

Meeting:	Cabinet	Date:	17 October 2012
Subject:	Procurement of refurbishment works – Third Floor North Warehouse		
Report Of:	Cabinet Member for Regeneration & Culture		
Wards Affected:	Westgate		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. Financial Implications (Exempt Paragraph 3)		

EXEMPTIONS

The public are likely to be excluded from the meeting during consideration of this report as it contains exempt information as defined in paragraph (3) of schedule 12A to the Local Government Act 1972 (as amended).

1.0 Purpose of Report

- 1.1 To advise Cabinet of the procurement issues and options in respect of commissioning the refurbishment works of the third floor of North Warehouse.
- 1.2 To seek Cabinet's approval for an exemption to the requirements of contract standing orders.

2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that:

- (1) An exemption to the requirements of the Council's contract standing orders be given to enable the refurbishment and associated mechanical and electrical works for the 3rd floor of North Warehouse to be procured through Regus's contractor, The Design Works Group (TDWG), without use of a competitive process, subject to the costs being overseen and controlled by the Council's appointed cost consultants, for the reasons stated in the report.

3.0 Background and Key Issues

- 3.1 Gloucester City Council (GCC) has rationalised its operational offices within the Docks complex. All staff working in the Docks will soon be located within Herbert, Kimberley and Phillpotts Warehouses. Cabinet reached a decision that the majority of North Warehouse as an operational property was surplus to requirements but that the 3rd floor should be retained as a Civic Suite as this represented the most cost effective and pragmatic option.

- 3.2 After a sustained period of marketing of the surplus office accommodation in North Warehouse, GCC has agreed lease terms with Regus Serviced Offices. The letting provides Regus with the ground, first and second floors, which provides approximately 12,200 sq. ft of office accommodation which will be transformed into a Business Centre. Regus has agreed to take a 10 year (effective) full repairing and insuring lease from the GCC. There is no rent free incentive being provided to the tenant.
- 3.3 The letting establishes a world leading serviced office brand within the City. The letting will not only allow business start ups to have business accommodation but will provide a possible base for national companies to test a regional office within Gloucester.
- 3.4 As part of the refurbishment of North Warehouse by Regus, it has been identified that the interior of the Civic Suite and Members / Mayor's / Sheriff's rooms are tired, worn and present significant issues with disabled wheelchair access. In addition it is noted that the existing Mechanical and Electrical installations are defective (currently not operational) and past their design life. It is very timely to consider and progress an upgrade and refurbishment of the space. A scheme layout has been produced and consultation has been undertaken with Group Leaders. It will deliver a significantly upgraded Council Chamber, Civic facilities and a suite of meeting rooms. The W.C. facilities will also be upgraded.

Key Issues

- 3.5 In identifying the requirement for 3rd floor North Warehouse to be refurbished, we have reviewed the best procurement construction contract options. The following issues were identified:-
- *Time, cost, quality,*
 - *Health and Safety risks (compliance with Construction Design and Management Regulations 2007),*
 - Appointment of design consultants (Architectural, Mechanical, Electrical, Project Manager), speculative design and specification (no cost to GCC) by the recognised design and build contractor "The Design Works Group" (Regus's Design and Build Contractor; TDWG); consistency of the design approach with the complete building, but being sympathetic to the listed building and use of the council chamber, meetings and mayors parlour and sheriff's office.
 - *Mitigation of financial liability* from claims arising from damages to refurbished areas and/or accidents to site staff and/or delays as a result of two contractors being on site at any one time.
- 3.6 Each of these factors creates a compelling case for commissioning the third floor works through Regus's contractor TDWG. The case is set out below:
- 3.7 **Time;** With Regus taking a lease of the ground, first and second floors in North Warehouse, they have set impressive timescales in refurbishing these floors. For GCC to capitalise on this and the financial benefits it can provide, we have established that a Design and Build Construction package should be put together enabling us to minimise the disruptions to GCC. Design and Build procurement can deliver very good results if managed by the right resources, namely looking to achieve price certainty and value for money within tight timescales. A separate

procurement exercise for the 3rd floor would inevitably start on site later than Regus and may cause damage/inconvenience to the parts of the building they've already refurbished. Furthermore, the Civic Suite would be unavailable for a longer period.

