

Report of: Emma Slater (Project Officer)

Report to: David Outram

Date: 14 January 2015

Subject: Waiver report: Compressed Natural Gas feasibility study

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. A waiver is being requested for CPRs 8.1 and 8.2 to enable the direct award of a contract to a consultancy firm, for a piece of work to carry out market research/feasibility into the demand and supply of Compressed Natural Gas (CNG) as a vehicle fuel by the Council, and other public and private fleet operators within the Leeds District. Should the outcome of that work indicate a positive opportunity, then the consultant shall assist in the development of a technical specification for a build, own and, operate procurement exercise for a CNG filling station in the Leeds Enterprise Zone.
2. £15,000 has been made available by WYCA (Local Transport Plan Fund, referred to as LTP later in this document) to commission the work. The work has to be undertaken before the end of March otherwise the funding currently available will no longer be available, hence the reason for requesting a waiver to ensure we can ensure the work can be prioritised.

Recommendations

3. The Chief Officer of PPPU and Procurement Unit is recommended to approve the waiver of the following Contracts Procedure Rule(s): Contracts Procedure Rules No 8.1 and 8.2 – Intermediate value procurements and award a direct contract to Joulevert Ltd in the sum of £15,000 without seeking competition. The contract shall commence on the 1 February 2015 and expire on the 31 March 2015.

1 Purpose of this report

- 1.1 This report to the Chief Officer of PPPU and Procurement Unit is to request a waiver to CPRs 8.1 and 8.2 to allow the direct award of a contract to a specialist consultant to carry out investigative work, exploring whether CNG presents a viable option for a move away from diesel for the Council, and other fleet operators in the Leeds district.

2 Background information

- 2.1 The Council operates a transport fleet of circa 1200 vehicles, with category spend of £13.5m (capital and revenue) annually. Various trials have been undertaken to assess the feasibility of changing to alternative fuels. The trials that have been undertaken to date have been on a small scale and limited evidence has been collected from some of these trials, making it difficult to undertake a full analysis. The trial with the most robust results was the introduction of Liquefied Natural Gas (LNG) in five bin trucks, one dual fuel bin truck, six small vans delivered via a small, permanent LNG filling station at Knowsthorpe Gate that has proven to be successful in terms of usage, fuel cost savings and air quality impacts.
- 2.2 The filling station at Knowsthorpe Gate is operating to capacity. In order to expand the use of gas as a vehicle fuel, CNG infrastructure is required. PPPU conducted a soft market test that indicated there is a commercial interest to build, own and operate a station in Leeds, on the basis that a sufficient 'anchor-load' is available to make the investment commercially viable.
- 2.3 To ensure the Council has undertaken due-diligence before going out to any procurement, we need to properly understand the opportunities and the benefits of making a switch to CNG. Desktop analysis indicates there is a cost saving to be made on fuel providing the vehicle in question drives sufficient miles however, the cost premium for a gas engine creates a break-even point on a five year whole life cost model.
- 2.4 For the reasons identified above, it is deemed prudent to engage technical specialists to undertake the analysis needed to inform our decision making and next steps.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 The primary reason for requesting a waiver is to ensure the funding available is utilised before the end of March 2015, otherwise it will be lost. It is LTP money out of a programme budget linked to a "carbon reduction and alternative technologies" programme. The programme manager allocated the money for work to advance/investigate the feasibility of a gas station (or other alternative fuel/technology related work).
- 3.2 The general criterion for expenditure is that it has to be capital. The WYCA / LTP rules on capital spend allow the commissioning of a report from consultants as capital.
- 3.3 Secondary to this, Wakefield City Council have recently used the consultant in question for a similar piece of work and have reported positively in respect of the quality of work undertaken, giving us confidence the investment presents Value for Money (VFM) and will be a worthwhile endeavor. The funding available is £15,000 which is only marginally above the threshold for low value procurements. Furthermore it is a modest sum of money for a piece of consultancy work which reduces the risk of challenge.
- 3.4 We do not have any internal resources that can undertake this piece of work to the same level of quality due to it being a specialist area.

