

Commissioning and Procurement Executive Committee – 12 July 2022

Subject:	Supply of diesel and associated lubricants		
Corporate Director:	Frank Jordon - Resident Services		
Portfolio Holder:	Councillor Audra Wynter - Highways, Transport and Parks		
Report author and contact details:	Shane Staley, Fleet Manager, Fleet Services 01158765527 shane.staley@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Phil Gretton – Strategic Finance Business Partner Naomi Vass – Team Leader, Contracts and Commercial Team Holly Fisher, Lead Procurement Officer		
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 £750,000 or more
taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input 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
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £9.6m			
Wards affected: Citywide			
Date of consultation with Portfolio Holder: 01/07/2022			
Relevant Council Plan Key Outcome:			
Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input checked="" type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Healthy and Inclusive	<input type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Financial Stability	<input type="checkbox"/>		
Serving People Well	<input type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
<p>Fleet Services currently use the ESPO framework, which is a 'direct award' process for the provision of diesel and other lubricants. This contract is due to expire 30 August 2022 and we are seeking approval for the Council to go out to 'mini competition' by using the Crown Commercial Services (CCS) framework agreement and award a contract to one supplier to purchase fuels.</p> <p>This report details the options available to the Council to ensure a compliant and cost effective supply of automotive fuel and fuel oil to the Council.</p> <p>This will be in line with Contract Procedure Rules and Financial Regulations.</p> <p>Despite the ongoing electrification of Nottingham City Council's fleet, diesel is still essential for running 49% of our fleet including refuse collection vehicles, sweepers and minibuses.</p>			
Exempt information: None			

Recommendations:

- | | |
|----------|--|
| 1 | To approve going out to 'Mini Competition' and award a contract to one provider via the Crown Commercial Services (CCS) framework agreement. The contract will be awarded for an initial 2-year period with an option to extend it by 1+1 years. |
| 2 | To approve spend of £9,600,000 for fuel and lubricant supply for the NCC vehicle and plant fleet. |
| 3 | To delegate authority to the Director of Neighbourhood Services to award the necessary contract(s) to the chosen supplier under the new framework. |

1. Reasons for recommendations

- 1.1 To ensure the provision of the services which are compliant with UK Procurement legislation and the Council's procurement rules.
- 1.2 To enable the Council to access market competitive prices throughout the purchasing period through the aggregated purchasing power of the awarding Framework.
- 1.3 To ensure commercial and financial risks to the Council are mitigated by the Framework Terms and Conditions.
- 1.4 The framework lists approved suppliers chosen through a qualitative and pricing competition which Nottingham City Council is permitted to access as a Contracting Authority.
- 1.5 Continued use of frameworks means that the investigation into the most competitive suppliers and price of fuel is undertaken on behalf of Nottingham Council.

2. Background (including outcomes of consultation)

- 2.1 Nottingham City Council currently estimates spend circa £0.6m per quarter on the supply of diesel and the associated lubricants. Diesel powered vehicles make up approximately 49% of the Council's fleet, the rest is made up of electric and hybrid vehicles. Over time, the number of diesel powered vehicles will decrease as the Council moves towards being more sustainable.
- 2.2 The incumbent provider, Certas, was originally accessed using the ESPO Liquid Fuels framework (301_19) when the fleet was 70% diesel powered vehicles, this is due to expire on the 30th August 2022.
- 2.3 Accessing a national framework like CCS would allow for a greater economy of scale that the Council could not achieve by undertaking its own tender exercise.
- 2.4 Details, benefits and considerations of the CCS Framework is as follows:
 - No joining or membership fees;
 - Only a mini-competition can be undertaken only the relevant lot (107);
 - End date January 2025;
 - Terms and Conditions of the Framework would need to be adhered to;
 - Contract and call-off terms prepared;
 - CCS management fee is £0.0020 pence per litre;
 - The incumbent provider can be invited to participate in the mini-competition;

