



CABINET – 29 MARCH 2022

EXCEPTION TO CONTRACT PROCEDURE RULES - URGENT ACTION TAKEN BY THE CHIEF EXECUTIVE IN RELATION TO THE CONFIRM HIGHWAY MANAGEMENT SYSTEM

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet of urgent action taken by the Chief Executive to agree an exception to the Council's Contract Procedure Rules which enabled the direct appointment of Confirm Solutions Ltd.
2. Confirm Solutions Ltd provides the Environment and Transport Department with Confirm software, which is a management solution for highways infrastructure maintenance and management. The original contract ends on 30 September 2022.
3. The exception to the Council Contract Procedure Rules is temporary and intended to expire once the Council completes a procurement exercise.

Recommendation

4. It is recommended that the Cabinet notes the urgent action taken by the Chief Executive to agree an exception to the Contract Procedure Rules to enable the appointment of Confirm Solutions Limited for three years ending on 30 September 2025.

Reasons for Recommendation

5. The Council's Constitution (Contract Procedure Rule 6 (b) (ii)) provides that exceptions to the Contract Procedure Rules may be made by the Cabinet where it is satisfied that an exception is justified on its merits and that in urgent cases the Chief Executive (after consultation with the Leader) may direct that an exception be made subject to it being reported to the Cabinet.
6. The circumstances and financial considerations surrounding the proposal are explained in Part B of this report.

Timetable for Decisions (including Scrutiny)

7. Following consultation with the Leader, the Chief Executive agreed the exception on 25 February 2022.

Policy Framework and Previous Decisions

8. The exception to the Contract Procedure Rules follows the Council's Constitution (Contract Procedure Rule 6 (b) (ii)).

Resource Implications

9. The cost of the contract extension totals £244,699.
10. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the rationale behind this contract exception. Any risk associated with this direct award will be mitigated, provided that a new contract is reprocured (in accordance with the procurement rules) and in place no later than 30 September 2025.

Circulation under the Local Issues Alert Procedure

11. None.

Officers to Contact

Ann Carruthers
Director of Environment & Transport,
Environment & Transport Department
Tel: 0116 305 7000
Email: ann.carruthers@leics.gov.uk

Joanna Guyll
Assistant Director Environment & Waste
Environment & Transport Department
Tel: 0116 305 8101
Email: Joanna.guyll@leics.gov.uk

PART B

Background

12. The Council's Environment and Transport Department has been using the Confirm System as a solution for highways infrastructure maintenance and management since 2004 after an Official Journal of the European Union (OJEU) procurement in 2003. A considerable amount of work has been undertaken in order to configure the system to suit the Authority's highways' needs as well as the time taken in training staff in its use. In 2012 the Council purchased all the modules of Confirm that were available at that time and have since paid for support and maintenance. Following a procurement exercise in 2017, a contract to use Confirm was agreed until the end of September 2022. There was no change to the pricing and the Department continued to only pay the Retail Price Index increase annually. This has meant the overall cost was considerably less than the market price.
13. In preparation to move to a new contract post-September 2022, the Department established a Project Board. The Board concluded that there was currently insufficient capacity within the Authority to undertake a compliant procurement process and implement a cloud based system (rather than the current locally hosted system) which would be a requirement of a new agreement with any future provider, before the end of September. It is anticipated that the procurement and implementation of such a system will take over two years. The Project Board also concluded that costs associated with a move to a cloud based system and a new contract based on the full market price (rather than the current lower negotiated price) (in the region of £250,000,) would significantly impact on the delivery of the Department's Medium Term Financial Strategy savings targets for 2022/23.
14. As a result of the above, and in line with the Council's Constitution (Contract Procedure Rule 6 (b) (ii)), the Chief Executive's permission was sought to enable the current Confirm System contract to be extended for a further three years, ending on 30 September 2025. The extension is based on the current pricing agreement, which will result in the Authority only paying the Retail Price Index increase each year. The value of the contract extension is £244,699.
15. The necessary work will be undertaken in order for a new contract to be re-procured and implemented before 30 September 2025. This will include a procurement process in line with the County Council's Contract Procedure Rules.

Equality and Human Rights Implications

16. There are no positive or adverse equality or human rights implications arising from this report.

Environmental Implications

17. There are no environmental implications arising from this report.

This page is intentionally left blank