

NORTH SOMERSET COUNCIL DECISION



DECISION OF: EXECUTIVE MEMBER FOR HIGHWAYS AND TRANSPORT

WITH ADVICE FROM: DIRECTOR OF PLACE AND HEAD OF STRATEGIC PROCUREMENT

DECISION NO: 22/23 DP 546

SUBJECT: HIGHWAYS PROCURMENT PLAN – DYNAMIC PURCHASING SYSTEM FOR CIVILS, STRUCTURES AND SURFACE TREATMENTS

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 have 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 and for Surface Dressing.
 - **Create a Dynamic Purchasing System (DPS) of 3 lots**
 - **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 our 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 the Dynamic Purchasing System for delivery of Civils, Structures and Surface Treatments.
- 1.5 The estimated annual value of works procured via the DPS is £1.7m per annum.
- 1.6 In line with Governments Public Contract Regulations 2015, there is no specific maximum duration of the DPS though a period of validity must be stated, aligned with the 7 year Reactive and Cyclical Maintenance contract awarded to NSEC the period of

validity will be 7 years. The DPS contract period can later be amended (extended, shortened or terminated) subject to notification on the relevant OJEU standard form.

2. Decision:

- The Executive Member for Highways and Transport approves the procurement plan for the dynamic purchasing system for civils, structures and surface treatments

3. Details

3.1 Background

- 3.11 A detailed commissioning plan was presented by the Executive Member for Highways and Transportation to the council on the 8 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 implement a dynamic purchasing system (DPS) to deliver civils, structures and surface treatments. The main benefits of this approach are:
- Improved social value with increased focus on local employment and local supply chain.
 - Directly test best value and delivery efficiency
 - Flexibility on level of investment through use of a DPS – no fixed contractual overhead and no minimum spend.

3.2 Requirements

- 3.21 This DPS will contract suppliers for the following:
Lot 1 - Civils
Lot 2 - Structures
Lot 3 - Surface Treatments
- 3.22 The DPS will to be fulfilled by local and regional Tier 2 or Tier 3 suppliers which will enable the wider council to achieve our strategic objectives (outlined in the Policy section of the attached Commissioning Plan).
- 3.23 The DPS will be in place and ready to start service delivery 1st April 2024 to ensure business continuity.
- 3.24 The DPS 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 DBC 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.

3.32 Key findings:

- The opportunity to work directly with NSC was seen as attractive to the Tier 2 and Tier 3 (SME) market
- 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 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 or slightly better as offered to a Tier 1 contractor 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, with a live market engagement event planned for early April 2023.

3.4 Route to market

3.41 Initially contractors will be appointed to the DPS using the Restricted procedure i.e. any potential supplier that meets the selection criteria is appointed to the DPS. Thereafter, any potential supplier can apply to join the DPS, and if they meet the selection criteria, may also join the DPS. In that way the DPS can be constantly “refreshed” with new providers with no limit on the number of providers on the DPS.

3.42 Whenever a piece of work is to be procured through the DPS, it will invite all contractors on the DPS to submit a tender. No direct awards are permitted. We will then need to send out a set of tender documents and evaluation criteria to enable the providers to submit a tender.

3.5 Timescales

Activity	Date
Market Engagement	April 2023 & follow up engagement with the market as required.

Issue Contract Notice	28/08/2023
Initial Request to Participate	28/8/2023– 6/10/2023
Bidder Evaluation	09/10/2023- 03/11/2023
DPS Live	06/11/2023

3.6 Governance

- 3.61 This procurement plan is subject to approval by the Assistant Director of Neighbourhoods and Transport, in accordance with delegated authority 22/23 DP 53.
- 3.62 Following the procurement exercise to recruit to the DPS, all subsequent contract awards will be signed off in line with contract standing orders.

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 the DPS, 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 each package of work will be merited on the submission of its price/quality/SV on a scheme-by-scheme basis – following the dynamic approach.

3.8.3 Award of work

Each contract package will be awarded in line with contract standing orders regulations.

3.9 Evaluation panel

3.9.1 The evaluation panels for awarding works through the DPS will depend on the complexity of the scheme and cost of works. All subsequent contract awards will be signed off in line with contract standing orders.

3.9.2 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

3.9.3 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 dynamic purchasing system for the civil, structure and surface treatments. No other options were to be considered following this vote.

5. Financial Implications:

Costs

- 5.1 It is anticipated that the contracts resulting from the dynamic purchasing system will be in the region of £11.9m over 7 years (£1.7m per annum).

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 DPS has been procured in line with Public Contract Regulations 2015. The Contract will use the NEC4 form of contract, specifically the Engineering Short Contract and Engineering Contract.
- 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 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 DPS procurement documentation.
- 8.2 Please see Appendix 1 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 2 for the project risk register relating to the DPS.

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 Civils, Structures and Surface Treatments delivered by this DPS 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 - Stakeholder list
- Appendix 2 - 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.