The named providers are:

- Certas Energy UK Limited
- Crown Oil Limited
- Harvest Energy Limited
- LCC Group Limited
- New Era Fuels Limited
- Nicholl's (Fuel Oils) Limited
- Rix Petroleum
- Standard Fuel Oils Limited
- Watson Fuels
- Web Oil Limited
- Your NRG Ltd

2.5 The spend for 2021/22 on Diesel, Gas Oil and Adblue was:

Fuel Type	Spend Total	No of Litres	Average Pence Per Litre
Diesel	£1,600,072	1,445,314	£1.107 (net)
Gas Oil	£19,576	31,677	£0.618 (net)
Adblue	£12,096	40,601	£0.298 (net)
Total	£1,631,744	1,517,592	

2.6 The profile of spend for 2021/22 by service area and external customer was:

Service Area	Spend Total	No of Litres	Percentage Use
Domestic Waste	£449,760	416,977	27.50%
Commercial Waste	£219,214	204,081	13.45%
Highways	£89,329	84,729	5.58%
Public Realm	£314,942	296,404	19.53%
Passenger Transport	£70,400	64,996	4.28%
Other	£74,912	68,855	4.53%
Rushcliffe	£413,187	381,550	25.13%
Total	£1,631,744	1,517,592	100.00%

2.7 The spend for 2022/23 on Diesel and Adblue to date is (Gas Oil is no longer used):

Period – 01/04/2022 to 31/05/2022

Fuel Type	Spend Total	No of Litres	Average Pence Per Litre
Diesel	£332,899	238,537	£1.396 (net)
Adblue	£3,104	4,487	£0.692 (net)
Estimated Total*	£2,016,018	1,458,144	

* Estimated Total based on average pence per litre for the first 2 months of 2022/23 financial year

2.8 The current price of Diesel with ESPO at the time of writing this report W/C 20th June 2022 was £1.614 (net) per litre, which is £2.31m per annum estimated spend.

2.9 The Council currently have the following main fuel tanks:

Eastcroft Depot

Tank 1 Diesel – 28,000 litre Capacity
Tank 2 Hydraulic Oil – 2,000 litre Capacity
Tank 3 Diesel – 14,000 litre Capacity
Tank 4 Diesel – 10,000 litre Capacity
Tank 6 Adblue – 2,900 litre Capacity

Woolsthorpe Depot

Tank 1 Diesel – 10,000 litre Capacity
Tank 2 Diesel – 40,000 litre Capacity
Tank 3 Adblue – 2,300 litre Capacity

2.10 The proposed procurement strategy – Outline specification of the works, goods or services being procured. The service required is summarised as follows:

- Conduct mini competition on behalf of the Council
- Establish delivery site details and tank capabilities
- Enable timely deliveries of liquid fuel and fuel oil to the Councils designated delivery points
- Produce and issue accurate invoicing based on actual delivery volumes

2.11 Recommended procurement procedure:

- Open Framework managed and procured by CCS
The framework provides fuel procurement to over 400 customers with an annual throughput of circa £240m and delivers to in excess of 6,000 sites, which will enable the Council to capitalise on the economies of scale being represented.

2.12 The contract delivery methodology and documentation will adopt the terms and conditions which will govern the service delivery as follows:

- CCS Overarching framework terms and conditions
- CCS Call Off order form including special NCC terms

2.13 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.

- Reduce Procurement timescales as framework has already been compliantly procured in line with EU legislation
- CCS to conduct the mini competition based on NCC requirements
- On time deliveries of liquid fuel and fuel oil to the required locations
- Scalable delivery volumes to match service requirements
- Accurate billing
- Weekly prices issued by CCS to ensure accurate budget forecast
- CCS contract management; service levels and KPI performance
- Comprehensive management information available from CCS
- Utilise economies of scale to reduce or remove small load premiums and reduce supplier margins

2.14 Criteria against which the tenderers are to be selected and contract is to be awarded will be based solely on cost in accordance with the mandatory criteria set by the Government Procurement Service.

