

NORTH SOMERSET COUNCIL DECISION



DECISION OF: COUNCILLOR MIKE BELL. THE EXECUTIVE MEMBER FOR MAJOR PROJECTS

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

DECISION NO: 23/24 DP 499

SUBJECT: PROCUREMENT PLAN: DESIGN AND BUILD OF WINTERSTOKE ROAD BRIDGE AND ADJACENT HIGHWAY IN WESTON-SUPER-MARE

KEY DECISION: NO

REASON: Contract Standing Orders do not deem procurement plans as key decisions

BACKGROUND:

The bridge at Winterstoke Road carries a Class C highway across the main London-Exeter railway line and enables vehicle access to industrial and residential areas from Weston-super-Mare town centre. The bridge is now at the end of its design life and, without extensive structural strengthening and repair works, would need to be closed as unsafe. It currently has a 7.5t weight limit imposed.

The bridge is owned and maintained by the Ministry of Defence (MoD). A whole life cost analysis completed by the MoD concluded that the preferred option is the complete replacement of the bridge. The MoD are responsible for funding the replacement. The bridge will, upon completion, be adopted by North Somerset Council (NSC) and form part of the public highway. On handover, the MoD will pay a commuted sum to cover maintenance and inspection costs over a 120-year period.

An NSC project team has carried out work to procure design and construction services for the replacement of the bridge, with a view to the bridge becoming an NSC highway asset following replacement.

The Commissioning Plan for this project, which also incorporated acceptance of Ministry of Defence (MoD) funding and agreement to enter into Heads of Terms, was approved at the Full Council meeting of 12 November 2019 reference COU 19.

The original Procurement Plan for the two-stage Design and Build (D&B) services for Winterstoke Road Bridge was approved on 15th January 2020 by the Executive Member for Planning, Highways and Transport (19/20 DE 257). This was followed by an amendment to award the Stage 1 and Stage 2 contracts separately, each approved at Director level. This was approved on 14 December 2020 (20/21 DP 257).

Following this, a procurement process was run and a contractor was appointed as D&B contractor under a 2 stage contract (1 – preliminary design, 2 – detailed design and construction) in February 2021 (20/21 DP 262), working with their design partner Ramboll to produce the preliminary design for the scheme. However, the option was taken not to progress into stage 2 following completion of stage 1 due to costs for the proposed bridge replacement

design exceeding the funding available. At this stage, it was agreed that NSC would procure a consultant to progress with value engineering the original design and subsequent revision of the preliminary design as a standalone package of works in order to achieve a project cost saving.

Ramboll were awarded the contract as designer by NSC to complete the value engineering exercise and prepare the subsequent preliminary design of the resulting bridge design from June 2023 to December 2023. This has progressed the project to allow NSC to go back out to the market and tender for a D&B contractor to deliver the detailed design and construction stages of the project.

DECISION:

To approve this procurement plan for the appointment of a D&B contractor (detailed design and construction) for the Winterstoke Road bridge replacement project.

REASONS:

Introduction

Winterstoke Road bridge and the adjacent highway constitutes critical infrastructure that is at the end of its design life and must be replaced in a timely manner, whilst still representing value for money and the appropriate apportionment of risk between parties. It is considered that the recommendations of this procurement plan meet these requirements.

In order to meet the proposed project outputs and outcomes to a satisfactory quality to all stakeholders, it is essential for NSC to appoint external design and construction services to complete this project.

The scope of works of the Scheme includes:

- Demolition and removal of the existing road bridge.
- Construction of a new bridge structure.
- Resurfacing of the road and highway drainage repair adjacent to the bridge.

The objectives of the Scheme include:

- Provision of a new bridge with a 120-year life span.
- Improved accessibility for the community.
- Deliver social value.
- The ambition to get to as close to net zero carbon as possible.
- Minimise impact on the community during construction
- Enabling future electrification of the railway.

The project has completed its preliminary design stage in December 2023. It is anticipated that detailed design will take place from Summer 2024 for ~ 6 months. Construction will start in 2025.

