

NORTH SOMERSET COUNCIL DECISION

DECISION OF: EXECUTIVE MEMBER FOR TRANSPORT AND HIGHWAYS



WITH ADVICE: DIRECTOR OF PLACE AND HEAD OF STRATEGIC PROCUREMENT

DECISION NO: 22/23 DP 545

SUBJECT: HIGHWAYS PROCURMENT PLAN – SINGLE PROVIDER FRAMEWORK FOR SURFACING WORKS

KEY DECISION: NO

REASON: This procurement plan is covering the route to market only, the Commissioning Plan covered authority to proceed with the project

1. Executive summary

- 1.1 North Somerset Highways Service has undertaken a comprehensive review of the options available for the future delivery of highways maintenance and investment works. Over the past 12 months the project team have worked alongside industry consultants and key stakeholders to get a better understanding of what the current contract looks like in terms of value for money and what a future contract should look like.
- 1.2 Following an extensive review and creation of a detailed business case, in November 2022 Full Council voted to:
 - Transfer reactive and cyclical maintenance into the council owned company North Somerset Environment Company (NSEC) with a Term Service Contract (TSC) in place.
 - Create two single provider frameworks for **surfacing** (the subject of this report) and for surface dressing.
 - Create a Dynamic Purchasing System (DPS) of 3 lots as follows:
 - Civils
 - Structures
 - Surface treatments
- 1.3 In preparation for the end of the existing contractual term, the council will need to mobilise and approach the market. For the highways service to fulfil the council's legal duties and obligations, the new service arrangements need to be designed, approved and awarded before 1st April 2024 to guarantee business continuity.
- 1.4 This procurement plan relates specifically to a single supplier framework for surfacing.
- 1.5 The estimated total value of works to be procured via this framework is £14m (£3.5 per annum).
- 1.6 The duration of the framework will be 4 years, in line with restrictions under European Union Regulations.

2. Decision

- The Executive Member of Highways and Transport approves the procurement plan for the Surfacing single provider framework.

3. Details

3.1 Background

- 3.11 A detailed commissioning plan was presented by the Executive Member for Highways and Transport to Full Council on 8th November 2022.
- 3.12 Documentation associated with this decision can be found at:
<https://n-somerset.moderngov.co.uk/ieListDocuments.aspx?CId=169&MId=988>
- 3.13 The commissioning plan and detailed business plan underpins the need to go out to create two single provider frameworks for surfacing and surface dressing, outlined in paragraph 1.2. The procurement plan detailed in this report relates specifically to a single supplier framework for surfacing.
- 3.14 There are no TUPE implications to the successful bidder.

3.2 Requirements

- 3.21 The Surfacing Service Provider will undertake the delivery of carriageway resurfacing and highway improvements. the following core duties that the provider will be expected to provide are:
- Preparation work such as road planning and disposal, including inert and hazardous (tar bound) materials
 - Surfacing and or reconstruction work to be carried out using a variety of bituminous materials and may include the installation of geotextiles.
 - Minor civils works and the adjustment of ironwork.
 - Provision of traffic management
 - Replacement of road markings and road studs
- 3.22 All the above will be inclusive of the provision of labour, supervision, materials (including waste), temporary works, plant, traffic management, tipping, landfill tax and other charges, overhead charges and profit as well as the general liabilities, obligations and risks arising out of the conditions of contract.
- 3.23 The contract will be in place and ready to start service delivery 1st April 2024 to ensure business continuity.
- 3.24 The Surfacing specification and contract specifications and contracts will be developed by the Project Team, RedRay Consultancy and workstream leads from the service, in partnership with the council's corporate Legal team.