2.15 Options Appraisal

Set out below is an assessment of options:

Option 1 – Full Competitive Tender via FTS

The Council could choose to undertake a full competitive tendering process via FTS for the provision of automotive fuel and oil. This has been discounted for the following reasons:

- A full competitive tender via FTS will take around 9 months to complete meaning any new arrangements are unlikely to be in place before August 2022 when the current contract ends.
- Furthermore, the relatively low volumes of fuel and oil purchased by the Council, when compared to the terms of the framework agreement, means that any tendered prices may not reflect best value because similar economies of scale may not be achieved.
- A full competitive tender would increase the procurement costs without, as noted above, providing best value for the Council.

Option 2 – CCS Framework Agreement (Recommended Option)

The CCS framework will seek to utilise wider economies of scale to enable stronger negotiation points on elements of the full fuel cost such as small load premiums and supplier margin. The framework allows for a scalable option in terms of volume to be delivered to the agreed delivery points, this would enable a flexible solution that would be able to accommodate and flex which is a direct result of the CN28 transformation programme. This would mean that the Council is not tightly bound by volume. The Framework will provide an opportunity for the Council to run a mini-competition from a list of pre-approved suppliers to determine the best value option in terms of cost and supply arrangements.

Given the economies of scale obtainable from a Framework Agreement it is expected that this option will deliver better prices when compared to option 1. This option also provides best value in terms of procurement costs.

Option 3 – Fuel Cards

CCS has an open framework for the provision of Fuel Cards that the Council could utilise going forward. The framework operates with a number of national suppliers including well-known forecourt names such as BP & Shell. The Council would be charged at pump prices per litre via the card transaction. Each card will be required to be assigned to a vehicle to reduce the risk of fraudulent purchases and would require fuel only transactions. Dependant on the annual volume of fuel purchased a rebate will be applied retrospectively to reduce the overall cost to the Council. This option requires strict management controls to be in place to ensure compliance and spend. In order to achieve a similar pricing structure when compared to the expected unit prices achieved under from bulk fuel framework the Council will be required to use a large volume of fuel (a likely outcome) and pay by direct debit, which will increase cash flow pressures, when compared to the bulk fuel framework that operates on a credit basis.

Although this option carries a number of operational and compliance risks, as described above, it may provide some flexibility going forward because of the Council's CN28 programme of change. Unlike the bulk fuel framework, the Council is not required to maintain the local depot infrastructure for vehicle fuelling which does incur additional overhead costs. Given that the direct provision of fleet may change as new models of service delivery changes because of CN28 these costs may start to become disproportionately high. The table in section 2.5 helps show how proportionate the financial and operational risk associated with this option will be for the main service users given the current usage profile.

At this stage, this option is not considered to be the preferred route to market. However, this option should remain 'under review' as the demand for direct fuel provision may change as an outcome of the CN28 programme.

Option 4 – No Action Taken

The Council would still require the provision of Automotive Fuel and Oil therefore individuals would need to either purchase via high street forecourts which would be both expensive and administratively burdensome or be obliged to operate under any supplier's standard terms and conditions and price banding which would not provide best value. In addition, this would be non-compliant with the Councils procurement rules and UK Procurement Legislation as the service value dictates that a full, robust and complaint process would be required.

- 2.16 After evaluation, the recommended option would be to market test the provision of the service using the established CCS Framework Agreement (option 2) and award an initial two-year contract. This would provide a period for continuity of service provision as the Council continues to implement the CN28 vision and ensure that new commercial entities have a period of stability and to assess their individual requirements prior to seeking their own competitive procurement process.
- 2.17 This option also balances the need to deliver a value for money service alongside managing the procurement and commercial risks that exist with option 1, and provides stronger financial controls when compared to option 3.

