

Report to the Chief Officer (Highways and Transportation)

Date: 16 September, 2014

Subject: Waiver Report for approval to tender by Single Tender Action the Winter Road Weather Forecast Contract 2014 - 2015

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

- 1 There is a legal duty on the city council as the Highway Authority (The Highways Act 1980 Section 41.1A) to ensure, so far as reasonably practicable, that safe passage along the highway is not endangered by adverse weather. How the council fulfils this duty is documented in the Winter Service Plan which is reviewed annually.
- 2 Leeds City Council is responsible for the winter maintenance of approximately 2750km of adopted highway over the annual winter period October to April. The provision of a Winter Road Weather Forecast Contract is necessary, so that the council can fulfil its obligations as outlined in appendix 'H' of the code of good practice- Well Maintained Highways.
- 3 The Winter Road Weather Forecast Contract will use climatic and road condition information provided by the Ice Prediction Services Contract to provide
- 4
 - i) Adverse Weather Summary Service
 - ii) Full Road Weather Service
 - iii) Performance Reports

It is from this weather forecast that Highway Maintenance staff evaluates if action is required to prevent the formation of ice or the laying of snow on roads within Leeds District.

- 5 The West Yorkshire Procurement Group has been considering the options available to the 5 Highway Authorities in terms of working collaboratively to procure a joint forecasting service. It is proposed that during the course of the 2014/15 winter that the group will investigate the suitability of the various suppliers, and options available, before a collaborative contract is put out to tender next year.
- 6 To maintain service delivery for this winter, from 1st October 2014 to 30th April 2015, it is proposed to retain the services of the existing provider, Meteo Group.
- 7 This report is seeking approval to waive Contract Procedure Rule 8.1 and 8.2 and carry out a single tender action with Meteo Group, without subjecting the contract to competition, for the Winter Road Weather Forecast Contract for Leeds City Council.

Recommendations

- 8 The Chief Officer (Highways and Transportation) is requested to approve the waiver of Contract Procedure Rule 8.1 and 8.2 – Intermediate Value Procurements – and to carry out a single tender action with Meteo Group for Winter Road Weather Forecast Contract 2014 – 2015 for Leeds City Council.

1 Purpose of this report

- 1.1 To approve the waiver of Contract Procedure Rule 8.1 and 8.2 for Leeds City Council to carry out a single tender action with Meteo Group for Winter Road Weather Forecast Contract - without subjecting the contract to competition.

2 Background information

- 2.1 There is a legal duty on the city council as the Highway Authority (The Highways Act 1980 Section 41.1A) to ensure, so far as reasonably practicable, that safe passage along the highway is not endangered by snow or ice. How the council fulfils this duty is documented in the Winter Service Plan which is reviewed annually.
- 2.2 The provision of an Winter Road Weather Forecast Contract is necessary during the period covering October – April each year, so that the council can fulfil its obligations as outlined in appendix 'H' of the code of good practice - Well Maintained Highways.
- 2.3 The Winter Service Plan requires that current forecasting systems give adequate information to maintain and where possible, increase the efficiency of the winter maintenance service.
- 2.4 The Council has fully automated weather stations at Whinmoor and Yeadon which constantly check the road conditions. They give out information about actual weather conditions such as road temperature, air temperature, relative humidity and surface state. This allows officers to watch for deterioration or improvement in the conditions, and react to changes in the weather. Monitoring is continuous from October to March.

- 2.5 Meteo Group have provided an excellent service providing the Winter Road Weather Forecast using information provided by the Ice Prediction Services Contract let via Vaisala Ltd who currently maintain these weather stations, whilst providing a Bureau Service for 202 days p.a. by setting up and accessing data, along with accessibility to other weather stations outside the Leeds boundary.