3.3 Market / Suppliers

- 3.31 In developing the detailed business case a full review has been completed of the key commercial considerations for the future delivery model. Industry consultants Proving Services Ltd and DMsqd Ltd, who we have worked alongside on the project were both asked to undertake a review of the marketplace and evaluate the future service delivery options available to The Council. Key commercial consideration for the future contract include.
- Market Analysis
 - Form of Contract
 - Contract Duration
 - Payment Options for activities
- 3.32 Key findings:
- The opportunity to work directly with NSC was seen as attractive to the Tier 2 and Tier 3 (SME) market
 - Further market testing has confirmed that NSC can secure supply chain rates with Tier 2 and Tier 3 SME's that are equivalent to those that a Tier 1 contractor
- 3.33 During follow-up Market Testing conducted in September 2022 DMsqd contacted and held discussions with 12 different suppliers covering:
- Surfacing
 - Surface dressing / treatments
 - Schemes and minor works
 - Road markings
 - Traffic management
 - Structures
- 3.34 Feedback was positive about the proposed model, with particularly strong levels of interest in the surfacing and surface dressing frameworks. The ability to work directly with the Council, to have early input into programmes / designs, and the perceived lower risk compared to a Tier 1 contractor, were all viewed as positives.
- 3.35 Most suppliers stated that the rates and prices offered to the Council would be the same as offered to a Tier 1 contractor. Some stated that the rates offered to the Council may be slightly better due to perceived risk and shorter payment terms; others stated that the rates offered to Tier 1 contractors can sometime be slightly better due to bulk discounts. However, any differences between the rates would be marginal either way.
- 3.36 A pin notice was issued on Tuesday 7 February and a market engagement event is planned to take place in April 2023.
- 3.37 To date, the project team has generated interest from 50 businesses and 74 people who will be attending the Market Engagement event. These include National Tier 1 providers and regionally based Tier 2's and SME's
- 3.38 We will seek to gain feedback from the market from this event and move to a more targeted approach for communications to interested suppliers as the contract

progresses. This will include the opportunity to hold private meetings, further targeted workshops, and engagement with local providers.

3.4 Route to Market

- 3.41 There are four main types of procurement award procedure; namely the open, restricted, competitive dialogue and competitive with negotiation procedures. A detailed review of these routes, considering the benefits and dis-benefits of their use has been undertaken.
- 3.42 It is recommended that for this procurement the procedure used is Competitive Procedure with Negotiation (CPwN).
- 3.43 The competitive with negotiation procedure allows the contracting Authority flexibility around whether to negotiate - it is possible to reserve the right (by stating this in the required public notice) not to negotiate and to simply award the contract based on initial tenders submitted. This reservation is not possible in the competitive dialogue procedure. It is also not possible to negotiate following submission of final tenders if you are using the Competitive with Negotiation process. The Council would reserve the right to negotiate if deemed necessary once the initial tenders have been evaluated.
- 3.44 Following feedback from market engagement, NSC procurement team and experience of other framework contracts a duration of 4 years is recommended. The maximum duration of a framework under European Union Regulations is 4 years.

3.5 Timescales

Activity	Date
PIN	7/2/2023
Market Engagement & Supplier 121's	27/4/2023
Publish Tender	15/5/2023
Selection Stage	15/5/2023 – 26/06/2023
Invitation for Initial Tenders	27/06/2023
Deadline for Clarifications	18/07/2023
Initial Tender Submission	27/07/2023
Initial Tender Evaluation	31/07/2023 – 18/08/2023
Negotiation	21/08/2023 – 25/08/2023
Call for Final Tenders	28/08/2023
Deadline for Clarifications	04/09/2023
Final Tender Submission	08/09/2023
Final Tender Evaluation	11/09/2023 – 06/10/2023
Preferred Tenderer Identified	06/10/2023
Internal Governance	09/10/2023 – 06/12/2023
Executive	06/12/2023
Contract Award	20/12/2023

3.6 Governance

- 3.61 This procurement plan will be subject to approval by the Executive Member for Transport and Highways, with advice from the Assistant Director of Neighbourhoods and Transport (in accordance with delegated authority 22/23 DP53), the Head of Strategic Procurement and Place Business Finance Partner, before the procurement is undertaken.
- 3.62 In preparation for this procurement exercise a communications plan has been developed which sets identifies the key project stakeholders and how we will communicate with them through the life of this project.

3.7 Social Value

- 3.71 In accordance with the council's Social Value Policy, 10% of the overall weighting will be for bidders to propose their tangible social value commitments.
- 3.72 During the tender process, bidders will be asked to enter their social value commitments on the social value portal. The social value portal utilises the national themes, outcomes and measures (TOMs) to calculate social value contributions, which enables NSC to gain a greater understanding of the value of bidders' commitments and to evaluate social value tender responses quantitatively as well as qualitatively.
- 3.73 For this single provider framework, the project team are proposing to use social value portal to undertake both the evaluation of the social value responses and ongoing contract management of the social value commitments provided by the appointed supplier. This service will cost 0.20% of the contract value and will be paid by the winning bidder direct to the social value portal.

3.8. Evaluation criteria

3.8.1 Pre-qualification stage

There are a number of pass/fail requirements as part of the pre-qualification assessment, Selection Questionnaire (SQ). These include:

- Financial Viability
- Health & Safety
- Equalities & Diversity
- Insurances
- References from similar contracts

All suppliers that pass the initial pre-qualification checks will have their remaining tender evaluated for both their price and their qualitative assessment.