- 3.8 **Cost & Quality;** We are proposing to use an external Cost Management Consultant to both manage the contract for GCC, to look to obtain best value for money and maintain good quality in the end product. In addition, in using TDWG we can provide a better experience of using the North Warehouse facilities as the design approach will be consistent throughout providing a high quality feel and appearance.
- 3.9 Using TDWG we gain significant buying power of materials and labour, use of private sector competitively tendered quantified schedule of rates and reductions in contractor preliminary costs in managing the works as they will be already on site. (The approximate saving would be in the region of £20,000 to £25,000). These savings would not be achievable if we were to appoint a different Design and Build Contractor. If we did appoint a separate and different contractor the costs would increase. There would be significant cost implications in managing two contractors on site, notwithstanding the Health and Safety risks this presents.
- 3.10 **Health & Safety - Construction Design & Management Regulations 2007 (CDM Regs);** If GCC appoints a separate Design and Build Contractor for the refurbishment of the 3rd Floor, it presents significant Health and Safety Risks to GCC and the Contractor's staff during the course of the works. The CDM regulations specifically raise the issue of two principal contractors operating on one site at the same time: The recommendations under regulations 5 & 6 are that "*There can be only one principal contractor for a project at any one time*". However, there are exceptions where a site can be occupied by two contractors, if a site can be physically separated, but in this case it is not possible as both contractors would need to use the same access and egress routes and would be traversing through each other's sites, notwithstanding that there is only one entrance to North Warehouse car park for vehicles.
- 3.11 **Appointment of Design Consultants;** If GCC appoint a separate contractor to deliver the 3rd floor scheme we will need to appoint separate design consultants to provide us with architectural design, mechanical design, and electrical design 0.

This cost can be completely omitted by using TDWG as TDWG have already speculatively provided us with this design documentation.

- 3.12 **Mitigation of contractual / financial claims;** In using one contractor to refurbish North Warehouse we significantly reduce our financial liability from a contractor claiming that damage has been caused to their site by another contractor. For example, if two contractors are on site using the same points of egress and access and are traversing through each other's sites, then damage can occur without knowing who is responsible. In this situation GCC would end up being responsible for the cost if damage were to occur.

4.0 Alternative Options Considered

- 4.1 As part of the review of the most suitable / best procurement method to provide the high quality product for the Civic Chamber we have discussed the following, which have all been discounted:
- 4.2 **Traditional Construction Procurement;** This method is essentially putting together a team of design consultants and fully designing out the proposals from its initial concept images through to fully detailed and specified out works. The process for a scheme such this would take in the region of 12 weeks to fully design and prepare for tendering. Open Tendering would require a period of time within which tenders could be submitted and this would add approximately 40 days to the process, as well as requiring further time for evaluation of all tenders received and the subsequent works. The disruption to the operation of GCC Civic Suite would be significantly longer than a Design and Build procurement method, notwithstanding that Regus's fitting out works would be complete and we would still be looking to complete the design and construction of the 3rd floor. This would also negatively affect the income generation as a result of the ongoing building works.
- 4.3 **Construction Management Procurement;** This method is very similar to traditional construction procurement but with the appointment of design consultants and contractor's preliminary costs being higher. As a result, the nature of the refurbishment works is not considered to be suitable for a heavy management approach such as this. The disruption to the Civic Suite would be less than the traditional construction procurement but negligible in light of the potential contract size/contract value.
- 4.4 **Do nothing approach;** The alternative to refurbishing the Civic Suite is to "Do nothing". The Asset Management and Office Accommodation Group has established that this is the best time to refurbish the Civic Suite, capitalise on the buying power of TDWG and minimise any disruption to GCC. After this period there would not be the opportunity to carry out refurbishment works to the Civic Suite for approximately 10 years. With the failure of the "air conditioning plant", inefficient mechanical plant and light fittings this is the best opportunity foreseeable in the next 10 years. Therefore, a "Do nothing" approach is not considered to be suitable for GCC.