Contract Structure

Given the position of the project, a workshop was carried out to review potential approaches to contract structure. The following options were reviewed:

1. Construction only
 - For this option the design and construction would be procured separately.
2. Detailed D&B

- This commission would be a single stage NEC ECC contract where the Contractor is responsible for the design and construction of the project.
3. Two Stage D&B with X22 ECI
- This commission would be a single two-stage NEC ECC contract, with stage one providing the detailed design and Target Cost, and stage two completing the construction.

The preferred contract approach is the detailed D&B option. This route has several advantages, including:

- Early contractual commitment to Target Cost, providing increased cost certainty up front, with a price for both design and construction being provided at the start.
- Contractor takes on ownership and liability for the design.
- The Contractor will be able to provide collaborative input during the detailed design phase.
- Flexibility on risks allocation, aligning with clients appetite for risk ownership and cost certainty preferences, through the use of any ECC option.
- The Contractor will be in place to advise on when the possession will need to be booked and can be contractually responsible to book and achieve the date.
- The Contractor will be able to feed into landowner discussions regarding programme and likely impact during detailed design.
- Only one procurement activity required.

It is proposed to use the NEC4 ECC Option C – Target contract with activity schedule. This option drives efficiencies and value for money through the contract, due to the pain / gain clause. An Option A would provide greater cost certainty but very unlikely to provide best value for money.

Route to market

The proposed route to market is a direct award through the Pagabo Civil Engineering and Infrastructure Framework - Railway Specialist. The estimated value is on the threshold boundary of the two lots (£5m - £15m and £15m to £30m). Pagabo have confirmed that there is the flexibility to use either lot, which is to be confirmed. The Rail Transport sub-lot for contracts in the South West region will be used. It is proposed that a detailed D&B contract is appointed using an NEC4 ECC Option C contract format.

Market / Suppliers

The Pagabo Civil Engineering and Infrastructure Framework (Lot 2 South West, Rail Transport) has the following core contractors:

- Colas
- John Graham Construction
- Kier
- McLaughlin & Harvey
- Octavius
- VolkerFitzpatrick

This lot has the following reserve contractors:

- AmcoGiffen
- John Sisk and Sons
- Spencer Group

The Pagabo Civil Engineering and Infrastructure Framework (Lot 3 South West, Rail Transport) has the following core contractors:

- Colas
- John Graham Construction
- Kier
- Morgan Sindall
- Octavius
- Taylor Woodrow (VINCI Construction UK)

This lot has the following reserve contractors:

- John Sisk and Sons
- Spencer Group
- VolkerFitzpatrick

Achieving value for money

The Direct Award procurement route has many benefits. The Pagabo Framework Manager has provided the following list of benefits.

1. Fully collaborative approach – almost all parts of delivery can be discussed / agreed with contractor.
2. Significantly increased investment from a contractor, almost entirely de-risking the procurement strategy.
3. Value for Money demonstrated on an Open- Book, package by package basis.
4. Speed to contractor appointment- the earlier they're involved the greater value they add, the more risk they mitigate.
5. Massively reduced resource requirements from project team in executing a procurement exercise.
6. Bidding efficiencies for the contractor that are often passed on to the client.
7. Pre-tendered OH&P fee set during the procurement of the framework
8. Harness knowledge and experience of an existing & proven relationship.

There are several benefits to a direct award procurement process that can drive value for money due to the current position of the project.

A typical multi-supplier procurement process lacks collaboration with the client, whereas with a direct award the process unlocks the fully collaborative process and opens ongoing dialogue with the supplier throughout the whole tender process, driving efficiencies and de-risking the project. During the tender process, items such as the scope, contract conditions and design can be reviewed with the supplier to understand how certain elements will impact the price. The design can also be reviewed for potential opportunities ahead of the detailed design stage.

In terms of the contract, there may be elements where transferring the risk from client to contractor, or vice versa, doesn't provide the benefits which we're trying to be achieved. Likewise, there may be requirements in the scope that don't add value to the project objectives and can be changed or removed. By completing this exercise during the tender process, an analysis can be carried out to understand the benefits of changing any of the contract documents.

