

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4282
Author:	Christopher Keane
Department:	Resident Services
Contact:	Christopher Keane (Job Title: Head of Highway & Energy Infrastructure, Email: chris.keane@nottinghamcity.gov.uk , Phone: 01158761363)
Subject:	Procurement of Supplies and Services - Safety, Health, Environmental & Quality (SHEQ) Services Contract
Total Value:	£174,000 (Type: Capital and Revenue)
Decision Being Taken:	To approve dispensation (in accordance with Financial Regulations 3.29) from the need to conduct a tender process in accordance with Contract Procedure Rule 4.1.2 to award a contract to Thomas Bow Limited to carry out a Supplies and Services Contract for Safety, Health, Environmental & Quality (SHEQ) up to a maximum value of £174,000.
Reasons for the Decision(s)	<p>Highway Services are responsible for the delivery of Highway Safety & Maintenance Statutory Functions and Construction Services for NCC, in doing so, ensuring SHEQ compliance is essential together with the specialist resources in place to support this.</p> <p>Highways does not currently have an in-house team delivering these services and the current framework agreements in place do not cover this specialised requirement. Thomas Bow Limited (TB) has been supporting the council with this delivery and the decision is to approve this support to date and up to 31 March 2022. TB will be required to deliver against measured outcomes appropriate for this kind of service and subject to contract provisions to ensure appropriate management of the relationship.</p> <p>TB are currently appointed on a number of Highways related contracts with the Council for the delivery of highway maintenance and construction works for NCC and are well positioned to provide this service for a fixed period. They have a specialist team with industry knowledge serving TB and it's subsidiaries and have demonstrated competency in this specialist area. In addition, through tendering processes won by the company they have consistently demonstrated value for money.</p> <p>This arrangement is intended to be for a fixed period only and work will be commenced to consider the future delivery of SHEQ services for the Highways service including the development of an in-house team or the tendering for a new provider.</p>

Other Options Considered: 1) To use the Highways Framework Resources lots: The lots are suited to delivery resources and not specialist support and for this reason this option was rejected.
2) To undertake an open tender procurement exercise for a Supplies & Services Contract: Rejected as there are interim measures in place with TB and it is essential to have continuity in SHEQ Services and there is not opportunity for an open tender to be completed prior to 1 April 2021.
3) To employ SHEQ resources directly in the Highways Service or expand the Neighbourhood Services HSEQ (Health, Safety, Environmental & Quality) Team to support Highways are both viable options but there is not opportunity for internal options to be implemented prior to 1 April 2021, therefore this option was rejected.

Background Papers: None

Published Works: None

Affected Wards: Citywide

Colleague / Councillor Interests: None

Dispensation from Financial Regulations: Yes

Consultations: Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: This decision is not considered to have any specific crime and disorder implications.

Equality: EIA not required. Reasons: This decision does not set out proposals for changes to policy, service or function.

Social Value Considerations: Not applicable, as the value of contract will be below EU threshold.

Decision Type: Portfolio Holder

Subject to Call In: Yes

Call In Expiry date:

26/07/2021

Advice Sought:

Legal, Finance, Procurement

Legal Advice:

The Council's Financial Regulations permit a dispensation from the need to conduct a quotation or tender exercise for operational reasons subject to the approval of Chief Finance Officer and Portfolio Holder. The reasons have been set out by the report author so as to be considered by the Chief Finance Officer and Portfolio Holder. As health and safety assurance is essential in the delivery of services such as Highways the Council must have appropriate personnel advising and supporting in this regard, whether appointed externally or through in-house delivery.

The value of the contract is below the thresholds set out in legislation and therefore the provisions of the Public Contract Regulations 2015 (as amended) do not apply on this occasion. No further extension to the contract will be supported and therefore, should a dispensation be granted consideration must be given to future arrangements and appropriate planning be given to ensure a continued SHEQ service is in place from 1 April 2022.

The Council must be satisfied that it is complying with its Best Value duty as established under the Local Government Act 1999. In determining Best Value consideration should not just be given to the cost or potential savings to be achieved but the application of value to all aspects of the Council's operations and having regard to a combination of economy, efficiency and effectiveness.

Finally, a contract must be in place between the Council and the proposed contractor with a clear specification and where appropriate performance indicators.

Advice provided by Naomi Vass (Senior Solicitor) on 18/05/2021.

Finance Advice:

The cost associated with the decision is contained within the Highways Service 2020/21 and 2021/22 resource allocation budget and does not give rise to any budgetary concerns.

The Highways Service must be satisfied value for money is considered in undertaking this decision regarding economy, efficiency and effectiveness.

The request for dispensation to Contract Procedure Rule 4.1.2 in accordance with Financial Regulation 3.29 (Operational Reasons) is supported due to the reasons stated by the author.

Advice provided by Tania Clayton Perez (Commercial Business Partner) on 02/07/2021.

Procurement Advice:

If the dispensation to Contract Procedure Rule 4.1.2 under Finance Procedure Rule 3.29 is granted, then there are no significant procurement concerns with the decision being sought.

The value is approaching the threshold (currently £189,330) at which contracts must be procured in line with the Public Contracts Regulations 2015; spend must therefore be monitored to avoid breaching the threshold, and steps taken to put a compliant arrangement in place for future appointments.

Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 24/05/2021.

Signatures

Rosemary Healy (Portfolio Holder Highways, Transport, Cleansing)
SIGNED and Dated: 19/07/2021
Dave Halstead (Director of Neighbourhood Services)
SIGNED and Dated: 15/07/2021
Clive Heaphy as Chief Finance Officer (Chief Finance Officer) - Dispensation from Financial Regulations
SIGNED and Dated: 14/07/2021
Chief Finance Officer's Comments: This has not followed proper process and ordinarily a dispensation would not be approved. However this is part retrospective and in order to allow time for tendering, i will approve but no further dispensations will be granted.