

Report to seek a waiver of CPR 9.1 and 9.2 to enter into a contract with Roadworks Information Limited for the annual subscription of the Elgin One.network portal with the Traffic Management module (TM App) without seeking competition

Date: 10th March 2023

Report of: Business Development Manager

Report to: Chief Officer (Highways and Transportation)

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report seeks to gain approval of a waiver of CPR 9.1 and 9.2 to continue with the same arrangement with the current consortium for One.network (Elgin) for the next year. One.network is one of the leading industry products for displaying information on mapping directly from the Street Works Register or by uploading via the TM app. This has been used by Leeds City Council since 2013 and the TM App since 2016. A consortium of Yorkshire highway authorities purchases One.network which reduces the Council's annual subscription rate. Leeds City Council is the lead authority in the consortium and pays the full subscription costs for all consortium members and is then reimbursed by the members.

Recommendations

The Chief Officer (Highways and Transportation) is requested to:

- a) Approve the waiver of Contract Procedure Rules 9.1 and 9.2 and award a contract direct to Roadworks Information Limited (trading as Elgin) for access and use of One.network and the TM App from 1st April 2023 until 31st March 2024; and
- b) Approve payment by the Council of the full subscription cost consisting of the gross spend of £90,947.13 excluding VAT for provision of the One.network website to the Yorkshire and Humber Traffic Managers Group (YHTMG) consortium and £13,142.47 for the TM App per annum. With reimbursements from other authorities within the consortium the net spend for the Council is £8,766.03 excluding VAT for the website provision and £13,142.47 excluding VAT for the Traffic Management app per annum.

What is this report about?

This report sets out the reasons for recommending that the Chief Officer (Highways and Transportation) approves the waiver of Contract Procedure Rule 9.1 and 9.2 to continue with the same arrangement with the current consortium for One.network (Elgin) for the next year, with option to extend for a further year and for continuation of our individual contract for the TM App by entering into a contract with Elgin without seeking competition.

One.network hosted by Elgin is the web-based portal used by most local authorities in England and Wales providing up to date road works, road closure, diversion and events information, displayed geographically. The Traffic Management (TM) App enables information about road closures and diversion routes to be displayed on mapping and publicised instantly, with particular benefits in emergency situations and for high profile public events.

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Publishing of information on road works and events allows people to make informed journey choices and move more freely around the city, thus supporting the delivery of a good and efficient transport infrastructure.

What impact will this proposal have?

The Traffic Management Act 2004 imposes a duty on all local traffic authorities to secure the expeditious movement of traffic on their road networks, and to facilitate the expeditious movement of traffic on other authorities' networks. Additionally, the New Roads and Street Works Act (NRSWA) 1991 places a duty to coordinate street and road works on the highway. These duties are the responsibility of the Network Management section and Traffic Manager for the Authority.

One.network and the TM App is an important tool for the planning, management and communication of street and road works that minimises disruption and improve journeys for the public, thereby complying with the service's statutory duties.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

A key duty of Network Management section is to minimise delay, disruption, and the negative effects of from works to improve infrastructure and investment in essential services. This ranges from the maintenance of essential utilities and the roll out of super-fast broadband to our own transformative schemes the contribute to the transport strategy. One.network by helping to manage a vast number of activities on our highway network, such as avoiding clashes, identifying collaborative working opportunities, and providing effective means of communication with the traveling public contribute to the Council's ambitions. Reduced delay and communications help to reduce carbon through reduced numbers of vehicle movements and less congestion and disruption during works. This also provides a benefit to public transport and active travel journeys.

One.network is promoted in our communication and the platform receives around 500,000 hits per annum. Renewing the current contract ensures no disruption to service delivery for work promoters and the TM App ensures we can continue to publish information regarding road closures and associated diversion routes for road works, events and unplanned incidents.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

While no specific consultation or engagement has taken place in relation to the renewal of One.network, it's use is promoted and receives around 500,000 hits per annum. In addition ward members are offered regular free training direct by Elgin which not only helps ward members understand upcoming works in their areas but also reduced avoidable contact with officers and members by giving ward members and the public information at their fingertips.

Commitment has been obtained by the Yorkshire and Humberside Consort members to ensure that they have indicated support and agreement to be recharged for their contribution.

What are the resource implications?

Funding will be provided through the Network Management budget and Finance has confirmed that this arrangement can continue on an annual basis.

The Council benefits from being part of a consortium in Yorkshire set up by the Yorkshire and Humber Traffic Managers Group (YHTMG). Renewing the existing One.network contract for a further one year with option to extend for a further year, allows for continuity of service provision and represents best value for money, the least disruption to the Council and to clients. The TM App allows for a more automated process for the application of road closures which has resulted in efficiencies within Network Management and saving paper which supports "Changing the Workplace."

What are the key risks and how are they being managed?

As identified in the section below, 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 and the resource/value for money implications of doing so.

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 EU Procurement Regulation beyond the duty to act transparently, fairly and non-discriminatorily that applies to all contracts.

What are the legal implications?

This decision is a Significant Operational Decision and is not subject to call-in but will be published by the Council. The report does not contain any exemptions or confidential information under the Access to Information Rules.

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 European case law suggests that contracts of this value should be subject to a degree of advertising if it is considered that 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.

The EU case law has been considered in this and, due to the nature of the product, with One.network being the recognised national portal for road works there is no viable alternative currently available. It is considered that the scope and nature of the services are such that it would not be of interest to contractors in other EU member states.

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.

Whilst making the decision, the Chief Officer (Highways and Transportation) should acknowledge the risks identified above.

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.

Options, timescales and measuring success

What other options were considered?

Currently there is no other competitor that provides the same functionality as One.network. One.network is the recognised national portal for up to date road works information and is used by 95% of the 175 local highway authorities in England and Wales. In addition to displaying information regarding current and planned road works, the product also displays the following information; Live traffic incidents and accidents, Google live traffic (congestion), Public events, Scheduled and live departure information for buses and trains, Google multi-modal journey planning tool, An email alert system by postcode or electoral ward, National street gazetteer information including road resurfacing restrictions, traffic sensitivity, permit streets and reinstatement types.

How will success be measured?

Success can be measured by Network Management's ability to reduce disruption on the network through the use of One.network. It can also be measured in the volume and efficiency of the road closure process, which One.network plays a pivotal role in the process. This is a public facing system and holds value in its ability to inform the public as well as elected members.

What is the timetable and who will be responsible for implementation?

As this is a renewal the product is already implemented and there will be no disruption to the service as a result.

Appendices

- Appendix 1 – see below.

Background papers

- None

Appendix 1

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 type="checkbox"/> Yes	<input checked="" 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) As detailed in report.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No