

Report to the Chief Officer, Highways and Transportation

Date: 16 August 2016

Subject: Request to Waive Contract Procedure Rules 8.1 and 8.2 to for the purchase of a kerb lifter

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 In delivering the highways maintenance service it is necessary to lay concrete kerbs on a daily basis.
- 2 In order to comply with Manual Handling Operations Regulations and protect operatives from injury, the service uses mechanical methods for this operation. This task is primarily undertaken using excavators with lifting attachments.
- 3 In May 2015 a specialist piece of equipment was purchased to assist in the laying of kerbs, which provides operational, health and safety and cost benefits.
- 4 This report seeks approval to purchase a further, second hand vacuum kerb lifter directly from Ash Plant Hire in the sum of £10,900, which includes the provision of initial training for the machine operatives.

Recommendations

- 5 The Chief Officer, Highway & Transportation, is requested to approve the waiver of Contract Procedure Rule 8.1 and 8.2 (Intermediate Value Procurement, contracts between £10k and £100k) to allow the purchase of the vacuum kerb lifting machine direct from Ash Plant Hire in the sum of £10,900.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Chief Officer, Highways and Transportation, to waive Contract Procedure Rule 8.1 and 8.2 (Intermediate Value Procurement, contracts between £10k and £100k), to allow the purchase of the second hand vacuum lifter kerb lifting machine direct from Ash Plant Hire in the sum of £10,900.00.

2 Background information

- 2.1 The Manual Handling Operations Regulations (MHOR) cite the fact that musculoskeletal disorders account for almost half of all work-related ill-health and manual handling injuries represent over a third of accidents reported annually.
- 2.2 Work undertaken by the highways maintenance teams requires regular handling of heavy items, particularly concrete kerbs.
- 2.3 Although there are no hard and fast rules with regard to what can be lifted by hand, general guidelines quote a maximum lift of 25kg. A standard kerb weighs 69kg.
- 2.4 In accordance with MHOR, our risk assessments for kerbing activities dictate that handling of kerbs should be carried out mechanically.
- 2.5 To facilitate kerbing operations, 3 Skidsters were purchased some 11 years ago. These small mechanical lifting devices are becoming less reliable and the service mainly relies on excavators with lifting attachments fitted.
- 2.6 In response to this, in 2015 the service purchased a vacuum lifter. This has been used across the service in the past 12 months and has proven to be a very user-friendly piece of equipment, with a great deal of positive feedback both from those operating the apparatus and Health and Safety Managers.

3 Main issues

3.1 Reason for Contracts Procedure Rules Waiver

- 3.1.1 The Highways Maintenance service requires means of mechanically laying kerbs to minimise the risk of injury and accidents to operatives and to comply with Manual Handling Operations Regulations.
- 3.1.2 A vacuum lifter allows kerbs to be laid without the need for any manual handling whatsoever. Whilst there are many types of similar equipment available, the one the service bought in 2015 is the only one identified which is self-propelled, doing away with the need for an accompanying excavator.
- 3.1.3 An additional benefit of this particular piece of equipment is that it transports a pack of kerbs as it goes, avoiding the need to place them alongside the trench prior to laying, an issue specifically referred to in HSE guidance for handling kerbs. The ability to do this removes another element of manual handling. (see Appendix 1).
- 3.1.4 The West Yorkshire Plant Hire Contract does have a section covering lifting equipment, but those for which we have prices require attaching to an excavator or similar machine.

- 3.1.5 The machine acquired in May 2015 has been used regularly during the past 12 months out of Pottery Fields Depot. Due to the positivity of the feedback and benefits in reducing manual handling, a second lifter is proposed for use in other areas of the city.
- 3.1.6 The proposal is to buy a second hand vacuum kerb lifter machine with 375 hours on the clock. It comes fully serviced and certificated at a cost of £10,900, including initial training for operatives.
- 3.1.7 Use of this machine also makes kerbing operations easier and removes the need for any manual handling, protecting both the operatives using it and the Council from potential claims due to industrial injury.

3.2 Consequences if the proposed action is not approved

- 3.2.1 Work undertaken by Highways Maintenance requires the laying of concrete kerbs on a daily basis. The vacuum lifter has proved to be the best all-round option to address manual handling issues, at a reduced cost, by removing the need for an excavator with lifter.
- 3.2.2 This piece of equipment is not widely available for hire in the UK. If the proposed waiver is not approved, it will limit the ability of the service to carry out kerb laying operations in a way in which manual handling is totally eliminated.

3.3 Advertising

- 3.3.1 The purchase of the machine will not be subject to competition due to the matters set out above.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Given the nature of this procurement no consultation has taken place. However, operatives who used this machine during the past 12 months have been impressed with its operation, as have Health and Safety Managers as it removes the hard-labour element out of the task.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There is no requirement to carry out an Equality, Diversity, Cohesion and Integration screening or impact assessment on the proposals to purchase maintenance equipment as this will have no impact on the equality characteristics.

4.3 Council Policies and City Priorities

- 4.3.1 Although not directly relevant, use of this equipment contributes to a number of Council priorities through the delivery of LTP, traffic and safety schemes across the city.

4.4 Resources and Value for Money

4.4.1 Procuring this piece of equipment for a cost of £10,900 which compares favourably with the cost of a new machine, which is £32,000, and the average cost of a hired excavator with kerb lifting handles, which is around £875 per week or £43,750 for the 50 weeks a year each machine is on hire. Therefore by purchasing a second hand machine we are making a saving to the Authority.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The report is not subject to Call In and there are no grounds for treating the contents of the report as confidential under the Council's Access to Information Rules.

4.5.2 Awarding a contract directly 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 the Council should always consider whether contracts of this value would be of interest to providers in other Member States and if it would, subject the matter to a degree of European wide advertising.

4.5.3 The Chief Officer (Highways & Transportation) has considered this and, due to the nature of the equipment being purchased and the low value of this contract is of the view 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 and 8.2, the above comments should be noted. In making their final decision, the Chief Officer (Highways & Transportation) should be aware of the risk of challenge and be satisfied that the course of action chosen represents Best Value for the Council.

4.6 Risk Management

4.6.1 . As identified in section 4.5 above, there is a risk to the Council in awarding a contract directly in this way. However, the Chief Officer (Highways and Transportation) considers that the risks are outweighed by the benefits of awarding a contract to this provider, and the resource/value for money implications of doing so.

4.6.2 It is considered that the risk of procurement challenge is low as the contract falls outside any remit of the Public Contracts Regulations 2015 beyond the duty to act transparently, fairly and non-discriminatorily that applies to all contracts.

5 Conclusions

5.1 In delivering the highways maintenance service it is necessary to lay concrete kerbs on a daily basis.

5.2 In order to comply with Manual Handling Operations Regulations and protect operatives from injury the service uses mechanical methods for this operation. This

task is primarily undertaken using aged Skidster machines or excavators with lifting attachments.

- 5.3 An alternative machine which uses vacuum suction was acquired by the service in 2015 and has proved successful in protecting operatives from exposure to manual handling.

6 Recommendations

- 6.1 The Chief Officer, Highway & Transportation is requested to approve the waiver of Contract Procedure Rule 8.1 and 8.2, (Intermediate Value Procurement, contracts between £10k and £100k) to allow the purchase of the second hand vacuum kerb lifting machine direct from Ash Plant Hire in the sum of £10,900.00. .

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.

Appendix 1