3.8.2 Weightings

It is proposed that a **50/40/10** price/quality/SV evaluation criteria is used. The rationale for the criteria is based on the following factors:

1. A clear minimum standard for all elements of the service will be set out in the specification which will ensure suppliers understand the requirements of the contract.

2. A scoring threshold on the quality questions may be introduced. A tenderer who fails to meet the minimum required score for those questions will have their tender submission declined. This ensures that the winning tender meets the required minimum standard of quality whilst ensuring the competitive pricing of the contract.

3.8.3 Pricing and qualitative evaluation

<p>Pricing evaluation – 50%</p> <p>For evaluating the overall price from each supplier, it is proposed to use the standard cost evaluation method, which is widely used within the Council.</p> <p>The tender with the lowest total price will receive the maximum score of 100 (weighted at 50%) and the prices of all other tenders will be expressed as a percentage of the maximum score.</p>
<p>Quality assessment – 40%</p> <p>Quality will be assessed against the project outputs, behaviours and project management including assessment on the following topics.</p> <ul style="list-style-type: none">• Business capability and resource• Professional expertise• Commercial offering• Project team• Track record• Sustainability, carbon reduction and biodiversity <p>See Appendix 1 – Scoring matrix</p>
<p>Social value evaluation – 10%</p> <p>See 3.7 – Social Value</p>

3.9 Evaluation panel

3.91 The evaluation panel will consist of:

- Head of Highways and Parking
- Team manager for departments (highway operations, lead engineer, highway asset management)
- Consultancy from RedRay (external)

- 3.92 With regards the pre-qualification sections of the SQ, whilst Procurement will take the lead, advice will be sought from the following officers:
- Health & Safety Manager
 - Financial Audit
 - E & D Manager
 - Climate Emergency Project Manager
- 3.93 The evaluation moderation session will be facilitated by the Strategic Procurement Lead Officer.

3.10 Contract management

- 3.10.1 Once the contract is in place, the contract will be managed by the Client Contract Management Team, overseen by the Head of Highways and Parking and Head of Highway Technical Services. Regular meetings will be held with the winning provider to ensure compliance with the contract, the specification and the KPIs.
- 3.10.2 A contract management plan will be created following award by the Strategic Procurement Lead Officer and passed over to the Client Contract Management Team to use during the term of the contract as a live document. This will include a summary of the social value, quarterly performance reviews will be held between procurement and the contract lead and fed back to the Place Directorate quarterly DLT.

4. Options Considered

- 4.1 Options for the highways future service delivery model were fully scoped, evaluated and presented at the November 2022 full council meeting.
- 4.2 Councillors unanimously voted in favour of this model using a single provider framework for Surfacing. No other options were to be considered following this vote.

5. Financial Implications

Costs

- 5.1 It is anticipated that the single provider framework will cost around £14m (£3.5m per annum) for the 4 year duration of the contract.

Funding

- 5.2 Funding and scheme allocation is dealt with via a separate decision - 21/22 DP498. This procurement will provide the mechanism to deliver against this decision.
- 5.3 Contracts for reactive and cyclical maintenance will be charged against approved revenue budgets, contract awards for capital works will be subject to the approval process to add to capital programme.

6. Legal Powers and Implications

- 6.1 Under the Highways Act 1980, as the local Highway Authority, North Somerset Council has a legal duty to maintain its respective sections of the highway network under section 41. This includes responsibility for maintaining, managing and, where necessary, improving the network.
- 6.2 The Singler Provider Surfacing Framework Agreement will be procured in line with Public Contract Regulations 2015. The Contract we will use will be the NEC4 Engineering and construction short contract (ECSC).
- 6.3 The procurement process will be compliant with the Public Services (Social Value Act) 2012 by ensuring it seeks additional social value during the tender process.

7. Climate Change and Environmental Implications

- 7.1 In February 2019 the Council declared a Climate Emergency and an Ecological Emergency in November 2020 and pledged to provide the leadership to enable North Somerset to become carbon neutral by 2030.
- 7.2 The largest part of the Council's carbon footprint is from what we procure. The highways contract is currently the Council's second largest contract by value and has a significant carbon footprint. Therefore, it's essential that the highways contract contributes to delivering the Council's carbon reduction target.
- 7.3 The Key objectives of this project and resulting contract can be linked to the Council's procurement strategy.
 - Spending decisions that consider and minimise whole life cycle CO₂e emissions associated with the delivery of goods, works and services, recognising that in some cases this will need to be reflected in budgets.
 - Spending decisions that consider and improve the resilience of Council services and infrastructure, to the impacts of a changing climate.
 - Suppliers who embrace the aims of the Council's Environmental Policy, Climate Change Strategy and Climate Emergency declaration and by doing so promote higher environmental standards between businesses and other customers.