Two of the project's largest constraints are working next to a live railway, and the requirement to divert utilities onto a temporary bridge, whilst the works are being constructed, and then diverted onto the new permanent bridge. Working collaboratively with the supplier during the tender process will allow for meetings to be held with suppliers, Network Rail, and the statutory utility companies to agree principles which can be used to form the Scope and contract documents.

With the open book approach, the supplier would be able to provide early sight of the price and develop a programme which can be reviewed and discussed during the tender process. This would also prevent the requirement for an extended evaluation and moderation process once the tender returns have been received, saving time on the programme.

A direct award will allow the councils Employers Agent to interrogate the cost of construction packages to ensure that the Tender Price includes robust amounts which will allow the Contractor to construct the works without any commercial demands that may have resulted from the works being tendered below the actual market price. This should mean that a Contractor does not feel the need to play catchup by inflating the cost of any compensation events. It would also mean that the chance of the Contractor becoming insolvent is reduced.

All the above elements reduce the risk and uncertainty of delivering the Design and Build services, leading to a more robust, accurate and achievable Target Cost. By addressing these elements during tender stage, it reduces the number of Compensation Events during the contract period and as such allows for greater confidence in the Target Cost upon signing the contract to that of a multi-supplier tender.

There are various aspects to a contractor's proposal that would need to be evaluated and tested to ensure that value for money is achieved, which would normally be substantiated through a multi-supplier tender. The 4 key elements include;

1. Fee / Overhead and profits
2. Construction & materials
3. Prelims / resource allocation
4. Programme

To demonstrate value for money, each element of the contractor's proposal will be scrutinised and compared to market data.

1. Evaluation criteria for contractors to win the contract and be a named supplier on the Pagabo Framework included the OHP fee cap. Therefore, this element has already been market tested to ensure competitive rates.
2. Construction and materials will be market tested by obtaining 3 quotes through an open book process for subcontract packages. By obtaining 3 quotes, it can be demonstrated that the contractor is delivering the works at market rates and value for money. Further comparison can be undertaken by reviewing previously received quotes (adjusted for inflation) as appropriate.
3. The contractors proposed prelim costs and resource allocation can be reviewed against previously received submissions for these works, as well as AECOM's market database of rates, specifically targeting geographically local projects of a similar value to maximise a like for like comparison. The result of this analysis empowers the

council to challenge costs to ensure that the contractor robustly substantiates or reduces the costs / allocation.

4. The programme can be reviewed and compared against previous programmes received by the project team. Stakeholders will feed into the programme during the tender stage including Network Rail and utility companies to ensure that constraints and opportunities are captured and reflected in the final programme for acceptance as part of the contractors Target Cost submission.

Market Engagement

In December 2023 an Expression of Interest with Lot 3 was launched on NSC's behalf by Pagabo to understand which contractors would be interested in tendering. The following responded with interest in the project and will be invited to tender:

- Morgan Sindall
- Octavius
- Taylor Woodrow
- Spencer Group

A presentation with the 4 interested suppliers was held in January 2024 to provide more detail about the scheme and offer the opportunity for a question and answer session. Following this exercise 3 of the 4 suppliers withdrew their interest. Key concerns were around allocation of risk, the ground conditions, programme constraints and the desire for an ECI stage. Following an assessment of the market feedback, concessions were made and the suppliers were re-engaged but the position remained the same, with 1 supplier declaring an interest. Suppliers on Lot 2 were also approached but the position remained unchanged with only 1 supplier declaring an interest.

Timescales

The estimated timeline for this procurement is as follows:

Task	Date
Expression of Interest	December 2023 to January 2024
Supplier Engagement Workshop	January 2024
Executive Member approval of Procurement Plan	February 2024
Engage with supplier and share scope	March 2024
Return date for tender submission	May 2024
Evaluation and approval	May 2024
Contract Award	June 2024

It is worth noting that a key programme constraint is the demolition of the main bridge. To undertake this task safely, possession of the railway is required. This possession has been booked for October 2025, with the temporary bridge to be designed, installed and for the 5 statutory utilities to divert their assets in advance of this date.

