

**Report to Chief Officer (Highways & Transportation)**

**Date: 26th April 2016**

**Subject: Autodesk contract waiver**

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. Autodesk products are used throughout Leeds City Council, but predominantly in Highways & Transportation. There has been significant investment in these products since 1990. See Appendix A.
2. In 2014 a procurement exercise was undertaken to align all current maintenance/subscription contracts, to put a support framework in place, and to rationalise the purchase of new licences. In addition, the contract was to support Leeds City Council in the introduction of BIM (Building Information Modelling) (see supporting documents).
3. The tender was won by MicroCAD (acquired later by Graitec) and the contract was for 2 years. Highways and Transportation now wish to continue the relationship with Graitec for both financial and operational reasons. The subscription costs and new costs have been budgeted for 2016/17, based on figures and quotes already provided by Graitec.
4. Council wide LCC are looking to adopt a single approach to BIM which will be used for all substantial capital projects in the future. Highways are already utilising BIM techniques and processes, some of which are the result of the bespoke training, consultancy services and specialist advice provided by Graitec.

5. To continue the current maintenance/subscription and support contract with Graitec for 12 months with the intention to review the contract in the final quarter. The 12 month waiver allows continuity of service; the business are currently working with Graitec on the geometric design of three major schemes relating to the multi million pound ELOR scheme. This partnership work has come from knowledge gained throughout the current contract and to change at this point would be a disadvantage to the business. Although a suggestion of a split contract would allow the training and consultancy to remain with Graitec, the separate subscription contract would result in a loss of specialist licencing knowledge which Graitec bring to the partnership.
6. Alongside the need to retender the current contract throughout the next 12 months, Council wide LCC are looking to adopt a single approach to BIM which will be used for all substantial capital projects in the future. This could mean a significant growth in the value of the contract for Autodesk products in the future, and it is essential that there is engagement with a reseller who is a recognised specialist in this field. Graitec have a proven track record in Autodesk products and the introduction of BIM, and are an Autodesk Platinum Partner. This designates the highest level of expertise, support, and customer satisfaction. The role of a Reseller and Partner is shown in Appendix A.

## **Recommendations**

The Chief Officer Highways & Transportation is requested to approve the invocation of the following Contract Procedure Rule:

8.1 & 8.2 - to enter into a contract with a value of between £10K and £100K without seeking competition

to renew the current contract with Graitec for 12 months with the intention to review the contract in the final quarter.

## **1 Purpose of this report**

1.1 - To approve the invocation of Contract Procedure Rules 8.1 and 8.2 to allow us to renew the existing maintenance/subscription and support contract with Graitec for 12 months. The value being estimated at £50k for subscriptions, with an undetermined amount for training and consultancy throughout the 12 month period but this will not exceed the value of this waiver (100k).

## **2 Background information**

2.1 Prior to 2014 a number of Autodesk products were purchased by various teams across the Council via different vendors and some of these products came with annual subscriptions. This adhoc approach to purchases and subscription renewals increased the amount of administration involved in the management and renewal of licences.

2.2 The Council were also looking to engage more with their resellers for the introduction of BIM (Building Information Modelling), a Government led initiative, which may have a significant effect on project delivery. The current government requirement is for centrally funded projects to be BIM compliant by April 2016. The

adoption of BIM by local government, including Leeds City Council, has been increasing and is an ongoing process.

2.3 To rationalise licencing and to assist in the adoption of BIM, in 2014 tenders were invited for the provision of Autodesk subscription services, support and training/consultancy on a range of Autodesk products.

2.4 The successful tenderer was MicroCAD (acquired later by Graitec). The award was for a 2 year contract, however some of the documentation which Highways have access to states a 3yr contract with an option to extend 1+1. As part of the review of the documentation the discrepancy was noted. ICT procurement have acknowledged that there is a mistake in the T&C's but the award and contract letter state 2 years and therefore this is the timeframe which ICT are working to. The current contract for is due to expire in June 2016. The value of the contract for the next 12 months is approx. £50k for subscription plus an undetermined amount for training/consultancy which will not exceed the value of this waiver (100k).

