

Report of UTMCI Manager – City Development**Report to Chief Digital & Information Officer****Date: 16th June 2021****Subject: Request to waive Contract Procedure Rules 8.1 and 8.2 to approve a new contract award with Zen Internet Ltd for the provision of ADSL, VDSL and Ethernet circuits for UTMCI operation.**

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary**1. Main issues**

- Telecommunications to approximately 200 traffic signal sites is currently provided by Zen Internet Ltd via the use of Asymmetric Digital Subscriber Line (ADSL), Very high bit rate Digital Subscriber Line (VDSL) and Ethernet circuits. The connectivity to these ‘backhaul’ sites also serves many more traffic signal sites via the use of local wireless linking. The agreement with Zen Internet Ltd, approved in a previous report on 1st May 2020 by the Head of Transportation, has now expired.
- Leeds City Council (LCC) Digital Information Service (DIS) is currently undertaking a review of all telecommunications contracts, taking into account the full Urban Traffic Management Control (UTMC) asset. A possible outcome of this review is that UTMC telecommunications circuits are managed by DIS.
- The cost of transferring to a new provider will outweigh any revenue savings that would be realised given the possibility of telecommunications provision being managed by DIS in the near future.

2. Best Council Plan implications

- The recommendation of this report contributes to maintaining and strengthening ‘Smart City’ infrastructure as set out in the Best Council Plan Sustainable Infrastructure aspirations.
- Furthermore, remaining with the current agreement with Zen Internet Ltd until the DIS-led review is complete, is very much in keeping with Our Best Council Plan,

spending money wisely (Financial Strategy). In addition, officer's time will not be expended at this stage in undertaking a tendering process if the existing commercial agreement is continued – thereby protecting existing budgets and offering further benefit to the Highways and Transportation Department.

3. Resource implications

- There will be no new resource implications as a result of this decision. However, the DIS full fibre rollout and UTMC Private Fibre Network will bring future revenue savings as some sites will be served by those solutions.

Recommendations

The Chief Officer Digital & Information Services is requested to approve the waiver of the Contracts Procedure Rules No's 8.1 and 8.2 (in accordance with CPR 27) and approve entering into a new contract with Zen Internet Ltd to ensure continual provision of ADSL, VDSL and Ethernet circuits for UTMC operation.

This agreement would be in place for a period of up to 12 months from 1st July 2021 to allow for the rollout of the DIS full fibre programme and review of telecommunication provision by DIS. The value of the award will not exceed £100,000.

1. Purpose of this report

- 1.1 This report requests authorisation to waive contract procedure rules 8.1 and 8.2 (under the authority set out in CPR 1.3) and approval to enter into a new contract with Zen Internet Ltd, for a period of up to 12 months from 1st July 2021, to ensure continual provision of ADSL, VDSL and Ethernet circuits for UTMC operation.

Expenditure will not exceed £100,000, funded from existing UTMC revenue budgets.

2. Background information

- 2.1 Zen Internet Ltd currently provides ADSL, VDSL and Ethernet services to 200 sites for the control and monitoring of traffic signals by the central UTC system based in Middleton, Leeds. These circuits serve many more sites through local wireless linking. The previous agreement term has, for the 12 months prior to 31st March 2021, been for a rolling contract that allows a 30 day termination notice on circuits. This expired at the end of March 2021.
- 2.2 The reason for the previous agreement with Zen Internet Ltd was due to the expectation of an imminent move to a new West Yorkshire (WY) UTMC centre. However, changes to the WY UTMC implementation mean that the expected changes to telecommunications are no longer relevant.
- 2.3 The LCC DIS is undertaking a review of UTMC telecommunications provision with the possibility that current provision would be managed by DIS in future. Furthermore, the recently announced DIS-led full fibre rollout in partnership with BT may replace some of the Zen Internet Ltd provided circuits and the UTMC private fibre network will also make some of the ADSL and VDSL circuits redundant.

3. Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 ADSL, VDSL and Ethernet services for approximately 200 traffic signal sites (but serving many more) are currently on expired rolling contracts with Zen Internet Ltd.
- 3.2 There is a full fibre rollout programme being undertaken by DIS that could potentially make some circuits redundant within 12 months. Furthermore, the UTMC private fibre network that is currently being installed will replace other circuits. A full review of UTMC telecommunications provision is being undertaken by DIS and may lead to the DIS service managing contracts in future years.
- 3.3 The cost of transferring to a new provider will outweigh any revenue savings that would be realised given the possibility of telecommunications provision being managed by DIS in the near future. It is therefore proposed not to begin a new procurement exercise for a new provider.

Consequences if the proposed action is not approved

- 3.4 Should the contract not be awarded, then control and monitoring of traffic signals would cease which would severely diminish the ability of UTMC and the wider Highways and Transportation service to manage the network safely and efficiently. This would have the subsequent impact of increasing delays on the road network and increasing the risk of safety critical traffic signals faults not being responded to in a timely manner.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Executive Board Member for Climate Change, Transport and Sustainable Development has been consulted regarding this proposal and supports it.
- 4.1.2 The Chief Digital & Information Officer has been consulted regarding this proposal. A question has been raised regarding the procurement of telecoms circuits by LCC Services other than DIS. However, the on-going review of UTMC telecoms by DIS (which will inform a longer-term alternative solution) has not yet been completed and so this proposal is necessary to maintain core service provision until a viable alternative solution has been implemented.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An Equality, Diversity, Cohesion and Integration Screening has been prepared (Appendix 1) and an independent impact assessment is not required for the approval requested.
- 4.2.2 The decision proposed to be taken within this report does not impact upon Equality and Diversity / Cohesion and Integration

4.3 Council policies and the Best Council Plan

- 4.3.1 The recommendation of this report contributes to maintaining and strengthening 'Smart City' infrastructure as set out in the Best Council Plan Sustainable Infrastructure aspirations. It is also aligned to the Highways Infrastructure and Asset Management Strategy.

Climate Emergency

- 4.3.2 Control and monitoring of the traffic signals reduces delays on the network for all road users. Control of the traffic signals allows manual intervention in response to incidents/roadworks on the network whilst monitoring enables faults to be dealt with quickly. Loss of communication would initially mean that traffic signals would operate on fall-back plans that would become increasingly inefficient. The loss of monitoring ability would mean that faults would not be responded to in a timely manner. Both factors would result in increased congestion and issues with waiting vehicles, in turn likely to severely increase carbon emissions.

4.4 Resources, procurement and value for money

- 4.4.1 The recommendation of this report is to enter a new contract with Zen Internet Ltd with 30 days termination notice for services. The agreement will be for up to 12 months with the value not exceeding £100,000 during that period.
- 4.4.2 The 30 days termination notice will allow services to be ceased in a timely manner once the DIS-led full fibre network has been rolled out and the UTMC private fibre network is in place thus providing more immediate revenue savings.
- 4.4.3 The cost of transferring to a new provider will outweigh any revenue savings that would be realised given the possibility of telecommunications provision being managed by DIS in the near future. It is therefore proposed not to begin a new procurement exercise for a new provider as it wouldn't represent value for money for the Council.
- 4.4.4 The new agreement will have no new resource implications as the value has already been budgeted for.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The contract award is a Significant Operational Decision but not subject to call-in and there are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.2 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 and therefore it is not subject to the full procurement rules. However, Contracts Procedure Rules 8.1 and 8.2 require competition for procurements valued between £25K and £100K and the invitation of at least three written tenders. A waiver of these Contracts Procedure Rules using the authority set out in CPR 27.1 is required to award a contract direct to this provider.
- 4.5.3 Entering into a direct commercial agreement with the provider in this way could leave the Council open to a potential claim from other suppliers 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 could be of interest to other suppliers and, if it could, the opportunity should be subjected to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. 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.

- 4.5.4 The decision maker has considered the above risk and is of the view that the contract would not be of interest to other suppliers. While 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, this is identified as medium to low. 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. The complainant would first though have to establish maladministration had occurred and satisfy the ombudsman that this was the case.
- 4.5.5 Although there is no overriding legal obstacle preventing the award of this contract in this manner, in making their final decision, the Chief Digital & Information Officer should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

4.6 Risk management

- 4.6.1 The potential risks of accepting the recommendation of this proposal are outlined in section 4.5.
- 4.6.2 The risks of not accepting the recommendation of this proposal is set out in paragraph 3.4. Not entering a new commercial agreement with Zen Internet Ltd will effectively cease control and monitoring of a large number of traffic signal sites operated by UTM. No suitable interim measures have been identified for the provision of ADSL, VDSL and Ethernet services.