Governance

The Winterstoke Road bridge Project Board will provide assurance for the project, and will include the MOD. The board is chaired by the project's Senior Responsible Owner (SRO) who

acts as the lead for the overall project, representing various stakeholders and the Board as well as ensuring the project progresses in line with the Project Plan and the agreed outputs are achieved. The Board will provide high level challenge and independent assessment, with particular emphasis on overseeing delivery including programme, budget and quality to ensure ongoing value for money and satisfactory quality for all stakeholders. The Board will steer, direct, co-ordinate and oversee delivery in line with NSC's approved Projects & Property PMO delivery framework.

The project will report to NSC's Capital Programme Projects and Delivery Board (CPPDB) which ensures quality, consistency of approach and co-ordination across the Capital Programme as part of NSC's Capital Strategy. It will also oversee operational, risk and financial performance of the project to ensure alignment to NSC's intended outcomes and make recommendations to decision makers.

Social Value

Social Value commitments will be negotiated during the tender stage. NSC's Social Value Policy will be shared with the contractor and discussions held to target benefits for the local community with considerations including residents, schools and businesses. Commitments will be captured as a Social Value Plan which will be embedded within the contract to ensure delivery.

Monitoring of commitments will form part of the contractor monthly progress meeting agenda items to maximise opportunities and track against the Social Value Plan. Pagabo will also be able to support the council.

Pagabo offer social value monitoring through their "Loop" system which is free to use for contracts put through their Framework.

Scrutiny and Approval of the Target Cost

The final Target Cost submission will be reviewed and scrutinised by the NSC project team, the MOD and the Employers Agent. Checks against the market will be undertaken as outlined in the "achieving value for money" section above. Continuation to contract award will only be made on the satisfaction of the above organisations that value for money has been achieved.

Throughout the tender stage, the client will engage with the contractor to ensure that the project goals are captured. Examples include;

- Minimising disruption to local community
- Minimising carbon footprint
- Sustainability & biodiversity net gain

Evaluation Panel

The evaluation panel will include the following:

- WRB Project Manager
- WRB Employers Agent
- NSC Projects & Property Senior Programme Lead
- NSC Service Lead
- NSC Procurement Team
- MOD

Contract Management

The Contract is managed by the Project Manager, with performance and budget regularly reviewed with the SRO as well as the Project Board. Key support from the Employer's Agent who provides Contract Administration and Cost Consultant services is also provided.

The contract will use the NEC4 ECC Contract: Option C. The project seeks to achieve best practice and using this industry standard contract helps support this goal. All the costs incurred within this contract will be assessed by the Employers Agent to ensure they are within the clauses of the contract.

The proposed target cost pain / gain mechanism will have a 120% limit on the Target Cost. Costs over 120% of the Target Cost will be solely borne by the contractor. Increases to the Target Cost will be through the legitimate NEC4 contract Compensation Event mechanism.

Performance and progress will be reviewed at regular meetings with the contractor and their design partner. The use of Key Performance Indicators (KPIs) will be used as a tool to measure performance of the supplier. These will be based around the core principles of time, cost and quality but will also link back to the quality element of the successful supplier's submission. These KPIs will not be linked to any financial penalties and will be agreed post-contract award with the winning bidder.

Monthly bespoke reports will be produced by the contractor to monitor their progress against the key criteria in addition to the requirements that form part of the NEC contract. In addition, a monthly progress report will be produced and submitted.

Formal monthly meetings will be held to monitor progress and review risks and issues. Progress will be summarised in a highlight report composed by the Project Manager and presented to the Project Board. Regular programme meetings will be held with the Employer's Agent and NSC based on project needs.

The project and contract management approach will be formalised through the project delivery manual using the same governance model used on other NSC capital projects for reliability and consistency in approach.

