

Report to the Chief Officer (Highways and Transportation)

Date: 05 July 2016

Subject: Waiver of Contract Procedure Rules 9.1 and 9.2 to award UTMC Project 2016-2018 without competition

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. The Urban Traffic Management Control (UTMC) team's responsibilities include the management and maintenance of over 600 sets of traffic signals across the Leeds district of which approximately 80% are linked to a central computer (the UTMC system) at their control room in Middleton.
2. Mott MacDonald currently provide and support the common database connecting to all Leeds' current UTMC system computers with installation of a sophisticated computer generated interactive map used to link and control various UTMC components. This current contract terminates on 16th July 2016.
3. Replacing the existing common data base is expensive, disruptive and time consuming on staff resource. Leeds is working with the other WY Districts on a WYCA project to develop a joint West Yorkshire UTMC system which will not be complete for at least 18 months.
4. This report seeks the authority of the Chief Officer (Highways and Transportation) to waive CPR 8 Intermediate Value Procurement and award the contract for the UTMC Project 2016-2018 without competition to Mott MacDonald.

Recommendations

5. The Chief Officer (Highway and Transportation) is requested to approve the waiver Contract Procedure Rule No 9.1 and 9.2 High Value Procurements and award the

contract for the UTMC Project 2016-2018 without competition to Mott MacDonald for 18 months with an extension option for a further 18 months.

1 Purpose of this report

- 1.1 To approve the waiver of Contract Procedure Rule No 9.1 and 9.2 – High Value Procurements to appoint Mott MacDonald without seeking further competition the UTMC Project 2016-2018 contract.

2 Background information

- 2.1 The UTMC team's responsibilities include the management and maintenance of over 650 sets of traffic signals across the Leeds district of which approximately 80% are linked to a central computer through the UTMC System at their control room in Middleton. In addition a similar service is given to Calderdale for their 120 traffic signals.
- 2.2 Mott MacDonald was awarded a ten year contract subject to agreed extensions in July 2006 to partner Leeds City Council to deliver and develop its UTMC System and a state of the art control room. In that period, they assisted in providing a common database connecting to all Leeds' current UTMC systems, installation of a high tech computer generated interactive map, implementation of diversion strategies and the development of the travel information website.
- 2.3 Mott MacDonald agreed to reduce their competitively tendered rates in 2006 by 4.6% when the contract was extended in 2011 which means they are lower than the original competitively tendered rate.
- 2.4 The service they provide is essential to maintain the system that controls the traffic signals in Leeds.
- 2.5 The existing contract ends on 16th July 2016 and there is no further extensions to the contract available.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 In 2014 the Chief Officers agreed through the West Yorkshire Combined Authority to develop a joint West Yorkshire UTMC System. The location of the new UTMC centre is yet to be agreed. Timescales have changed, and the current draft programme is for procurement by Aug 2017 with migration of district systems by Aug 2018.
- 3.2 Leeds therefore didn't procure a Leeds only UTMC System prior to the end of the Mott MacDonald contract, and there is now a need for arrangements to be in place to cover the intervening period before the WY UTMC system is fully operational.
- 3.3 Replacing the existing UTMC System is expensive, disruptive and time consuming on staff resource and would be disproportionate for a system that may only be required for 18 months. To be cost effective the new system would need to be in place for 10 years.

- 3.4 Retaining the existing arrangement of Mott MacDonald supporting the current UTMC System in the interim period whilst a West Yorkshire UTMC System is procured and operational is judged to be an efficient use of council resources and give Best Value for Leeds
- 3.5 It is therefore considered appropriate and provides Best Value to renew the existing contract for 18 months with an extension option for a further 18 months in case there is slippage in the delivery of the West Yorkshire UTMC System.

Consequences if the proposed action is not approved

- 3.6 Not renewing the contract would mean the authority would have to procure a new UTMC System for the interim period until the West Yorkshire UTMC System was procured and operational. The investment costs and resource time to set up a new UTMC System for a short period is too prohibitive.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Leeds UTMC team are satisfied with Mott MacDonald performance and are keen for the contract to be renewed. Mott MacDonald are agreeable to the contract being renewed.
- 4.1.2 Consultation has taken place with the Finance Section who confirmed that the funding shall be authorised from the revenue budget for each respective works order as and when it is required.

4.2 Equality and Diversity / Cohesion and Integration

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

4.3 Council policies and City Priorities

- 4.3.1 The proposals are consistent with the Best Council Plan which sets providing a good and efficient transport infrastructure as a priority.

4.4 Resources and value for money

- 4.4.1 It is envisaged that the amount spent through this contract renewal would be in the region of £40k this financial year and a similar amount next financial year.
- 4.4.2 Replacing the existing common data base is expensive, disruptive and time consuming on staff resource. It has been agreed to develop a joint West Yorkshire UTMC system which will not be procured and operational for at least 18 months.
- 4.4.3 Retaining the existing arrangement of Mott MacDonald supporting the current UTMC System in the interim period whilst a West Yorkshire UTMC System is procured and operational is judged to be an efficient use of council resources and give Best Value for Leeds.

4.4.4 It also represents very good value as the contractor has agreed to rates that are lower than those competitively tendered in 2006.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This decision is a significant operational decision and is not subject to call-in but requires publication. The report does not contain any exempt or confidential information under the Access to Information Rules.

4.5.2 In approving this waiver without subjecting the contract to competition, there is a risk of challenge to the Council from other potential providers that it has not been wholly transparent and that they may have been unfairly denied the chance to tender for this opportunity. In terms of transparency it should be noted that case law suggests the Council should always consider whether contracts of this value should be subject to a degree of European wide advertising where it would be of interest to contractors operating in another Member State. 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 (Highways and Transportation) has considered this and, due to this being an interim arrangement whilst the new contract is procured, 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 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted. In making their final decision, the Chief Officer (Highways and Transportation) should be aware of the risk of challenge to the Council and be satisfied that on balance 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 the incumbent provider, and the resource/value for money implications of doing so

4.6.2 It is considered that in terms of the risk of challenge to the procurement route of this contract, the Council has taken steps to mitigate this. The contract, given its value, 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.

4.6.3 Additionally, the risk is mitigated by the fact that the contract will only be used to cover the service need for a short time-period pending the full, robust procurement process that WY Joint Procurement are undertaking.

5 Conclusions

- 5.1 To retain the existing arrangement of Mott MacDonald supporting the current UTMC System in the interim period whilst a West Yorkshire UTMC System is procured and operational is judged to be an efficient use of council resources and give Best Value for Leeds.

6 Recommendations

- 6.1 The Chief Officer (Highway and Transportation) is requested to approve the waiver Contract Procedure Rule No 9.1 and 9.2 Intermediate Value Procurement and award the contract for the UTMC Project 2016-2018 without competition to Mott MacDonald for 18 months with an extension option for a further 18 months.

7 Background documents¹

- 7.1 None

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