5. Conclusions

- 5.1 The control and monitoring of traffic signals is a critical part of the service provided by Highways & Transportation to keep traffic moving. Consequently, the telecommunication services must continue uninterrupted, therefore, the contract should be awarded to Zen Internet Ltd.
- 5.2 The combination of the full fibre network rollout and the private fibre network currently being installed by UTM will enable significant revenue savings to be realised. It is also expected that, following a review of telecommunications provision by DIS, some of the existing telecommunications services will be superseded.

6. Recommendations

The Chief Officer Digital & Information Services is requested to approve the waiver of the Contracts Procedure Rules No's 8.1 and 8.2 (in accordance with CPR 27) and approve entering into a new contract with Zen Internet Ltd to ensure continual provision of ADSL, VDSL and Ethernet circuits for UTM operation.

This agreement would be in place for a period of up to 12 months from 1st July 2021 to allow for the rollout of the DIS full fibre programme and review of telecommunication provision by DIS. The value of the award will not exceed £100,000.

7. Background documents

- 7.1 None

Appendix 1

Equality, Diversity, Cohesion and Integration Screening

As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

Directorate: City Development	Service area: Transportation
Lead person: Joel Dodsworth	Contact number: 3788128

1. Title: Request to waive Contract Procedure Rules 8.1 and 8.2 to enter a commercial agreement for the provision of ADSL, VDSL and Ethernet circuits for UTMC operation without seeking competition

Is this a:

☐

Strategy / Policy

☒

Service / Function

☐

Other

If other, please specify

2. Please provide a brief description of what you are screening

The screening process relates to the continuation of a rolling contract to provide ADSL, VDSL and Ethernet services for control and monitoring of traffic signals.

3. Relevance to equality, diversity, cohesion and integration

All the council's strategies/policies, services/functions affect service users, employees, or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).		
Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?		X
Have there been or likely to be any public concerns about the policy or proposal?		X
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		X
Could the proposal affect our workforce or employment practices?		X
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> • Eliminating unlawful discrimination, victimisation and harassment • Advancing equality of opportunity • Fostering good relations 		X

If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity; cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

4. Considering the impact on equality, diversity, cohesion and integration
<p>If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.</p> <p>Please provide specific details for all three areas below (use the prompts for guidance).</p> <ul style="list-style-type: none"> • How have you considered equality, diversity, cohesion and integration? (think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected) <p>Consultation will be undertaken in the Wards affected if there is an obvious change to the operation of the signal installation.</p>
<ul style="list-style-type: none"> • Key findings <p>(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)</p>

<ul style="list-style-type: none"> • Actions (think about how you will promote positive impact and remove/ reduce negative impact)
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5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.	
Date to scope and plan your impact assessment:	N/A
Date to complete your impact assessment	N/A
Lead person for your impact assessment (Include name and job title)	N/A

6. Governance, ownership and approval Please state here who has approved the actions and outcomes of the screening		
Name	Job title	Date
Joel Dodsworth	UTMC Manager	01/06/21

7. Publishing Though all key decisions are required to give due regard to equality the council only publishes those related to Executive Board, Full Council, Key Delegated Decisions or a Significant Operational Decision . A copy of this equality screening should be attached as an appendix to the decision making report: <ul style="list-style-type: none"> • Governance Services will publish those relating to Executive Board and Full Council. • The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions. • A copy of all other equality screenings that are not to be published should be sent to equalityteam@leeds.gov.uk for record. Complete the appropriate section below with the date the report and attached screening was sent:	
For Executive Board or Full Council – sent to Governance Services	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate Directorate	Date sent: 17/06/2021
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent:

Appendix 2

What is your reason for waiving CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process e.g. to deal with the consequences of extreme weather.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Other (please provide summary here)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No