OPTIONS CONSIDERED:

It is important that the proposed procurement route for this project includes suppliers with specific experience relevant to the project objectives. For this project, suppliers considered must have previous experience working on bridges, specifically road-over-rail, and interfacing with Network Rail.

Framework agreements provide a time, cost and resource efficient process for securing these services. The use of frameworks are more time efficient and less resource intensive than carrying out an open tender.

Other benefits of using framework agreements include suppliers being familiar with the process, documentation, and contract type. This forms an effective and straight-forward route to market.

Several frameworks were considered, including:

- CCS Framework RM6088 (Lot 3.2 – South England)

- Pagabo Civil Engineering and Infrastructure Framework (Lots 2 & 3 Rail Transport, South West)
- Gen 4/5 Civil Engineering, Highways and Transportation Collaborative Framework
- NHS Shared Business Services (Lot 4)
- Network Rail CP7 Framework Agreement

Following assessment, the CCS (RM6088 Lot 3.2) and Pagabo Civil Engineering and Infrastructure Frameworks showed the best results for contractors with the required experience for this project. Both frameworks are suitable, with Pagabo being selected as they had a specific railway category on Lot 3 which we took advantage of.

Network Rail CP7 Framework Agreement is not available to Local Government.

Other options considered:

1. In house resource – There is a lack of capacity and specialist skills in-house within NSC to deliver this contract without the support of external specialists.
2. A competitive open tender – This was discounted due to being a more resource intensive and time-consuming process when there are several suitable frameworks available for the services required. The current market conditions also do not lend themselves to this option, with many contractors choosing to pursue framework opportunities.
3. A restricted tender – This was discounted due to it being a more time-intensive route to market and pressures on NSC resources in-house to shortlist and prepare the process.
4. Multi-supplier Framework – This was discounted due to the reduced opportunity to truly collaborate with the contractors during the tender to maximise buy-in from key stakeholders and confidence in the target cost
5. ECI stage – This would involve a quality based tender, awarding the contract to a contractor who would then undertake the ECI process, building up a Target Cost while in contract with the council. This option was discounted due awarding the contract for the design and build services without visibility on construction costs upfront.

FINANCIAL IMPLICATIONS:

Costs

The estimated value for this contract, which includes detailed design and construction, is £15m. Costs will be charged to cost code KDH407.

Funding

A total of £17.8m of capital funding (exc VAT) has been secured from the Ministry of Defence (MoD) for the bridge replacement and added to the capital programme. A contribution of £450k from NSC has also been secured towards enhanced pedestrian and cycling provision.

A total of £2.5m has been identified to be funded by the MOD for maintenance of the new bridge. This is revenue funding and not subject to VAT.

MoD Funding	Capital	Revenue
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Sum	£17,793,333	£2,500,000
VAT	£3,558,667	£0
Sum + VAT	£21,352,000	£2,500,000
Total incl. VAT	£23,852,000	
Total excl. VAT	£20,293,333	

Table 1: MOD funding

Funding excl. VAT	Value
MOD	£20,293,333
NSC	£450,000
Total	£20,743,333

Table 1: Total funding

LEGAL POWERS AND IMPLICATIONS

The Pagabo Framework was set up in full compliance with the Public Contract Regulations. In 2021 the Pagabo Civils and Infrastructure Framework was advertised on the Government Find a Tender Service and in 2022 an award notice published. As a public body NSC were referenced in the organisations that can use the Framework. The contracting authority is Queen Elizabeth Hospital, Gateshead.

Under the Civils and Infrastructure Framework user agreement, schedule 5 states that a Client Organisations can directly appoint a Contractor through the Framework Agreement from all framework positions including reserves.

The New Procurement Act (2023) is due to come into effect in October 2024. This will not have an impact on the proposed procurement as the contract will have been awarded well in advance of this date.

The contract form will be the NEC4 ECC contract, which has been used by NSC on previous projects and will include bespoke clauses to ensure that NSC is sufficiently protected.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

NSC declared a Climate Emergency in February 2019 and an Ecological Emergency in November 2020, pledging to provide the leadership to enable North Somerset to become carbon neutral by 2030. The resulting Climate Emergency Strategy identifies seven key principles to be considered by the work of the Council going forward to support the achievement of this commitment.

