

Commissioning and Procurement Sub-Committee, 13th April 2021

Subject:	Highway Services 22-26 Sustainable Procurement Strategy		
Corporate Director(s)/ Director(s):	Dave Halstead - Director of Neighbourhood Services		
Portfolio Holder(s):	Councillor Rebecca Langton - Portfolio Holder for Communities, Highways and Strategic Transport		
Report author and contact details:	Mark Bradbury, Highways Contracts & Compliance Manager Chris Keane, Head of Highway Services		
Other colleagues who have provided input:	Andrew Mitchell, Highways Compliance Manager		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
			<input checked="" type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Total value of the decision: up to £50.2M			
Wards affected: All Wards	Date of consultation with Portfolio Holder(s): 17th March 2021		
Relevant Council Plan Key Theme:			
Nottingham People			<input type="checkbox"/>
Living in Nottingham			<input checked="" type="checkbox"/>
Growing Nottingham			<input type="checkbox"/>
Respect for Nottingham			<input type="checkbox"/>
Serving Nottingham Better			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>Highway Services deliver design, construction and maintenance works utilising both internal resources and private sector specialists & contractors. These supporting specialists & contractors carry out work which exceeds the capacity of internal resources as well as specialist work activities e.g. planned carriageway resurfacing and testing of construction materials.</p> <p>In 20/21 Highway Services undertook a redesign of the service to modernise the response team, create a rebased affordable service, implement a new management model and a reduce posts and operational costs. This redesign insured that Highway Services is operating a lean cost effective solution for Highways delivering its core service. There will however continue to be the requirement for external specialists & contractors in time of peak workload, these can occur when central government grants are received or there are successful bids for funding by our colleagues in Transport Strategy.</p> <p>Since 2010 Highway Services have accessed their supporting contractors through a multi supplier Highways Framework let in conjunction with Derby City Council (DCC).</p> <p>The most recent iteration of this framework will expire in March 2022 and it is proposed that the current framework is reviewed and subsequent identified framework/s are procured for a four-year period between 2022 and 2026 (please see appendix A for a breakdown of the contracts).</p> <p>Across Highway Services there has already been and increased reliance on specialists due to recent successful bids and the award of additional grants. In light of this and aforementioned redesign that has taken place it is forecast the procurement is required to be put in place for the following specialists due to the financial thresholds that will be reached (please see appendix A for a breakdown of the contracts).</p>			

- Construction Materials Testing
- Topographical and Utility Detection Surveys
- Highway & Structural Design and Project Support
- Construction Training

Highway Services is also key to NCC's Carbon Neutral Nottingham 2028, and more specifically Objective 6 "To minimise emissions in construction of new building through procurement". All of the proposed procurement activities in this report are to be reviewed against this objective with a view to maximising reductions where possible. Some of the proposed items to date are the inclusion of low temperature materials for road surfacing, the use of recycled materials and targets on the use of electric vehicles.

This paper outlines the recommended procurement strategy to deliver highway improvement schemes up to 2026

Exempt information:

None

Recommendation(s):

1 To seek Commissioning and Procurement Sub Board Committee approval to procure and award replacement Highways Framework Agreements in-line with Public Procurement Regulation 2015.

2 To seek Commissioning and Procurement Sub Board Committee approval to procure and award specialist highway contracts in-line with Public Procurement Regulation 2015.

3 To Delegate authority to the appropriate manager in-line with Financial Regulations, to call off from the Framework Agreement/s over the 4 year period 2022 - 2026

1 Reasons for recommendations

1.1 **Recommendation 1** - Renewing the Highway Framework in collaboration with Derby City Council will result in the following advantages;

- To deliver an environmentally sustainable solution for delivering highways maintenance and construction across Nottingham city reducing carbon emissions
- Reduced costs of procurement by collaborating with DCC on required tender documentation and sharing technical resources
- A value-for-money delivery model with no fixed financial commitment to use the framework.

1.2 **Recommendation 2** - Procuring specialist highway contracts will result in the following advantages;

- Enabling the delivery of grant funded schemes in line with the timescales of the award.
- A value-for-money delivery model with no fixed financial commitment to use the framework.
- Opportunities for local Small to Medium Enterprise (SME) companies to tender for the work.

- The potential for a local workforce either through direct employment or through regional SME sub-contractors.
- Opportunities for local Small to Medium Enterprise (SME) companies to tender for the work.

1.3 **Recommendation 3** – This recommendation will enable the relevant manager to award of works to the value of their approval level under NCC financial regulations.

1.4 Highway Services has successfully adopted this mixed approach to the delivery of highway design and construction which utilises the Council's own skilled workforce and procured specialists and contractors.

1.5 This delivery model has a number of additional benefits including;

- Strong links to our corporate value and objectives
- A highly flexible and responsive structure to accommodate short term changes to design programmes.
- Local knowledge available in the planning and assessment of proposed works

2 Background (including outcomes of consultation)

2.1 It is essential that the authority has a compliant procurement route for the design, management and delivery of our highway construction and maintenance activities.

2.2 Collaborating with DCC will ensure that we maximise shared professional input and experience. Learning from the previous successful joint working we have agreed that it is more efficient and effective to conduct separate procurement processes on this iteration of our frameworks.