8. Consultation

- 8.1 Stakeholder groups were mapped and reviewed throughout the project, from inception, continuing through to the commissioning plan. To best understand what values and outcomes we want to achieve from our contractors going forward, the same consultation practice has continued to draw up the Surfacing procurement documentation.
- 8.2 Please see Appendix 2 for the Stakeholder List.
- 8.3 Following the council's governance protocols, councillors from the Executive, Scrutiny and party leaders have been invited to consult on this programme.

9. Risk Management

9.1 See Appendix 3 for the Risk Register relating to the single framework for Surfacing.

10. Equality Implications

10.1 Have you undertaken an Equality Impact Assessment? Yes

Staff equality impact summary

10.2 As part of this work an internal function will be created to support delivery of the capital works programme, this is estimated to be an additional 4 FTE's created and will be subject to a formal HR process.

11. Corporate Implications

11.1 The provision of this single provider framework to deliver surfacing will provide improvements to the highways network and widely supports the Corporate Plan objectives and priorities, most specifically the priority of a Thriving Sustainable Place.

11.2 The delivery of this programme will require input and support from a wide range of council teams, including procurement, legal, human resources and finance.

Appendices:


- Appendix 1: Scoring matrix
- Appendix 2: Stakeholder list
- Appendix 3: Risk register

Background Papers:

<https://n-somerset.moderngov.co.uk/ieListDocuments.aspx?CId=169&MId=988>

Signatories:

Decision Maker:


Signed  Executive Member of Highways and Transport

Date: 2 May 2023

With advice from:

Signed:  Director of Place

Date: 2 May 2023

Signed:  Head of Finance on behalf of Head of Strategic Procurement. In accordance with delegated authority 22/23 CSD 127

Date: 2 May 2023

Appendix 1: Scoring Matrix

Score	Classification	Award Criteria
5	Excellent	A response that inspires confidence; specification is fully met and is robustly and clearly demonstrated and evidenced. Full evidence as to how the contract will be fulfilled either by demonstrating past experience or through a clear process of implementation.
4	Good	A response supported by good evidence/examples of the Bidders' relevant ability and/or gives the council a good level of confidence in the Bidders' ability. All requirements are met and evidence is provided to support the answers demonstrating sufficiency, compliance and either actual experience or a process of implementation.
3	Satisfactory	A response that is acceptable and meets the minimum requirement but remains limited and could have been expanded upon.
2	Weak	A response only partially satisfying the requirement with deficiencies apparent. Not supported by sufficient breadth or sufficient quality of evidence/examples and provides the council a limited level of confidence in the Bidders' ability to deliver the specification.
1	Inadequate	A response that has material omissions not supported by sufficient breadth and sufficient quality of evidence/examples. Overall the response provides the council with a very low level of confidence in the Bidders' ability to deliver the specification.
0	Unsatisfactory	No response or response does not provide any relevant information and does not answer the question.

Appendix 2: Stakeholder list

Internal
<ul style="list-style-type: none">• Highway Teams• Highway Service managers• Highway steering group• Wider highways and transport teams• Project board• Directorate leadership team• Corporate leadership team• Place Scrutiny Panel• Group Party Leaders• Corporate services: HR, legal, procurement
External
<ul style="list-style-type: none">• Milestone (current contract)• Tier 1/2/3 contractors (market engagement)• RedRay (consultants/ industry experts)• DMSqd (consultants/ industry experts)• Proving Services (consultants/ industry experts)

Appendix 3: Risk register

No.	Risk	Detail	Mitigation	RAG status
R.01	Service providers insurance	CAR/ PI insurance has increased in cost, could affect price	NSC to review liability levels to support provider to secure appropriate insurance. Set minimum requirements as part of the procurement	
R.02	Design and programmes of work not ready	Consequence could inflict costs on the council	Work closely with the Asset Management team to ensure the plan is ready	
R.03	Procurement delays	Contract not in place, governance deadlines not met	NSC project team supported by third party contract to develop Procurement Pac	
R.04	NSC funding reductions	Changes to the funding highways receive	No minimum spend through the contract. Some certainty over funding	
R.05	Limited response from market	Response is not competitive	Early engagement from market, market engagement session booked for 27 April and future meetings with interested parties welcomed	
R.06	Significant response from the market	High volume of responses to the tender	Competitive negotiation has been factored into the procurement timeline and invitation to participants for the full tender	

A full programme Risk Register is available upon request – the above applies directly to the procurement workstream.