

REPORT OF
Lead Member for Adult Services, Health and Wellbeing
TO
Procurement Board
ON
Wednesday 7th December 2022

TITLE: Approval for an Exception to Contractual Standing Orders to award a contract for Salford Advocacy Hub.

RECOMMENDATION:

That the Procurement Board approves an exception to Contractual Standing Orders as permitted within the City Council Constitution for the reason(s) highlighted in the table below and the award of the Contract for Salford Advocacy Hub as detailed in the table below;

Detail required	Answers
Title/Description of Contracted Service/Supply/Project	Salford Advocacy Hub
Name of Successful Contractor	Mind in Salford
Supplier Registration Number <i>(to be supplied by Corporate Procurement)</i>	
Type of organisation <i>(to be supplied by Corporate Procurement)</i>	Registered Charity
Status of Organisation <i>(to be supplied by Corporate Procurement)</i>	SME
Contract Value	£97,750 Full Project
Contract Duration	3 months
Contract Start Date	01/04/2023
Contract End Date	30/06/2023
Optional Extension Period 1	

Optional Extension Period 2	Who will approve each Extension Period?		
	Strategic Director (extension < £150k)		
	Contact Officer (Name & number)		
	Lauren Fairey 0161 793 2251		
	Lead Service Group		
	People Services		
	Reason for CSO Exception <i>(select all that apply)</i>	The goods / services / works are only obtainable from one provider and there is no other provider available to allow genuine competition	<input type="checkbox"/>
		The execution of works or the supply of goods or services is controlled by a statutory body	<input type="checkbox"/>
		Delivers Best Value to the Council	<input checked="" type="checkbox"/>
		Special education, health or social care contracts, if it is considered in the Council's best interests and to meet the Council's obligations under relevant legislation	<input checked="" type="checkbox"/>
The execution of works or the supply of goods and services is required so urgently as not to permit compliance with the requirements of competition		<input type="checkbox"/>	
Security works where the publication of documents or details in the tendering process could prejudice the security of SCC and Salford residents		<input type="checkbox"/>	
Procurements made through, or on behalf of, any consortium, local authority, statutory or similar body, provided that tenders or quotations are invited and contracts placed in accordance with national or EU legislation.		<input type="checkbox"/>	
Funding Source	Revenue Budget		
Ethical Contractor	Mayor's Employment Charter Committed to sign up to the Charter	<input checked="" type="checkbox"/> <input type="checkbox"/>	
	Accredited Living Wage Employer	x	

EXECUTIVE SUMMARY:

The purpose of this report is to request an exception to Contractual Standing Orders to approve the award of a 3-month contract for the Salford Advocacy Hub.

BACKGROUND DOCUMENTS:

The paper will be shared at the following meetings:

Adults Directorate Management Group

Lead Member Briefing

Corporate Management Team

KEY DECISION:

No

DETAILS:

1. Overview

- 1.1 Under the Care Act 2014 and Mental Health Act 1983, Local Authorities have a duty to commission an independent Advocacy service. Mind in Salford were awarded the Salford Advocacy Hub contract following a tender process. The contract was awarded for three years with a possibility of a two-year extension. The contract started on 1st April 2016 to 31st March 2019 and was extended for two years until 31st March 2021. The contract was extended, during the Covid pandemic, for a further 12 months, 1st April 2021 to 31st March 2022. On 22nd September 2021 Procurement Board approved a further 12-month contract extension, 1st April 2022 to 31st March 2023 and approval to start procurement activity to go out to competition for the delivery of the Salford Advocacy Hub: ([Procurement Board Paper](#))
- 1.2 Council officers are progressing with the tender exercise. This paper is seeking approval for a 3-month contract extension, 1st April 2023 to 30th June 2023 to enable and support the service mobilisation period following a procurement exercise and contract award which is scheduled for March 2023.

2. Contract Extension

- 2.1 Procurement activity has already started, and the Salford Advocacy Hub tender is due to go live the begging of December 2022.
- 2.2 The three-month contract extension is being requested to support service mobilisation activity following contract award, particularly if the incumbent provider is not successful or does not apply for the contract. The extension will support the following activities TUPE, Staff Consultation, Implementation and Transition. This will ensure a smoother transition for staff, the people that access the service and stakeholders.

3. Best Value

- 3.1 Extending the contract for three months represents best value because will it ensure a smooth mobilisation period for the successful provider. This is important for staff that might be eligible for TUPE, the people that are already accessing the service and stakeholders that refer into the service (e.g. health and social care staff). The extension will also ensure that the council continues to meet its statutory responsibilities.

4. Procurement Plans

- 4.1 Procurement activity has already started, and the Salford Advocacy Hub tender is due to go live towards the end of November 2022 with a view to award March 2023 and a go live date 1st July 2023.

5. Social Value

- 5.1 The service specification has a section relating to 'Volunteers and Social Value'. They are an accredited 'Real Living Wage Employer' and part of the Mayors Employment Charter. See previous Procurement Board paper for more information about how Mind in Salford meet Social Value.