3. Other options considered in making recommendations

- 3.1 We can establish our own contract for the purchase of fuel with a supplier, but this has been rejected because the framework option provides a value for money arrangement due to the economies of scale in the volume of fuel being bought through the framework, which is something as an individual authority, we would not be able to compete with, in terms of securing a competitive price.

4. Consideration of Risk

- 4.1 There are number of risks associated with this procurement, they are as follows:

Risk	Impact	Mitigation
Non-compliant status of procurement	No compliant with Council and UK	Access of CCS framework and Mini competition meet the

	legislation	Councils requirements
Non-availability of the CCS open framework	Market rates (pump price) charged and potential to be non-compliant with Council and UK legislation	Access an alternative open framework for supply of liquid fuels or move to fuel cards in the interim
The Council requires a reduction in volume as a result of transformation	Potential cost increases	The framework will allow for fluctuations in volume with small minimum deliveries
Non-delivery of fuel	Potential service disruption	CCS Contract management processes will ensure corrective and timely action is taken to avoid service disruption

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

- 5.1 The value of this decision is up to £9.600m over a total potential 4-year period (2+1+1 contract) which equates to £2.4m per annum. The value of this decision is based on the current price of Diesel with ESPO at the time of writing.
- 5.2 As outlined in the main body of this report, total spent on diesel, gas oil and Adblue in 2021/22 was £1.632m however with the increase in fuel prices this is expected to rise to £2.310m in 2022/23 and onwards. The price of diesel is volatile therefore these figures are only estimates and will change through the contract period.
- 5.3 Fuel is funded from existing MTFP budgets across NCC with the majority being contained within Resident Services. A financial pressure however is expected as existing budgets do not contain sufficient funding for the cost of inflation that fuel is experiencing. This pressure is expected to be in the region of £0.450m in 22/23 and is subject to further future price increases. The increased unbudgeted expenditure has been declared as a forecast overspend within the Residents period 2 forecast and it will also form part of the 23/24+ MTFP budget setting process if permanent mitigation cannot be found elsewhere.
- 5.4 The service should proactively seek mitigation for any overspends to ensure any finance pressure is minimised and managed as best as possible.
- 5.5 The use of a CCS frame will give access to market competitive prices throughout the purchasing period through the aggregated purchasing power of the awarding framework. This will aim to minimise current and future financial pressures.

6. **Legal colleague comments**

There are no significant legal issues arising from this proposal. The running of a mini-competition through a compliant framework such as the CCS one being suggested will allow the Council to achieve Best Value.

Naomi Vass – Team Leader, Contracts and Commercial Team 30/6/2022

7. **Other relevant comments**

Procurement comments

The recommendation and considerations have been prepared in collaboration with procurement. Procurement will support the development of all tender documentation and tendering.

Holly Fisher, Lead Procurement Officer, 23 June 2022

8. **Crime and Disorder Implications (If Applicable)**

8.1 Not applicable

9. **Social value considerations (If Applicable)**

9.1 Despite the ongoing electrification of Nottingham City Council's fleet, diesel is still essential for running 49% of our fleet including refuse collection vehicles, sweepers minibuses and meals at home vehicles. Keeping these vehicles on the road and able to carry out their respective tasks, is vitally important. It would be detrimental to the community in many ways if these services were interrupted.

10. **Regard to the NHS Constitution (If Applicable)**

10.1 Not applicable

11. **Equality Impact Assessment (EIA)**

11.1 An EIA is not required because delivery of fuel is an internal process which does not affect the public so there will be no negative or positive effect on any particular group of people.

12. **Data Protection Impact Assessment (DPIA)**

12.1 A DPIA is not required because personal information is not obtained in the delivery of fuel as an internal process.

13. **Carbon Impact Assessment (CIA)**

13.1 A CIA is not required because the decision is to replace one procurement framework with another. Carbon impact on vehicles is assessed in other reports related to vehicle procurement and decarbonisation.

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

14.1 None

15. Published documents referred to in this report

15.1 None