2.5 Highways are the main users of this software and are currently in the middle of a business critical training programme with Graitec to help with the requirements of BIM. This comprises of formal classroom training and bespoke project specific onsite training related initially to the multi million pound ELOR project, but with the intention to utilise the knowledge gained for use on other projects. Graitec also provide a significant amount of telephone and email support as required not only for software support but also advice on licensing issues and getting the best from the various software packages available. The Bridges team hope to begin utilising BIM software such as Revit in the near future. Other BIM related software such as Infracore and Vault will be evaluated over the next year.

### **3 Main issues**

3.1 Although other Autodesk resellers could potentially provide similar services with regards to subscription contracts, both Highways and ICT Services have benefited from the specialist licencing knowledge which Graitec have on the Autodesk products. Both parties have also built up a very productive and beneficial relationship with Graitec. This includes bespoke training and consultancy in the use of and the configuration of BIM software. We have an assigned expert trainer who is working very closely with the business to develop the Geometric design of a number of junctions for the ELOR project. This work is ongoing and constantly evolving and any break in service could have a major impact on the delivery of these works. To change supplier at this critical stage of our BIM development and training could have an adverse effect on project delivery. When the procurement exercise was undertaken 2 years ago, Graitec came out as best value for money for both consultancy and training as well as the software costs. Although we accept that prices from other resellers may have changed during the period of the contract, and that these may now match Graitec prices. We feel that the value in the relationship far exceeds the financial consideration.

3.2 A decision is required as soon as is practicably possible, it must be noted that Autodesk have introduced a significant penalty for late renewals, including the loss of previous version rights. The implication of this could be the requirement for full upgrades of several business critical applications used by 150 users across

Highways plus approx. 60 in other Council services (see Appendix A). An upgrade has only just been completed and took many months from planning to implementation. Another risk is that any future purchases and upgrades would have to be leased licenses. As an example an AutoCAD license subscription is approx. £500 P/A, whereas the leased versions are expected to be around 2k P/A. See Appendix A.

3.3 Council wide LCC are looking to adopt a single approach to BIM which will be used for all substantial capital projects in the future. This could mean a significant growth in the value of the contract for Autodesk products. The potentially significantly higher value of any future contract, and the projected wider spread usage of the products (current and new) means that the original tender documents and qualification requirements need a significant review by all affected parties to ensure they are fit for purpose for any future tender procedure. In the duration, it is essential that there is engagement with a reseller who is a recognised specialist in this field, alongside other sources of advice. Graitec have a proven track record in Autodesk products and the introduction of BIM, and are an Autodesk Platinum Partner. This designates the highest level of expertise, support, and customer satisfaction. The role of a Reseller and Partner is shown in Appendix A.

3.4 ICT Strategic Sourcing team have sought alternative quotes for the maintenance/subscription costs only from another supplier – Comparex. The difference in cost is minimal. They have also suggested dividing the contract between maintenance (to be supplied by Comparex) and support (to be supplied by Graitec). Highways & Transportation feel this is not a viable solution, for the following reasons:

- As the usage of a variety of Autodesk products expands, and with the gradual adoption of BIM, Highway's require the continuity of service and advice that an experienced reseller such as Graitec can provide. Their track record is proven, as evidenced by their Autodesk Platinum status, whereas we have been advised that Comparex are a Gold reseller. The level of reseller service Comparex may be able to provide is an unknown quantity. The Comparex website has no obvious evidence of specialisms, specific Autodesk products, or BIM. Although the original contract requested either a Gold or Platinum reseller, the importance of BIM compliance suggests that Platinum may be the standard requirement in any future contract.
- Should the original contract be split between maintenance and support, this could result in additional administrative processes to prepare then manage the separate contracts. Some processes overlap; for example advice about licenses and the actual supply of them. It is unclear who would prepare then manage a separate contract or agreement, and how.
- At present Highways can call on Graitec for product support and consultancy, by email, phone, or office visits. This also includes bespoke software demonstrations, and under the current contract this is provided free of charge. Should the contract be split, this may result in additional charges which would need budgeting for and managing.