3 Main Issues

3.1 Reason for Contract Procedure Rules Waiver

- 3.1.1 The West Yorkshire Procurement Group have been considering for some time the options available to the 5 Highway Authorities in terms of working collaboratively to procure a joint forecasting service.
- 3.1.2 However this process, led by Calderdale Council, has been progressing too slowly to meet this winter's needs due to staffing issues.
- 3.1.3 There are two main providers in this market Meteo Group and The Met Office, plus two small start-up companies who are very new to the market.
- 3.1.4 The previous tender was awarded to Meteo Group with a significantly cheaper price, which they are prepared to hold for this year.
- 3.1.5 It is proposed that during the course of the 2014/15 winter that the West Yorkshire procurement group will review the Winter Road Weather Forecast service before a collaborative contract is put out to tender next year.

3.2 Consequences if the proposed action is not approved

- 3.2.1 Should the proposals not be accepted, then the Department could be in breach of its obligations to provide an efficient winter maintenance service, which is dependent on the information supplied by the Winter Road Weather Forecast.
- 3.2.2 The Council would be in breach of the Highways Act 1980 Section 41.1a.
- 3.2.3 There would be increased risk of claims against the Council, due to accidents resulting from inaccurate weather assessments.

4. Corporate Considerations

4.1 Consultation & Engagement

- 4.1.3 Internal Consultation: Colleagues in Highways and Transportation have been consulted as part of the design process.

4.2 Council policies and City Priorities

4.2.1 The contract through its application is consistent with the aims contained within the Council's Priority Plan and Business Plan, including:

- (i) Best City for business: Support the sustainable growth of the Leeds economy; create more jobs
- (ii) Best City for health and well-being: support people to live safely in their homes
- (iii) Best City to live: enable growth of the city whilst protecting the distinctive green character of the city.

4.3 Resources and value for money

4.3.1 Meteo Group has agreed to keep to current rates which represent good value to the Council. The total estimated for the contract is £12,500.

4.4 Legal Implications, Access to Information and Call In

4.4.1 This report is not subject to Call In and there are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.

4.4.2 In approving this waiver without subjecting the contract to competition, there is a risk of challenge to the Council from other potential providers that they have not been given the chance to tender for this opportunity.

4.4.3 Whilst making the decision, the Chief Officer (Highways and Transportation) should acknowledge the risk of challenge to the Council.

4.4.4 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the above comments should be noted. In making their final decision, the Chief Officer (Highways and Transportation) should be satisfied that the course of action chosen represents Best Value for the Council.

4.5 Equality, Diversity, Cohesion and Integration

4.5.1 Due consideration to equality has already taken place as part of the Corporate Procurement Process. It is currently not applicable to carry out an EDCI screening or impact assessment at this time.

4.5.2 A review of alternative suppliers and providers will be undertaken during this one year interim measure.

4.6 Risk Management

4.6.1 Not entering into this contract would mean the Council could fail in its legal duty as the Highway Authority (The Highways Act 1980 Section 41.1A) to ensure, so

far as reasonably practicable, that safe passage along the highway is not endangered by snow or ice.

5 Conclusions

- 5.1 The West Yorkshire Procurement Group, led by Calderdale Council was in the process of tendering a contract for all West Yorkshire Authorities but due to staffing issues have not completed the task. There is now insufficient time for Leeds City Council to carry out a separate tender process for a new contract before 1st October, 2014 when the Winter Season traditionally begins.
- 5.2 The Council could be exposed to legal challenges if it fails its legal duty as the Highway Authority to ensure, so far as reasonably practicable, that safe passage along the highway is not endangered by snow or ice.
- 5.3 Meteo Group has agreed to keep to current rates that were subject to previous competition, which represent good value to the Council.
- 5.4 To ensure Highway Maintenance receive a Winter Road Weather Forecast service, a waiver of Contract Procurement Rule 8.1 and 8.2 is required to allow Meteo Group to tender through the single tender method.

6 Recommendations

- 6.1 The Chief Officer (Highways and Transportation) is requested to approve The waiver of Contract Procedure Rule 8.1 and 8.2 – Intermediate Value Procurements – and to carry out a single tender action with Meteo Group for Winter Road Weather Forecast Contract 2014 – 2015 for Leeds City Council.

7 Background documents ¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.