Consequences if the proposed action is not approved

- 3.5 As stated above, the main consequence of not providing a waiver is losing the funding, but the by-product of that would be a missed opportunity to properly understand the CNG opportunity. The analysis will still need to be done and this will fall to staff within PPPU and Procurement Unit and there is no budget available to fund the work. Furthermore PPPU and Procurement Unit staff are not industry specialists, so the work is likely to be more time consuming and carries an element of risk that a crucial consideration may not be fully understood/identified. These elements could have a detrimental effect on any procurement in terms of timescales, scope not being correctly defined, and the Council's requirements not being fully captured/benefits realised.

4 Corporate Considerations

4.1 Consultation and Engagement

There has been no consultation because there is no impact on service users or the wider population of Leeds. The work is essentially a 'back office' exercise to understand demand for CNG as a vehicle fuel and whether it is truly a viable alternative to diesel for the Council.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 As per above, this is a back office exercise so doesn't present any Equality and Diversity issues. Should the outcome of the work mean the Council proceeds to a procurement, an Equality Impact Assessment will be carried out as part of that piece of work.

4.2 Council Policies and City Priorities

- 4.2.1 This ties in with the Council's Low Carbon Breakthrough project, in particular to reduce Carbon Emissions (City Priority Plan) which would be achieved through use of bio-methane (reduction in CO₂ equivalents).
- 4.2.2 For Health and Wellbeing (City Priority Plan) to improve the Health of Residents, in particular to improve the health of the poorest, quickest. Studies indicate that the majority of the population who suffer worst from road traffic based pollution are also the poorest.
- 4.2.3 Vision for Leeds: 'Tackling climate change'. One of the top priorities is "a Cleaner, Greener Leeds". CNG is cleaner to burn than conventional petrol or diesel due to its lower carbon content. When used as a vehicle fuel, it can offer life cycle Greenhouse Gas emissions benefits. In addition, using CNG can reduce tailpipe emissions caused by fuel combustion in a vehicle's engine which have an impact on air quality.
- 4.2.4 Leeds Air Quality Action Plan: Local Authorities are obliged to declare Air Quality Management Achievements where standards are expected to exceed standards after 2013, and publish action plans setting out how they intend to take action to improve the situation.

4.4 Resources and Value for Money

- 4.4.1 Because the money has to be spent by a set date a full blown procurement exercise is not an option. We intend to use this route for speed so VFM is achieved by way of not losing access to the £15k grant.

Wakefield City Council carried out a tender exercise to appoint the consultant for their piece of work, therefore VFM has been tested by a Local Authority within the Leeds City Region, so we can rely on this as a robust method of testing.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This is a significant operational decision which is not subject to call-in. There are no grounds for keeping the contents of this report confidential under the Access to Information rules.
- 4.5.2 Awarding a contract directly to Joulevert Limited in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest that it has not been wholly transparent as the opportunity is not being advertised and at least three written tenders invited. In terms of transparency, it should be noted that it is a requirement of recent case law to consider whether contracts should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc) and the geographical location of the place of performance.
- 4.5.3 The Chief Officer Public Private Partnerships and Procurement Unit has considered this and, due to the nature of the services being delivered and the relatively low value of this piece of work, is of the view that the scope and nature of the services is such that it would not be of interest to contractors in other EU member states
- 4.5.5 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 4.5.6 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 & 8.2, the above comments should be noted by the Chief Officer Public Private Partnerships and Procurement Unit in making his final decision as to the award of this contract being the best course of action for the Council. The Chief Officer should be satisfied that this represents best value for the Council.

4.6 Risk Management

- 4.6.1 There is a risk that by proceeding we receive a procurement challenge, however the risk is mitigated by the content of this report and the governance implemented to make the decision to waive CPRs. The risk of not proceeding is that we lose the £15k grant funding and have to find alternative funding to undertake the work.

5 Conclusions

- 5.1 There is a tangible and quantifiable benefit to the Council to waive CPRs and make a direct award to Joulevert Limited to undertake the work required.

6 Recommendations

- 6.1 The Chief Officer of PPPU and Procurement Unit is recommended to approve the waiver of the following Contracts Procedure Rule(s): Contracts Procedure Rules No 8.1 and 8.2 –

Intermediate value procurements and award a contract to Joulevert Ltd in the sum of £15,000. The contract shall commence on the 1 February 2015 and expire on the 31 March 2015.

7 Background documents

7.1 N/A