2.3 These frameworks will help compliment the work that is done by our Employer Hub. This is Nottingham City Council's local employment and training service and will help the Council to deliver opportunities for local people while providing a free recruitment and training service to meet the workforce needs of suppliers. This will benefit not only Nottingham Citizens with job opportunities but our framework providers in recruitment.

2.4 It is anticipated that the contract model will satisfy the funding requirements for European Regional Development Fund (ERDF), the Department of Transport (DFT), and the Regional Local Enterprise Partnerships (LEP).

2.5 The Derby and Nottingham Metropolitan Strategy 2030 strengthens those existing ties. The Strategy aims to establish the national presence and international reputation that will enable the Cities to take best advantage of opportunities (such as the Midlands Engine and foreign trade and investment) that will benefit the D2N2 area and boost the wider economy.

2.6 Nottingham City Council and Derby City Council Highway and Transportation teams worked closely together on the establishment of the current framework contract and continue to work in collaboration.

3 Other options considered in making recommendations

3.1 Don't renew - Not having a framework agreements in place will adversely affect our ability to engage with private sector contractors to deliver both routine and reactive highway maintenance, as well highway works as part of the LTP and other capital funding.

4 Finance colleague comments (including implications and value for money/VAT)

4.1 This framework will be managed through an established framework board in order that contractors are commissioned proficiently which aligns with current NCC financial regulations.

4.2 The impact on capital and revenue funded works is provided through a mix of internal resources, and external contractors procured through the framework.

4.3 The use of contractors will be limited to that expenditure which is agreed in the NCC capital programme budget and revenue maintenance budgets.

4.4 A summary of the estimated expenditure is provided in Appendix A. At this stage it is not possible to breakdown this information further by financial year.

4.5 There is no financial commitment to use the framework therefore there is no risk.

4.6 From March 2021 supplies of Building & Construction Services falling within the Construction Industry Scheme definition will be subject to the Domestic Reverse Charge rules. The Council will need to ensure that the framework contains suitable provisions to ensure that it can demonstrate that it has taken reasonable care to ensure that it and any contractors used are compliant with these requirements.

4.7 The Off Payroll Working Regulations, also known as IR35, are extended to the private sector from April 2021; the Council is required to ensure that it has processes in place to ensure compliance with these regulations. These should include a requirement for contractors engaged from this framework to notify the Council of any workers within their supply chain engaged on an Off Payroll basis so that the required Employment Status checks can be made.

Comments provided by

Tania Clayton Pérez – CIE Commercial Business Partner

Gary Robbins - Senior Accountant Tax

24th March 2021

5 Legal and Procurement colleague comments (including risk management issues, and including legal, Crime and Disorder Act and procurement implications)

5.1 The proposals in this report provide for an effective and collaborative procurement approach for the basis of preparing the tender documentation. Both NCC and Derby City will then go on to procure and award their individual requirements /framework agreements

5.2 The strategy is in line with the City Council's financial and procurement regulations and is considered appropriate and will provide good value for money.

5.3 The highway framework will be managed by the Highway Framework Manager

- 5.4 There are no significant legal concerns arising from the recommendations set out in this report. The recommendations are asking for authority to procure compliant framework agreements to provide a range of highways related services over a 4 year period. The most suitable contracting arrangements and procurement processes will be determined in consultation with the Corporate Procurement Team and Legal Services.
- 5.5 It should be highlighted that the value of £50.2m is the indicative maximum spend to be awarded under those contracts over the duration of the frameworks rather than a budget approval for £50.2m to be committed to those services. Any call-off contract placed under the framework must have an approved budget against it – whether as part of a departmental budget for services provided (as is likely to be the case for the majority of call-offs made by the Highways Team) - or through a project specific approval for example where Highway Services are delivering services against a funded scheme.
- 5.6 Recommendation 3 is simply to provide a smooth mechanism to place orders under the procured frameworks, without seeking any further approvals. The delegation is not intended to give any authority to approve budgets for any projects. Only where there is an approved budget will an order be placed and an officer placing an order must be acting within the limits of the financial authority they have been granted in accordance with Financial Regulation D.6. Regard must also be had to the Contract Procedure Rules with regard to the execution of contracts for certain values. Where a contract is required to be executed under the Council's Seal – whether due to the financial or risk value – then this will need to be executed by the Director of Legal and Governance.

Naomi Vass – Senior Solicitor 15 March 2021

6 Social value considerations

- 6.1 The overall procurement arrangements ensure delivery of specialist elements, flexibility in programming and resource targeting, and opportunities for local training and employment by requiring contractors to source staff through the Employer Hub.
- 6.2 The Employer Hub is Nottingham City Council's local employment and training service and will deliver opportunities for local people while providing a free recruitment and training service to meet the workforce needs of contractors.

7 Regard to the NHS Constitution

- 7.1 N/A

8 Equality Impact Assessment (EIA)

- 8.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because this is a continuation of existing services and will have no impact on protected characteristics.

Yes

9 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

9.1 None

10 Published documents referred to in this report

10.1 None