5.0 Reasons for Recommendations

- 5.1 The primary objectives for pursuing a waiver of GCC standing orders for tendering on this project is to provide the best value for money solution by enabling the following:
- 1) Private sector competitively tendered schedule of rates for works that are being undertaken on other floors within the same building thus providing significant cost savings to GCC that would not be obtained by following GCC's standing orders for tendering;
 - 2) Compliance with the requirement of the Construction Design and Management (CDM) Regulations 2007 insofar as a single principal contractor would be employed to manage Health and Safety on site;
 - 3) Mitigation of financial liability / risk if a contractor or contractors were to make a claim against GCC as a result of failing to comply with the requirement of the CDM Regulations 2007 (i.e. an accident occurring on site leading to a claim to our insurers and negative publicity to GCC).

6.0 Future Work and Conclusions

- 6.1 In review of the aforementioned GCC now has the opportunity to utilise Regus's preferred Design and Build contractor providing significant financial savings and minimising disruption to the Civic Suite. Financial savings of up to £45,000 maybe be achieved.
- 6.2 This report reviewed and discussed other possible procurement construction contracts and a "do nothing approach", all of which were found to be unsuitable in this instance.
- 6.3 Therefore the Cabinet is asked to resolve that a waiver of tendering / quotation procedures from the GCC standing orders being given.

7.0 Financial Implications

- 7.1 Covered in the main body of the report and Appendix 1.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 Under paragraph 8.4 of the Council's contract standing orders, except for the circumstances outlined in paragraph 8.3 of the contract standing orders (none of which are applicable to this situation, exemption from any of the provisions of the Contract Standing Orders requires the prior approval of the Cabinet and shall not be approved until the Cabinet is satisfied that: -
- (i) there are legitimate circumstances justifying departure from these Standing Orders;
 - (ii) the exception will not contravene any legal requirement, including the Public Contract Rules;
 - (iii) a report from the Group Manager Financial Services and/or Group Manager Legal and Democratic Services provides evidence that the exception is to the Council's advantage and is necessary to achieve the Council's objectives.
- 8.2 Where estimated contract values are above the EU prescribed financial thresholds, no exemption from the competition rules is possible. However, where the estimated contract value is below the relevant EU financial threshold, the Council has flexibility to exempt contracts from a competitive procurement process. The proposed contract in this case comprises of works for which the EU threshold is currently £4,348,350. The proposed contract value is well below this limit and the Council therefore has some flexibility, within the law and its Constitution, to exempt this contract from a competitive process.
- 8.3 The Group Manager – Legal and Democratic Services has discussed the proposed contract with the procuring officers and is of the view that the granting of an exemption in this case is to the Council's advantage and represents best value for the reasons stated in the report.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 Some of the risks have been mentioned above. One of the significant opportunities is to have a refurbished Civic Suite available earlier than if the Council carried out a separate procurement exercise. This will also mitigate against the cost of using an alternative location for the duration of works .

10.0 People Impact Assessment (PIA):

- 10.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, there a full PIA was not required. The refurbished third floor will comply with Building Regulations and provide enhanced accessibility for disabled people.

11.0 Other Corporate Implications

Community Safety

- 11.1 There are no community safety implications arising from this report.

Sustainability

- 11.2 The refurbishment works will include, where possible, measures to reduce energy consumption by utilising low energy lighting such as LED lighting. In addition the refurbished Civic Suite will provide a better office environment, less water use from waterless urinals and improved “air-conditioning” space.

Staffing & Trade Union

- 11.3 There are no staffing or trade union implications arising from this report.

Background Documents: None