

Authority to utilise Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 to directly award a contract to Causeway Technologies Ltd for the annual subscription of the one.network portal and Traffic Management module.

Date: 8th May 2024

Report of: Assistant Product 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 is seeking approval to utilise Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 – Negotiated Procedure without prior publication of a Contract Notice to enter a contract with Causeway Technologies Ltd for the annual subscription of the one.network portal and Traffic Management module at a total contractual cost of £112,416.77. The total cost to the Council will be £23,661.18.

one.network is a leading industry product for the planning and communication of traffic management. It has been in use by the Council Network Management since 2013. Contracts have previously been with Roadworks Information Limited, but they have recently been acquired by Causeway Technologies Ltd.

The subscription is purchased as part of a consortium of Yorkshire Highway authorities, which allows a reduction in the overall annual subscription rate. Leeds acts as the lead authority for the consortium, responsible for payment with costs reimbursed from other members.

Recommendations

The Chief Officer, Highways and Transportation is recommended to:

- a) Approve the use of Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 (PCRs) in accordance with Contracts Procedure Rule 10.2 to directly award a 12-month contract directly to Causeway Technologies Ltd for use of their one.network web-based portal and Traffic Management module. The contract will start on 1st April 2024 and end on 31st March 2025. The total value of the contracts directly awarded to Roadworks Information Limited since 2015 to date for the delivery of these services is £779,484.12. The Consortium of Yorkshire Highway Authorities has been in place since 2012 and a trial period of the system was in place initially.

- b) Approve payment of the full 12-month subscription cost of £112,416.77. This consists of £98,222.90 for provision of the one.network website to the Yorkshire and Humber Traffic Managers Group (YHTMG) consortium and £14,193.87 for the TM App per annum.
 - a. An initial total spend of £112,416.77.
 - b. Following reimbursement from other authorities within the consortium, the total net cost for the Council will be £23,661.18 (£9,467.31 web-portal and £14,193.87 Traffic Management module).

What is this report about?

- 1 This report is requesting approval for the use of Regulation 32(2)(b)(ii) of the PCRs to directly award a contract to Causeway Technologies Ltd for the annual subscription of the one.network portal and Traffic Management module. This is to continue with the same arrangement with the current consortium for the access to one.network and for the continuation of our individual contract for the Traffic Management module for the next year by entering a contract with Causeway Technologies Ltd.
- 2 one.network is the web-based portal used by a large majority of local authorities in England and Wales for providing up to date road works, road closure, diversion, and events information direct from the Street Works Register, displayed geographically. This can be verified by a search on Contracts Finder. The Traffic Management module enables information about road closures and diversion routes to be displayed on mapping and publicised instantly, with particular benefit in emergency situations and for high profile public events.
- 3 Use of one.network was initially introduced as a trial, and from there forth a waiver report has been produced annually to continue use of the product.
- 4 A consortium of Yorkshire Highway Authorities purchase one.network together, which reduces the Council's annual subscription rate. The Council is the lead authority in the consortium and pays the full subscription costs for all members and is then reimbursed.
- 5 The Council has established multi-departmental processes, and significant impacts would result if this arrangement was not continued, including retraining of staff across highways and legal service. There is also potential for disruption to the service, leading to missed legal orders, damage to reputation and lack of transparency with the public.
- 6 Due to the above reasons, it is on that basis which, for technical reasons, necessitate a direct provision for this service to be maintained by the existing provider.
- 7 A compliant procurement process will take place prior to the end of the proposed contract end date.

What impact will this proposal have?

- 8 The one.network portal and the Traffic Management module 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.
- 9 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 co-ordinate street and road works on the highway. These duties are the responsibility of the Network Management section and Traffic Manager for the Council.
- 10 The one.network portal is promoted in the Council's communications, 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 Traffic Management module ensures continued publishing of information regarding road closures and associated diversion routes for road works, events, and unplanned incidents.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 11 Publishing of information on road works and events allows people to make informed journey choices and move more freely around the city, supporting the delivery of efficient transport infrastructure.
- 12 A key duty of Network Management section is to minimise delay, disruption, and the negative effects resulting 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 transformative schemes that contribute to the transport strategy.
- 13 one.network assists in managing 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.
- 14 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.

What consultation and engagement has taken place?

Wards affected: n/a

Have ward members been consulted?

Yes

No

- 15 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 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.
- 16 Commitment has been obtained by the Yorkshire and Humberside Consortium members to ensure that they have indicated support for the continuation of the current arrangement, and agreement to be recharged for their contribution.

What are the resource implications?