- Corporate adoption of BIM is a major consideration, and Highways appear to be at the forefront of this in terms of software and processes. It is crucial that the work already undertaken with the expert advice from Graitec is able to continue in its current form for the foreseeable future, without the additional complications that a split contract may cause.
- As well as the core Autodesk products, Graitec offer PowerPack for Revit – this is available FOC to subscribers and is unique to Graitec. The Bridges team within Highways hope to use Revit in future and have expressed an interest in evaluating PowerPack. Graitec are also currently developing a powerpack for Civil 3D which Engineering Projects will definitely require.
- ICT and Highways are currently rationalising licence servers and this essential project is being aided with advice from Graitec who have significant historical knowledge of our licencing arrangements and the complexity of these.

## **4 Corporate considerations**

There has been consultation with the LCC software team and also the other users of the BIM related software packages across the Council. Corporate Property Management, the other users, are happy to continue with the current arrangements. They were already in a training and consultancy relationship with Graitec prior to the current contract being awarded.

Corporate BIM discussions have begun to take place and a request has been made to engage with Highways' Autodesk resellers for advice and software demonstrations.

PPPU have also been consulted and they have raised concerns around the issue of challenge and potential risk to the Council, these are covered in item 4.5

### **4.1 Consultation and engagement**

4.1.1 No external consultation is required.

### **4.2 Equality and diversity / cohesion and integration**

4.2.1 No equality issues have been identified at this stage.

### **4.3 Council policies and best council plan**

4.3.1 This proposal is consistent with the aims contained within the Council's Priority Plan and Business Plan.

### **4.4 Resources and value for money**

4.4.1 To complete a meaningful procurement exercise or prepare new split contracts takes time and resource of which we are short on both. Both roles and responsibilities within a split contract would need to be agreed. Any new

documents would need to ensure continuity in the technical processes which relate to current licensing issues and adoption of new products. The expansion of BIM throughout LCC will need full consideration and increased consultation between services.

The extremely in-depth technical nature of the BIM training and consultancy which is being undertaken at present prevents the possibility of moving to a new support provider to effectively start from scratch for some of the configuration and processes involved.

Should the original contract be split between maintenance and support, this could result in additional administrative processes to manage the separate contracts.

#### **4.5 Legal Implications, access to information and call In**

- 4.5.1 Due to the value and nature of the contract, PPPU have advised that this is a significant operational decision and has therefore been treated as such. The report does not contain any exempt or confidential information and is not eligible for call in under the Access to Information Rules.
- 4.5.2 Awarding contracts directly to Graitec 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. In terms of transparency it should be noted that case law suggests that contracts of this value should be subject to a degree of advertising, particularly if it would be of interest to contractors in other member states. It is up to the Council to decide what degree of advertising is appropriate but 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 of Highways has considered this and, due to the nature of the services being delivered, the relatively low value of the contract and the requirement to physically deliver the training in Leeds, 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.
- 4.5.4 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed its own 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.
- 4.5.5 The risks highlighted above leave the Council open to potential challenge for a period of 30 days from the date of publication of this report as the procurement rules state that any challenge must be brought within 30 days of the date when an aggrieved tenderer knew, or ought to have known, when a breach of rules has occurred.

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

#### **4.6 Risk management**

4.6.1 The proposal to renew the existing maintenance/subscription and support contract will show business continuity including but not limited to the ELOR scheme, and will ensure access to expert advice for the Corporate adoption of BIM.

### **5 Conclusions**

5.1 The option to renew this contract is the option which offers best value for money and least risk.

### **6 Recommendations**

6.1 The Chief Officer Highways & Transportation is recommended to approve the invocation of the following Contract Procedure Rule:

- (i) 8.1 & 8.2 - to enter into a contract with a value of between £10K and £100K without seeking competition.

### **7 Background documents<sup>1</sup>**

7.1 LCCITS1400015 – Autodesk Licence and Support, Scheme Ref: 9J9N-DA2U93. Available on request.

7.2 Building Information Modelling : Implications for Leeds City Council (author: Tom Knowland).

7.3 Appendix A – definition of Resellers and Partners, and the use of AutoCAD across Leeds City Council.

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<sup>1</sup> 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.