” The procurement exercise will comprise five individual lots, as part of one overall exercise.

These contracts are intended to secure new income for the Council.

Recommendations

It is recommended that:

- a) The Chief Officer, Operations and Active Leeds grants authority to undertake a procurement exercise to secure suppliers for a series of “Ambient Roadside Media Opportunities” in accordance with the Council’s Contracts Procedure Rule (CPR) 3.1.7.
- b) The Ambient Roadside Media Opportunities concessions contract(s) will be for a length of 5 years with an option to extend for up to 2 years. The contracts will secure new income for the Council across the five media opportunities outlined below.

What is this report about?

- 1 This report seeks approval to procure supplier(s) for a series of small scale advertising opportunities, which are termed “Ambient Roadside Media Opportunities” for the purpose of this exercise. The intention of this exercise is to drive income for the Council and to achieve best value for the Council in doing so.

- 2 The five media opportunities are:
 - Lamp post banners
 - Lamp post six sheeters
 - Roundabouts and Verges signage
 - Planters
 - Boundary Signs
- 3 Each of the five advertising opportunities has an incumbent provider comprising one internal service provider and four different external providers.
- 4 None of the five opportunities have been recently tendered and each is in a different state of 'partnership', so this exercise seeks to bring each partnership up to date through a procurement exercise, which will result in five (or fewer) new contracts.
 - The lamp post banners, lamp post six sheeters and boundary signs contracts were each first signed around 15 years ago and are therefore out of date and in a 'rolling contract' format. Therefore, the decision has been made to carry out a competitive procurement exercise to test the market and obtain the best value for the Council. This process will ensure the contracts are up to date, fit for purpose and provide set standards, via an up-to-date specification, for delivery of these advertising opportunities.
 - The roundabouts and verges advertising service has always been provided by an Internal Service Provider (ISP), so the Council has not yet tested the market to see whether this represents best value for the Council.
 - The Council does not have a formal partnership for planters and has never fully tested the market to see whether the Council can drive better value in this area.
- 5 A Market Sounding Exercise (MSE) was completed in June 2024 which revealed that for each of the five opportunities, there was more than one interested supplier. It is demonstrated that the five incumbent suppliers were interested in (at least) the opportunity that they currently supply. Overall five suppliers expressed an interest in this opportunity.
- 6 The MSE has helped to inform the procurement approach detailed in this report.
- 7 The MSE has resulted in the decision to carry out an open tender that will be advertised on the councils e-tendering system YORtender to the full market available. All the interested bidders from the MSE will be invited and this will then be open to the wider market.
- 8 The procurement will be carried out in line with the Council's own CPRs. This procurement will require suppliers to provide their financial standing, insurance levels and health and safety compliance. They will also be asked to respond to method statement quality questions to allow the Council to ensure their understanding and technical ability to deliver the advertising required, along with a pricing document that allows the council to ensure maximum income from these advertising opportunities.
- 9 The five media opportunities will be procured under one procurement exercise with each media opportunity being a separate concession contract.

What impact will this proposal have?

- 10 It is envisaged that the procurement will result in new concessions contracts with one or a number of suppliers, covering each of the five media opportunities.
- 11 These contracts are intended to secure new income for the Council. The intention of the exercise is to ensure the Council is deriving best value from these media opportunities.

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

Health and Wellbeing Inclusive Growth Zero Carbon

- 12 The intention of this procurement is that it results in increased income for the Council. That income can be used to support the key ambitions and priorities of the Council.
- 13 By including provision for free (or discounted) advertising for the Council, the contracts will provide an ability for the Council to promote its key messages to the public.

What consultation and engagement has taken place?

Wards affected: City-wide

Have ward members been consulted? Yes No

- 14 While this proposal might affect all wards (for example with the placement of small scale advertising within each ward), this procurement should not materially impact on wards. Each advertising medium already exists, and the number and locations of signage does not necessarily increase as a direct consequence of this procurement.
- 15 Consultation has been carried out with incumbent suppliers in the form of a MSE.

What are the resource implications?

- 16 There are no significant costs associated with this procurement exercise. These media types already drive around £300,000 per annum in income for the Council. This procurement exercise is intended to drive best value for the Council from these contracts, and it is expected that a modest increase in income could be realised.
- 17 Depending on how the incumbent ISP wishes to tender, there may be a requirement for the ISP to set up a separate company and for appropriate TUPE arrangements to be made.

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

- 18 There is risk of legal challenge from suppliers who are not successful in securing a contract and/or consider that the process is unfair. This risk will be mitigated by undertaking a robust, transparent and fair procurement process which takes account of the relevant specialist advice.
- 19 There is a risk that the total income derived after this procurement process is less than what is being received now. This risk is mitigated by ensuring the tender documentation and specification and scope is sufficiently clear and attractive to drive bids from a range of suppliers.
- 20 It is likely that the ISP will setup a separate legal entity in the form of a limited company in order to tender for one or more of the lots as the Council cannot enter into a contract with itself. Should the ISP's company be unsuccessful, this may impact on existing arrangements within the team that currently leads on this work. The Council will be required to identify and keep under review any conflict or potential conflicts of interest and take all reasonable steps to ensure that a conflict does not put any interested supplier at an unfair advantage or disadvantage.

What are the legal implications?

- 21 The contract will secure new income for the Council but will be below the relevant threshold of the Concession Contracts Regulations 2016 (currently £5,372,609 inclusive of VAT). Therefore the procurement will be carried out in an open and transparent manner in line with the Council's CPRs.
- 22 Given the potential income generation related to this procurement, this is a Key Decision and as such will be eligible for call in. There are no grounds for keeping the content of this report confidential under the Access to Information Rules.
- 23 In making their final decision, the Chief Officer, Operations and Active Leeds should note the above comments and be satisfied that the course of action chosen represents best value for money for the Council.
- 24 To mitigate against a potential challenge from unsuccessful supplier(s), this procurement exercise will be carried out in a transparent manner with all decisions and outcomes shared with suppliers before the award of any concession contract. Although not governed by the Public Contracts Regulations 2015, this procurement will be carried out following the principles of these regulations.

Options, timescales and measuring success

What other options were considered?

- 25 There are only two options – to either tender these opportunities, or to not tender them. By carrying out an open, fair and transparent process, the Council is seeking to drive best value from these opportunities. The risks around not tendering these opportunities to the wider market and carrying on a rolling agreement basis are varied and would not provide the Council with compliant contracts and could be open to legal challenge of not engaging with the market in an open manner.

How will success be measured?

- 26 Success will be measured through:

- The level of income derived by the Council through these contracts.
- Bringing the existing partnership arrangements up to date and ensuring they are fit for purpose.
- Ensuring transparency and fairness in procurement thereby minimising the likelihood of legal or procedural challenges.

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

- 27 It is currently envisaged that the tender will be issued in September 2024 and will be returned in October 2024.
- 28 The start date for the new arrangements will depend on the advertising 'backstop' dates that will need to be honoured for each incumbent supplier.

Appendices

- None

Background papers

- None