

CABINET

DATE	08/09/2021
REPORT OF	Councillor Stewart Swinburn - Portfolio Holder for Environment and Transport
RESPONSIBLE OFFICER	Sharon Wroot Executive Director Environment, Economy and Resources
SUBJECT	Highway Framework 2022 - 2026
STATUS	Open
FORWARD PLAN REF NO.	CB 09/21/01

CONTRIBUTION TO OUR AIMS

The procurement of Highways Framework for capital works, minor civils work and traffic management will primarily contribute to the Council's priority of 'Strong Economy' by delivering value for money for the public purse, engaging the local supply chain with the emphasis on delivering social value and reduction in carbon supporting sustainable communities.

EXECUTIVE SUMMARY

The Council's Highways Framework will expire on 31 March 2022. This report therefore seeks approval to procure the renewal of the Highways Framework. The tender process is being managed by the Council's transformation partner, ENGIE Services Ltd, as required under the services agreement. Together with delivering compliant Frameworks, a key element of the process is engaging the local supply chain with the aim of driving local economic benefit

RECOMMENDATIONS

It is recommended that Cabinet:

1. Delegates authority to the Executive Director Environment, Economy and Resources in consultation with the Deputy Leader and Portfolio Holder for Finance, Resources and Assets and the Portfolio Holder for Environment and Transport, to release a compliant tender under the contract regulations for the Highways Frameworks (through ENGIE).
2. Upon completion of the process, delegates authority to the Executive Director Environment, Economy and Resources in consultation with the Deputy Leader and Portfolio Holder for Finance, Resources and Assets and the Portfolio Holder for Environment and Transport, the award of the contracts to the successful provider(s).
3. Delegates authority to the Assistant Director Law, Governance and Assets (Monitoring Officer) to complete all requisite legal documentation in relation to the matters outlined above.

REASONS FOR DECISION

The Council is required to demonstrate value for money in the procurement of capital works under the Public Contracts Regulations 2015. This legislation specially prohibits the use of local bias while undertaking procurement activities. However, as outlined below, several initiatives are being included as part of this exercise to actively deliver social value.

1. BACKGROUND AND ISSUES

- 1.1 The previous procurement exercise carried out in 2017/2018, the Partnership worked with local suppliers by proactively engaging with them through advertised training and briefing sessions, as well as working with local advocates such as eFactor and the Chamber of Commerce. There was a good response from the local supply chain, which was beneficial; for the Technical Design (capital works) Framework and Disabled Facilities Grant Framework. However, there is a very limited number of civil contractors within North East Lincolnshire.
- 1.2 Although, it does not form part of the Frameworks that are the subject of this Cabinet report, it is worth noting that the Council's Partnership agreement with ENGIE contains the requirement to strengthen the local economy. This is expanded in the need for the partner to establish relationships with developers, businesses and government agencies in order to attract public and private investment into the area during the contract term.
- 1.3 All revenue work procured directly by ENGIE is governed by ENGIE's own Procurement Policy and Delegated Levels of Authority. This is managed via ENGIE's central procurement team using their purchase to payment system.
- 1.4 ENGIE Procurement Policy allows for establishment of local preferred supplier lists that meet the contractual requirements to strengthen the local economy and ENGIE are doing this wherever possible.
- 1.5 Framework suppliers will need to demonstrate a commitment Social Value for the people of North East Lincolnshire. Over the life of current highway framework, the consistent volume of capital works has allowed supplier to permanently employ people and access the local supply chain. Framework suppliers have shown their commitment to Social Value by supporting local charitable organisations and town and parish Councils.
- 1.6 The current portfolio of Frameworks is due for renewal and needs to be in place to commence in April 2022.
- 1.7 New lot structure will be as follows:
 - £0k - £50k – minor civils work
 - £0k - £250k – highways capital works
 - £250k - £1.5m highways capital works
 - £1.5m – OJEU threshold
 - £0 - £750k carriageway surfacing
 - Surface dressing term maintenance
 - Traffic management

- 1.8 The updated NEC (new engineering contract) 4 suite of engineering contracts will replace the current NEC3, which is used on the current framework.
- 1.9 The main services agreement between the Council and ENGIE Services Ltd requires that ENGIE administer capital programmes of works and service delivery.
- 1.10 The values of the capital works lots have been realigned to better distribute projects across the lots. In addition, two additional lots have been added. Traffic Management and Minor Civils Work.
- 1.11 Experience has shown that the projects above the threshold (currently £4.7m) tend to be few and far between. The Council will likely achieve greater value by approaching the open market on a project by project basis for these works. This will may afford more opportunities to shape aspirations around local supply chains and labour.
- 1.12 Supplier engagement days to be arranged to engage with the supply chain and targeting suitable suppliers. The sessions are aimed at providing refresher training on completing a compliant tender, provide information and receive further feedback from the suppliers to ensure the tender requirements are targeted to the right level of supply.
- 1.13 The Frameworks will be procured for a period of Four (4) years in line with the contract regulations. The procurement will be carried out using the Open process in compliance with the Council's Contract Procedure Rules.
- 1.14 All tender awards and contracts are subject to Council governance sign off.

2. RISKS AND OPPORTUNITIES

- 2.1 The key risk around failing to renew the Frameworks is that all capital works would need to be tendered on a case by case basis. This would be inefficient and potentially result in additional costs for projects through increased administration and, the opportunity to develop ongoing commercial relationships is limited.
- 2.2 Opportunity - Positive engagement with the local supply chain
- 2.3 Opportunity - Management of capital project related costs.

