

Authority to use Regulation 32(2)(b)(ii) of the Public Contracts Regulations 2015 to directly award a contract to Kefron (UK) Limited for the provision of Leeds City Council's ("the Council") Automated Invoice Processing Solution.

Date: 15th October 2024

Report of: Senior Product Manager, Integrated Digital Services ("IDS")

Report to: Interim Chief Digital and Information Officer

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report is seeking approval to use Regulation 32(2)(b)(ii) of the Public Contracts Regulations 2015 ("PCRs") - Negotiated Procedure without prior publication of a Contract Notice to enter a contract with Kefron (UK) Limited for the provision of the Council's Automated Invoice Processing Solution at a total cost to the Council of £380,968.91.

The automated invoice processing solution is now an integral system for enabling effective processing of supplier invoices. It has facilitated significant efficiency savings within the Business Support Centre and the improved application of best practice and policy across the council.

The Core Business Transformation Programme has identified the existing automated invoice processing solution as a key system to support the implementation of a new finance system.

Recommendations

Interim Chief Digital and Information Officer is recommended to:

- a) Approve the use of Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 ("PCRs") in accordance with Contracts Procedure Rule ("CPR") 10.2 to directly award a 36-month contract to Kefron (UK) Limited for the provision of the Council's Automated Invoice Processing Solution. The contract is a subscription-based service and will run for 3 years from 4 November 2024 to 3 November 2027 at a total cost of £380,968.91 approximate, with payment billed by Kefron monthly in arrears.

What is this report about?

1. This report is requesting approval for the use of Regulation 32(2)(b)(ii) of the PCRs to directly award a contract to Kefron (UK) Limited for the annual subscription of the Council's Automated Invoice Processing Solution, by explaining why it is in the Council's best interest to do so.

This is a continuation of the current arrangement with the supplier.

2. The Council's Business Support Centre (BSC) uses the Automated Invoice Processing Solution to,
 - Receives and scans invoices.
 - Validate invoice data against order details, supplier and goods received data held in the Financial Management System (FMS).
 - Notify users if action is required to enable payment of invoices.
 - Share invoice data with FMS to enable payment.
3. The Council is currently undertaking a full review of its core Finance and HR systems under the Core Business Transformation ("CBT") Programme.
4. A key element of the CBT Programme is the replacement of the internally developed, locally hosted Financial Management system (FMS) of over 20 years standing with a Microsoft Dynamics Finance & Operations ("F&O") cloud-hosted solution.
5. Kefron (UK) Limited provide an automated invoice processing solution which, alongside other technologies, including the core system, enables the processing of supplier invoices. The Core Business Transformation Programme has identified this solution as a key system to support the implementation of the new finance system, and significant redevelopment work has been undertaken to adapt the integration between Kefron and Dynamics F&O. The risk of changing products at this stage is too high alongside the replacement of the core Finance system.
6. A considerable effort and cost has been expended to ensure the current Automated Invoicing Solution will work with the way in which the Council has configured F&O. To change supplier at this crucial stage of the implementation would necessitate a repeat of this effort and cost, should any procurement result in a change of supplier. There are no available resources to consider a procurement exercise of this nature at this time. The implementation of a new invoicing solution would likely take 12 months or more to complete and as such the procurement would need to have concluded already to be in place by next year when the available current contract extension. There are no IDS resources to undertake such an implementation, as these are all directed to the CBT implementation. Attempting to change a well established system at this current time would cause major disruption to the organisation's ability to pay its suppliers, causing reputational damage. It would also present serious financial implications, contractual issues and harm supplier relationships. If payments could not be effectively managed.
7. Awarding a new contract for the period 4 November 2024 to 3 November 2027 will ensure a continuation of service of a key line of business application and provide a period of stability whilst the Council's new finance system is implemented.
8. However, it is recognised that there are potentially other suppliers and a review of the technology in this space is in scope for the CBT Programme. The intention is to undertake a full market review within the lifetime of the extended contract period (November 2024 -

2027) to ensure that the solution remains the best value for money solution for automated invoice processing.

9. Any change of system during the transition to the new finance system, will require time to set up with the new system. Staying with Kefron provides stability that no other supplier could ensure at this time of transition on a high risk system change, by going direct under regulation 32 this mitigates the risk of compromising the new finance system implementation.
10. The award of the contract for the automated invoice processing solution contract will support and contribute to the Council's value of spending money wisely through continuing to contribute to efficient and productive working arrangements and providing resilience and continuity to business processes. For example, allowing for the continuity of invoice processing and payment to suppliers while the move from one financial system to the other takes place. Also, the ability to allow a streamlined process of working for suppliers to submit invoices for payment.

What impact will this proposal have?