This project will impact upon these principles through choices made for the design, construction and maintenance of the bridge. The tender will include a question on carbon managements approach and innovation to demonstrate key understanding, commitment and tangible deliverables to reduce and offset carbon both during construction and to help deliver carbon reduction targets during operation. Once in contract, the contractor will report on the progress of their carbon commitments alongside all other KPIs.

As a general approach, the project will look to deliver a minimum of 10% Biodiversity Net Gain as well as aiming to reduce carbon through its delivery across the supply chain, following the principles of the PAS 2080 framework. The project will also deliver the scope in line with the principles of a bespoke assessment similar to CEEQUAL, proportionate to project cost/time

constraints, ensuring that the project is delivered sustainably across all areas and aspects, not just carbon mitigation.

In addition, a Procurement Plan Climate Risk Assessment has been carried out ahead of this procurement to highlight any potential environmental and sustainability risks and considerations within the scope of this contract, allowing the necessary mitigations to be put in place.

CONSULTATION

Consultation and assessment on procurement options was carried out in a procurement workshop on 21st November 2023. The workshop included key NSC attendees and key external representation.

As part of the wider project, a bespoke communications strategy has been developed and co-ordinated pro-active communications have been undertaken to date with the local community and businesses, local Councillors, the Executive Member and senior NSC officers. Regular updates will be provided as the project progresses.

RISK MANAGEMENT

The following key procurement risk have been identified and mitigating actions proposed, as summarised below:

Description	Impact	Mitigation
Costs exceed budget	Scheme is unaffordable and additional funds are required, delaying project	Undertake value engineering exercise and return to market to achieve a competitive price. Carry out collaborative tender to achieve greater confidence in the target cost.
Network Rail requirements	Procurement is not in line with set possession timings specified by Network Rail, causing wider programme and project delays of over a year	Early engagement and continuing relationship with NR, including making bidders aware of possession constraints as early as possible
Lack of alignment with project outcomes	Benefits not achieved and/or needs not met	Specify contract and performance metrics aligned with agreed Project Brief and critical success factors

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes

An initial EIA was undertaken in May 2022. Assessment has been undertaken as part of scheme development however a full EIA for the project will be undertaken as part of the project detailed design and development phase. The scheme proposed enhanced pedestrian and cycle facilities and linkages across and adjacent to the new bridge.

CORPORATE IMPLICATIONS

The project is aligned with the following policies from the Core Strategy:

- CS10 Transportation and movement
- CS15 Mixed and balanced communities
- CS20 Supporting a successful economy

APPENDICES

[Procurement Plan Climate Risk Assessment](#)

BACKGROUND PAPERS

Wider Project Documents:

[Initial Equality Impact Assessment](#)

[22/23 DP 525 MoD Memorandum of Understanding](#)

[20/21 DE 117 Basic Asset Protection Agreement](#)

Previous Procurement Process:

Commissioning Plan & acceptance of MOD funding: COU 104 dated 12 November 2019

[19/20 DE 257 - Procurement Plan: D&B of WRB and adjacent highway in WsM](#)

[20/21 DP 257 - Procurement Plan 19/20 DE 257: D&B of WRB and adjacent highway in WsM - AMENDMENT](#)


[20/21 DP 262 - Contract Award for Stage 1 of the D&B services of WRB and adjacent highway in WsM](#)

[21/22 DP 371 - Contract Value increase approval for Stage 1 of the D&B services of WRB in WsM](#)

[22/23 DP 83 - Contract Value increase approval for Stage 1 of the D&B services of WRB in WsM](#)

SIGNATORIES:

DECISION MAKER(S):

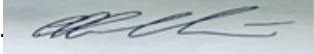
Signed:  Executive Member for Major Projects

Date: 2 April 2024

WITH ADVICE FROM:

Signed:  Director of Place

Date: 2 April 2024

Signed:  Head of Strategic Procurement

Date: 2 April 2024