

NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and it is not in the public interest to disclose the information because it contains Information relating to the financial or business affairs of a particular person including the Council.

Delegated Officer Report

Exemption from contract procedure rules for the appointment of the National Conservation Service in relation to OMA and its associated off-site store

Decision Maker: Emma Barton, Director of Economy

Date of Decision: 12th March 2019

Subject: Appointment of National Conservation Service

Report Author: Brian Enright

Ward (s): Coldhurst and St James

Reason for the decision: To seek exemption from the Contract Procedure Rules under regulation 21.3 paragraphs (e) of the Contract Procedure Rules in that the services which are required are of a specialist nature and the provision of the service is urgently required.

Summary: The National Conservation Service (NCS) specialises in providing advice, management and training in the care and conservation of archive, library and museum collections.

NCS also has a nationally recognised expertise in the planning of new archive buildings and refurbishments, including those in historically sensitive settings (OMA being a Grade 2* listed building).

The NCS consultant identified as best being able to provide the required services to the Council is

Chris Woods, Director of the NCS. Chris is an accredited conservator with in excess of thirty years' experience working in the heritage sector.

Indicative advice received to date is that a lower energy use approach (i.e. "Passivhaus") in both OMA and the off-site store is a viable option. It may, therefore, be possible to put in place a management regime in respect of collection use and a display methodology that not only achieves compliance with national standards, also reduces/modifies, or even dispenses with, unnecessary elements of the currently proposed mechanical and engineering (M&E) systems. As a consequence, there may be both capital and revenue savings.

Where required, Chris Woods would also be able to provide advice to Arts and Heritage staff, and undertake the product testing of display materials, finishes, wall coatings and flooring etc. in order to ensure low internal pollutants risk and compliance with standard EN 16983.

The need for an exemption to contract procedure rules

The Council is obliged to adhere to its Contract Procedure Rules which would normally require the tendering of commissions. However, there are exemptions that, under clearly defined exceptional circumstances, allow the Council to appoint consultants or contractors without going out to tender.

Given the highly specialist nature of this commission, it is proposed that the appointment of Chris Woods falls within Exemption (e) of paragraph 21.3 of the Council's Contract Procedure Rules.

NCS Fee

The NCS fee estimate for Chris Woods' services in regard to OMA and the off-site store is £23,400.

It is proposed that a contingency of 20% (£4,680) is added to this fee estimate to cover any uncertainties that might arise and which may result in Chris Woods having to spend more time on the project.

The overall fee requested is, therefore, £28,080.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1 – do nothing

The Council could continue as is, and not investigate the possibility of adopting a more passive approach to the storage and display of its archive and exhibition material. That is, continue with the current proposal to install a substantial M&E system to control temperature and humidity in both OMA and its off-site store.

Option 2 – Appoint Chris Woods to investigate/advise on the possibility of adopting a more passive approach to temperature and humidity control within OMA and its off-site store.

Preferred option – Option 2

Appointing Chris Woods will enable the Council to establish if a more passive approach to temperature and humidity control in OMA and its off-site store is a feasible option. If it is, there may be significant capital and revenue savings in the running of the building.

Consultation: including any conflict of interest declared by relevant Cabinet Member consulted.

Relevant Council departments have been consulted in the writing of this report. Where required, they have provided comments as documented below.

Recommendation(s):

1. To seek exemption from the Contract Procedure Rules to enter directly into a contract with the National Conservation Service for the provision of specialist advice in respect of the storage, use and display of archive, collection and display material at OMA and its off-site store.
2. To award a contract to the National Conservation Service for specialist advice in relation to OMA and its off-site store.

Implications:

What are the financial implications?

The preferred option as detailed in the recommendation above is to exercise option 2 and appoint Chris Woods from the National Conservation Service (NCS) to investigate /

provide advice on the possibility of adopting a more passive approach to temperature and humidity control within OMA and the offsite store.

The total cost to the Council will be £28,080. (Including a 20% contingency of £4,680).

There is currently £2.165m in the capital programme for fees relating to the OMA project. If approved, the costs associated with the above proposal will be met from this budget.

(Matthew Kearns – Senior Accountant)

What are the legal implications?

There is provision in Rule 21.3 (e) of the Council's Contract Procedure Rules to grant an exemption from the Rules in exceptional circumstances where the "services proposed to be purchased are of a specialist or unique nature (such as antiquities for museums)." The narrative in the body of the report explains the rationale for the appointment of the particular consultant to provide the specialist advice which the Council requires for its museum and antiquity service and meets the requirement of the particular exemption to the Rules. (Elizabeth Cunningham Doyle)

What are the procurement implications?

The Councils CPRs provide flexibility to make direct appointments in exceptional circumstances and for commissions that fall under the thresholds of the Public Contract Regulations. The Procurement Team acknowledge and support the rationale for this appointment based on the information within this report. The consultant must provide the Council with a fully priced proposal including all relevant policies (including insurance) along with signing up to the Councils standard terms of contract. The awarding of this contract must be facilitated via the Councils e-tendering portal.

What are the Human Resources implications?

Dan Cheetham, Procurement
Not applicable

Equality and Diversity Impact Assessment attached or not required because (please give reason)

Not applicable.

What are the property implications

No comments received

Risks:

By its very nature an exemption carries an element of risk but the risk has been mitigated as far as reasonably possible by the commissioning department.

Co-operative agenda

The OMA project, once completed, will deliver a diverse and inclusive cultural offer for the residents of Oldham and beyond.

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?

Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?

Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council?

No

Reason(s) for exemption from publication:

3. Information relating to the financial or business affairs of any particular person including the Council.

List of Background Papers under Section 100D of the Local Government Act 1972:

Title	Available from
Cabinet Report, 19 th November 2018 (Part A)	Regeneration Section

Report Author Sign-off:	Brian Enright
Date: 12.3.19.	

Please list and attach any appendices:-

Appendix number or letter	Description
None	

In consultation with Director of Economy

Signed: E. J. [Signature] Date: 12.3.19