6. Contract Monitoring

- 6.1 The contract is currently monitored through robust quarterly meetings. This will continue through the three-month contract extension.

7. Recommendations

- 7.1 That Procurement Board approves the recommendation to award the 3-month contract extension to Mind in Salford from 1st April 2023 – 30th June 2023. To support service mobilisation activity following contract award

KEY COUNCIL POLICIES:

List the strategies, plan or programme to which the project/scheme/service or purchase of goods specifically relates.

- All Age Mental Health Commissioning Strategy 2019 - 2024
- Salford Carers Strategy 2019 – 2024
- Greater Manchester Learning Disability Strategy 2018
- Making Greater Manchester Autism Friendly 2019 - 2022 (version 10)

EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS: Not applicable

ASSESSMENT OF RISK:

If the contract is extended by 3 months this would be low risk, as statutory duties would continue to be fulfilled. It will enable a smooth transition period if the incumbent provider does not apply for the new contract or if they are not successful. This is important for staff that might be eligible for TUPE, the people that are already

accessing the service and stakeholders that refer into the service (e.g. health and Social care staff) as it would ensure more of a seamless transition between providers if needed.

If it is decided to not extend the contract by three months would be a medium risk because this will shorten the implementation period to 4/5 weeks. If the incumbent provider does not apply for the contract or is not successful it is felt that implementation period will be rushed. This could have a negative impact on the staff eligible for TUPE, people accessing the service that are vulnerable and stakeholders that refer into the service.

SOURCE OF FUNDING:

The Budget that will meet the cost of the scheme is part Integrated Fund and part People Adults revenue budget. For the contract extension element there are no changes to the current financial envelope.

LEGAL IMPLICATIONS: Supplied by the Shared Legal Service

Ordinarily when commissioning contracts for the procurement of goods, services or the execution of works the Council as a 'contracting authority' must comply with the Public Contract Regulations 2015 (PCR) as well as the provisions of its own Contractual Standing Orders (CSO's), Financial Regulations and the duties of Best and Social value. In addition, the Regulations require that contracting authorities treat candidates equally and in a non-discriminatory way and act in a transparent manner, failing which the award of a contract may be subject to legal challenge.

However, in exceptional circumstances where the CSO's permit, the Council may dispense with strict compliance, and the report sets out the reasons for the request for the exception, in accordance with paragraph 3.1 of CSO's. Whilst exceptions to CSO's may be authorised by an approval from the Procurement Board, there is still a risk of challenge from aggrieved providers if the usual tender process has not been followed on the basis that it ought to have been advertised and put out to competition.

The risk of challenge increases with the value and duration of a proposed contract being awarded. Here the period proposed is short (three months) for the purpose of enabling a smooth transition period, and it is for a relatively low value, with a tight time scale for delivery. Accordingly, the risk of any such challenge may be regarded as low, particularly in the current circumstances.

Regulation 72 of PCR specifically sets out where contracts may be modified without a new procurement procedure. The original contract term was for 5 years (3+2 years extension). The contract has been further extended for further two periods of 1 year each, for appropriate reasons relating to Covid-19 as highlighted in the report above. A further extension of three months, for the contract amount stated in this report, would still fall within the remit of Regulation 72 as below:

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen.

- (ii) the modification does not alter the overall nature of the contract; and
 - (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.
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FINANCIAL IMPLICATIONS: Stephen Thynne, Strategic Finance Manager

This report requests an exception to contractual standing orders to award a contract extension for the Salford Advocacy Hub to Mind in Salford for a 3-month period from 1st April 2023 to 30th June 2023. This to allow a procurement exercise (currently in progress) to be concluded and implemented in relation to future delivery of the service. The value of the contract over the extension period is £97,750 (with an annual value of £391K) – this is consistent with the existing contract value. Sufficient funding has been earmarked for this contract and is part from the adults section of the Integrated Fund and part from the People Adults revenue budget.

PROCUREMENT IMPLICATIONS: Christine Flisk, Procurement

When the contract was originally procured and awarded this was for an initial term of three years with an option to extend for a further two years which was due to expire on the 31st March 2021, a further request for an extension was granted due to the impacts on Covid 19 to delivery of this services and the contract is due to expire on the 31st March 2023. A further short extension has been requested in order to allow time to undertake a procurement exercise for the services. There is always a risk of challenge from an aggrieved supplier when exercising the option to extend without competition but this is considered to be low as the extension is for the purpose of allowing us sufficient time to undertake an open tender process.

Procurement are happy to approve the recommendation to award a contract under an exception for a further 3 months until 31st July 2023 for the reasons stated in the report.

HR IMPLICATIONS: Supplied by: Not applicable

CLIMATE CHANGE IMPLICATIONS: Not applicable

OTHER DIRECTORATES CONSULTED: Not applicable.

CONTACT OFFICER: Lauren Fairey
TELEPHONE NUMER: 0161 793 2251

WARD(S) TO WHICH REPORT RELATE(S): The service is provided to all the wards in Salford.
