

Operational Decision Record

Publication Date: 02/11/2021	Decision Reference Number: 4423
Decision Title	
Extension of external support in response to the actions from the Public Interest Report and Non Statutory Review	
Decision Value	
£110,000	
Revenue or Capital Spend?	
Revenue	
Department	
Finance and Resources	
Contact Officer	
Paul Slater, HR Business Lead	
Decision Taken	
<p>To approve an extension from 01 November 2021 to 31 March 2022 regarding the previously supported decision to approve expenditure for the appointment of a consultant to provide external financial expertise in response to the multiple issues raised in respect of companies within the Report in the Public Interest on Nottingham City Council's Governance Arrangements for Robin Hood Energy and the report arising from Non Statutory Review of Nottingham City Council.</p> <p>To approve exemption from Procurement Procedures (Article 18.55, invitation for tenders) in accordance with Article 18.79 of the Contract Procedure Rules, to approve a direct award</p>	
Reasons for Decision and Background Information	
<p>As part of responding to the Report in the Public Interest and the Non Statutory Review undertaken by the Ministry of Housing, Communities and Local Government, a review will need to take place on the Council's governance and operation of its interests in its companies' portfolio.</p> <p>An appointment was made in January 2021 via an Agency and work is progressing against various projects and workstreams, however an extension is required as a number of those projects are not due to conclude until late 2021 or early 2022. The extension will ensure that projects can be finalised and delivered. An extension is therefore requested until 31 March 2022.</p>	
Other Options Considered and why these were rejected	
<p>The option to resource this work internally was rejected because the work will require specialist commercial skills that are not available within the Council. The work will require dedicated, focused capacity to ensure the recommendations of the report are achieved.</p>	

Reasons why this decision is classified as operational

- This is a financial commitment of under £150,000.
- It involves spending funds that have already been approved as an Executive decision, it is therefore not 'new money'.

Additional Information

This decision seeks approval to award a contract extension from 01 November 2021 to 31 March 2022 regarding the previously supported decision (DD4101) to approve expenditure for the appointment of a consultant to provide external financial expertise in response to the multiple issues raised in respect of companies within the Report in the Public Interest on Nottingham City Council's Governance Arrangements for Robin Hood Energy and the report arising from Non Statutory Review of Nottingham City Council.

The total cost of the contract extension is £0.110m and will all be incurred in the financial year 2021/22. The cost of this decision will be funded from the Improvement & Transformation reserve in full up to the amount outlined in this decision.

The role and criteria sits outside of IR35 legislation therefore is classed as a use of consultant, therefore additional details regarding this process are contained within this decision.

Under the terms of the contract, payment will only be made on completion of milestones as outlined in the Statement of Works therefore there is no risk of incurring any additional costs due to any project slippage. No payments are to be made for holidays, sickness or pension either.

Exemption from procurement procedures is sought to extend this contract.

Advice provided by Philip Gretton (Finance Analyst) on 19/10/2021.

The original contract was directly awarded to Penna as it fell below the UK procurement threshold with a value of £171k. This was for a defined scope of works that have been completed. Through this work additional and linked work has been identified such that the current contract needs to be extended as permitted in line with the original agreement for a further period at a cost of £100k.

The original contract was outside of scope of procurement regulations and therefore whilst the extension will take the total over the threshold it is not possible to tender for the second phase as this needs to be completed by the original consultant. The second stage is below threshold so there is not an opportunity that requires a tender in line with the Public Contract Regulations 2015. The extension requires exemption from Procurement Procedures under Article 18.79 and this is supported in these circumstances.

The extension is therefore supported on this occasion, although no further extensions can be made.

Advice provided by Steve Oakley (Head of Contracting and Procurement) on 19/10/2021.

It is understood that a consultant was appointed originally to support the review of the Council's companies following the PIR and MHCLG's non-statutory review, using a recruitment agency, Penna.

Due to the value falling below the UK Procurement threshold, a direct award was approved via a dispensation.

Whilst it was not envisaged at the outset, further work is now required and as it would not be appropriate to engage a new consultant for these additional requirements at this stage in the process, an extension of the arrangements with the consultant is considered to be the most suitable and cost effective solution for delivery of these requirements. Due to the arrangement in place with Penna, it is not possible to engage a consultant using an alternative framework or agency recruitment.

The value of the additional works is below threshold and so a contract can be awarded directly in accordance with the Council's constitutional procedures. For the reasons provided in the report, an exemption from Contract Procedure 18.55 in accordance with 18.79 is supported.

Advice provided by Dionne Claire Screatton (Solicitor) on 20/10/2021.

Decision Maker

Clive Heaphy, Corporate Director for Finance and Resources

Scheme of Delegation Reference Number

001

Date Decision Taken

26/10/2021