3. OTHER OPTIONS CONSIDERED

3.1 Status Quo

- 3.11 A decision could be made not to implement further contracting arrangements, although the Council this would potentially reduce value for money opportunities that come by aggregating demand.

3.2 e-Auctions

- 3.2.1 e-Auctions are best suited to commodity and service-based contracts. They are also difficult to design for works requirements and therefore this option is not recommended.

3.3 Central Purchasing Bodies

- 3.3.1 The Council could access Government framework arrangements such as the YORcivils2 Highways and Civil Engineering Framework managed by ERYC for Yorkshire and Humber. However, Government frameworks do not necessarily consider local supply chain development and there is an associated cost per project to access the call off arrangements. Therefore, this option is not recommended.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

Risk of Financial Loss: There is a risk of financial loss/increased costs if the framework agreements are not renewed. Without a formal arrangement the services are unable to manage the market effectively and would be required to undertake individual tenders for each piece of work required, which increases administrative costs.

5. FINANCIAL CONSIDERATIONS

- 5.1 Framework agreements are required to be renewed to ensure continued value for money is achieved.
- 5.2 The use of framework agreements has several benefits, including –
- Reduced administrative burden from running a full procurement procedure each time specific works is required from external contractors
 - Opportunity to identify suppliers and contractors that meet quality and deliverability criteria
 - Able to expedite tendering process resulting in cost effective and efficient delivery of works.

6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

In accordance to Public Procurement note – Taking Account of Carbon Reduction Plans in the procurement of major government contracts 06/21 - 'As part of assessing a supplier's technical and professional ability, In-Scope Organisations should include, as a selection criterion, a requirement for bidding suppliers to provide a Carbon Reduction Plan (using the template at Annex A) confirming the supplier's commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place and which will be in effect and utilised during the performance of the contract'

[Procurement Policy Note 06/21: Taking account of Carbon Reduction Plans in the procurement of major government contracts - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/procurement-policy-note-0621-taking-account-of-carbon-reduction-plans-in-the-procurement-of-major-government-contracts)

7. CONSULTATION WITH SCRUTINY

There has been no consultation with Scrutiny at this stage.

8. FINANCIAL IMPLICATIONS

There are no direct financial implications as a result of this report. However, the benefits of renewing capital works frameworks are outlined in section 5.

9. LEGAL IMPLICATIONS

- 9.1 Legal and procurement colleagues will support the completion of this procurement exercise and review the contractual documentation to ensure that the Council's interests are protected to the greatest extent reasonably and commercially possible.
- 9.2 The approach recommended is a framework contract which has the benefits stated in the report. A framework contract is an agreement with suppliers establishing contracts that may be awarded during the life of the agreement. It also sets out the terms and conditions for making specific purchases of goods, services and works also known as call-offs. This approach is considered good practice and efficient.
- 9.3 The procurement exercise will be conducted so as to comply with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 and supported by relevant officers. Legal Services will support the completion of the contractual documentation on award.
- 9.4 The delegations sought are consistent with an exercise of this nature.

10. HUMAN RESOURCES IMPLICATIONS

There are no direct HR implications arising from this report.

11. WARD IMPLICATIONS

This proposal affects all wards.

12. BACKGROUND PAPERS

There are no background papers at this time.

13. CONTACT OFFICER(S)

Mary Nearney, Assistant Director of Housing, Highways and Planning
Christina Tabor, Procurement Category Manager
Tom Morley, Highways Design Team Manager

COUNCILLOR STEWART SWINBURN
PORTFOLIO HOLDER FOR ENVIRONMENT AND TRANSPORT

Appendix A

Highways Framework

LOT 1 MINOR CIVILS WORKS £0-£50k
Undertaking of minor highways maintenance and improvements. Including emergency works, minor civils works, bus shelter repairs and rebuilds, minor surfacing, traffic calming schemes
LOT 2 HIGHWAYS WORKS £0k - £250k
Undertaking of minor highways maintenance and improvements. To include minor carriageway reconstruction, reconstruction of footways, kerbing, drainage, bus stop improvements, traffic calming schemes, provision of cycle routes, civils works in connection with traffic signal and controlled crossing improvements.
LOT 3 HIGHWAYS MINOR/MAJOR WORKS £250K - £1.5M
As above including minor public realm schemes
LOT 4 HIGHWAYS MAJOR WORKS £250K - £1.5M
As above including major works schemes including public realm and major highways works
LOT 5 CARRIAGEWAY RESURFACING £0-£750K
Undertaking of minor highways maintenance and improvements. To include minor carriageway reconstruction, reconstruction of footways, kerbing, drainage, bus stop improvements, traffic calming schemes, provision of cycle routes, civils works in connection with traffic signal and controlled crossing improvements.
LOT 6 SURFACE DRESSING TERM MAINTENANCE
Provision of carriageway and footway treatments comprising carriageway micro-asphalt, installation of high friction surfacing and footway slurry sealing. All hardness testing design, pre-patching, weed treatment, removal of vegetation, traffic management, raising of statutory undertakers covers and road studs, replacement of road markings. Planned and reactive maintenance
LOT 7 TRAFFIC MANAGEMENT
Temporary Traffic Management as part of its planned and reactive Highways works