- 17 As the product is already in use, no further implementation work or resource is required.
- 18 Total initial cost to the Council is £112,416.77.
- 19 Funding will be provided through the Network Management budget, and Finance has confirmed that this arrangement can continue on an annual basis.
- 20 The Council benefits from being part of a consortium set up by the Yorkshire and Humber Traffic Managers Group. Continuing with this arrangement allows for continuity of service provision and the least disruption to the Council and to clients and represents best value for money through a reduced annual rate of around 33% (in comparison from published framework pricing) for purchasing through the consortium. A compliant procurement process will take place prior to the end of the proposed contract end date.

21 The Traffic Management module allows for a more automated process for the application of road closures which has resulted in efficiencies within Network Management and saving paper.

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

22 As identified in the section below, there is a risk to the Council in awarding a contract directly.

23 There is no alternative system available to the Council at a comparable cost that meets the technical specifications that are required of Network Management. The council are undertaking a market exercise to proceed with a new procurement exercise, which could potentially open opportunity to bid for interested suppliers.

What are the legal implications?

24 Whilst the contractual value proposed here for the contract to Causeway Technologies Ltd is below the UK procurement threshold for services (£214,904 inclusive of VAT), it is advised that a Voluntary Ex-Ante Transparency Notice (VEAT) is issued for the purposes of recording the aggregated historic contractual spends which has significantly surpassed the relevant UK procurement threshold for services. The directly awarded contract has been made pursuant Regulation 32(2) of the PCRs, which states:

The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:

(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

(ii) competition is absent for technical reasons.

25 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.

26 However, if Regulation 32(2)(b)(ii) of the PCRs is used incorrectly, and it is subsequently determined that the above conditions are not met, the Council could be open to a procurement challenge that it has breached the PCRs by not being open, fair, transparent, and proportionate in directly awarding the contract to Causeway Technologies Ltd. Further, an aggrieved contractor could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity. The risk of a procurement challenge can be mitigated as further detailed in the following paragraphs.

27 In relying on the use of Reg 32(2)(b)(ii) of the PCRs, the Council will be required to issue a VEAT Notice for publication on Find a Tender Service (FTS) immediately after the decision to award the contract has been taken and then waiting 10 days to see if any challenges are made. If no challenges are made, the chances of a claim for ineffectiveness being brought are significantly reduced and would only be successful if the Council had used the negotiated procedure without publication of a notice incorrectly. Furthermore, publishing a VEAT notice will also start time running for any other potential claim for breach of the PCRs, which must be brought within 30 days of the date that an aggrieved party knew or ought to have known that a breach had occurred.

28 The above has been considered by the Chief Officer, Highways and Transportation and, due to the unique nature of the product, with One.network being the recognised national portal for road works there is no viable alternative currently available, is of the view that the scope and nature

of the services are such that it would not be of interest to contractors outside the UK and therefore competition is absent for technical reasons

- 29 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.
- 30 Whilst making the decision, the Chief Officer, Highways and Transportation should acknowledge the risks identified above.
- 31 Although there is no overriding legal obstacle preventing the use of Regulation 32(2)(b)(ii) of PCRs, 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?

- 32 No other suitable options which provide the same required functionality are available. one.network is the recognised national portal for up to date road works information and is used by a large majority of local authorities in England and Wales for providing up to date road works, road closure, diversion, and events information direct from the Street Works Register, displayed geographically. This can be verified by a search on Contracts Finder. The Traffic Management module enables information about road closures and diversion routes to be displayed on mapping and publicised instantly, with particular benefit in emergency situations and for high profile public events
- 33 It displays information regarding current and planned road works. The product also includes 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. It includes an email alert system by postcode or electoral ward, and national street gazetteer information including road resurfacing restrictions, traffic sensitivity, permit streets and reinstatement types.
- 34 Not having access would significantly impair the ability of Network Management to effectively manage and communicate road closures, potentially leading to missed legal orders, damage to reputation, and lack of transparency with the public.
- 35 Procuring this product through the framework G-Cloud13 was considered but the framework pricing would mean the on-going discounts offered to the consortium by Causeway Technologies Ltd wouldn't be applied, this would result in an increase in costs by 33% would not represent best value to the Council. A compliant procurement process will take place prior to the end of the proposed contract end date.

How will success be measured?

- 36 Continued use of one.network by Network Management as a vital tool for reducing disruption and improving the efficiency and communication of the road closure process. Success can be measured in the volume and efficiency of the road closure process, which one.network plays a pivotal role in.
- 37 This is a public facing system and holds value in its ability to inform the public and elected members.

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

38 The product is currently in use, so no further implementation is required and there will be no disruption to service.

Appendices

- None

Background papers

- None.