- 11 The automated invoice processing solution is now an integral system for enabling effective processing of supplier invoices across the council. It has facilitated significant efficiency savings within the Business Support Centre through the ability to cut down on paper usage and printing and also the ability to streamline and reduce staffing numbers and workload. and the improved application of best practice and policy across the council.
12. The automated invoice processing solution is also an essential tool for the delivery of income generating invoice processing activities on behalf of schools and other organisations, Such as One adoption West Yorkshire and West Yorkshire Joint Services and Aspire.
13. The initial implementation of the automated invoice processing solution enabled a modernisation in the Council's approach to processing up to 220,000 invoice documents annually and facilitated a reduction in 7 of FTEs required to undertake the invoice processing function. Failure to extend the contract will require a new tender process, and associated project resources, to identify and implement an alternative invoice processing solution, or an increase in the FTE to manually process invoices in the absence of an appropriate automated invoice processing solution. This may not be feasible. The manual processes were FMS related, and that system will not exist. It would therefore require a full redesign of the working practices of the organisation, The impact of which is unknown and uncosted.

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

Health and Wellbeing Inclusive Growth Zero Carbon

14. The automated invoice processing solution better enables the Council to meet its payment duties and support local SME suppliers. This is done through ensuring agreed payment dates are upheld with SME's reducing the delay of income for them.
15. The automated invoice processing solution supports the Council's zero carbon ambitions by minimising the environmental impact of its operations, such as through a reduction in paper invoices.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

16. Consultation was undertaken at the time of the original key decision in 2020 to purchase the software. Subsequent consultation has taken place with key stakeholders during Core Business Transformation Programme 'Source to Pay' workshops.

What are the resource implications?

17. There are no resource implications associated with the award of a new contract for the Automated Invoice Processing Solution.

18. The work needed to integrate and assess the existing solution with Microsoft Dynamics is part of the CBT Programme of works and is currently underway changing the supplier of this now would result in a waste of resource time and money which would not meet the councils values for spending money wisely and would risk implicating resources assigned to the FMS migration to Dynamics.

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

19. There are minimal risks associated with awarding a new contract to Kefron (UK) Limited for the Automated Invoice Processing solution as it is only a continuation of a product which has been used by the Council for a number of years.

20. The decision to award a new contract will ensure that the Council will continue to use software which has provided significant cost-savings benefits since its implementation, as well as receiving on-going developments and updates.

21. Any risks which are highlighted during the term of the new contract will be managed and mitigated through regular account management / supplier review meetings.

What are the legal implications?

22. The decision to direct award a new contract for the Automated Invoice Processing Solution for the period 4 November 2024 to 3 November 2027 at a cost of £380,968.91 is a Publishable Administrative Decision, but is not subject to call in. There are no grounds for keeping the contents of this report confidential under the Council's Access to Information Rules.

23. In accordance, with the Council's Contract Procedure Rules (CPR) the value of the proposed direct award is deemed to be a High Value Procurement, as it is over £100,000. CPR 9.1, states that in the absence of an internal service provider, an existing provider or relevant Third-Party framework, then competition is required. CPR 9.2 specifies competition as obtaining at least four written tenders being invited.

"Where the relevant Director in consultation with PACS agree that the negotiated procedure without publication of a contract notice applies there is no requirement to obtain a waiver of CPRs 9.1 and 9.2."

As previously stated in this report, the proposed direct contract award to Kefron (UK) Limited would be made by using the provisions of Regulation 32(2)(b)(ii) of the Public Contracts Regulations 2015 which states:

“32. -(1) In the specific cases and circumstances laid down in this regulation, contracting authorities may award public contracts by a negotiated procedure without prior publication.

The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:

(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

(ii) competition is absent for technical reasons.

but only, in the case of paragraph (ii)..., where no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;”

Therefore, in these circumstances, a waiver of CPR 9.1 and CPR 9.2 is not required.

24. Paragraph 2 of this report has set out the technical reasons why competition is absent and the reasons why no reasonable alternative or substitute exists (as required by Regulation 32(2)(b)(ii) PCR 2015). The Council would rely on this to justify its decision.
25. Notwithstanding the above, there is the potential risk of challenge that there are no real reasons justifying the use of Regulation 32(2)(b)(ii) PCR 2015, and that the Council is simply seeking to circumvent the application of the rules. However, due to the reasons set out in paragraph 2 of this report the risk of such challenge is low.
26. In relying on the use of Reg 32(2)(b)(ii) of the PCRs, the Council will be required to issue a VEAT Notice for publication on the Find a Tender Service (FTS) immediately after the decision to award the contract has been taken and then waiting 10 days to see if any challenges are made.
27. 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.
28. These comments should be noted by the Chief Digital & Information Officer and in making the final decision should be aware of the risk of challenge to the Council and be satisfied that on balance the course of action chosen represents Best Value for the Council.

Options, timescales and measuring success

What other options were considered?

- Alternative options considered include:
 - i. Utilising invoice processing functionality directly within the Microsoft Dynamics Finance and Operations system
 - ii. Undertaking a new procurement exercise to identify an alternative supplier
 - iii. Returning to manual processing of invoices.
29. It is not considered that any of the options above represent improved value for money or effectiveness when assessed against the existing automated invoice processing solution.

How will success be measured?

30. Success will be measured by the Council's ability to continue efficient and productive working arrangements through the use of Kefron's Automated Invoice Processing, providing resilience and continuity to business processes.

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

31. The new contract for the Automated Invoice Processing Solution will be awarded as soon as is practicable and allowable after approval by Chief Digital and Information Officer, with a commencement date of 4 November 2024.

32. The product is currently in use, so no further implementation is required and there will be no disruption to service.

Appendices

33. None

Background papers

34. None