

## Decision Report - Executive Decision

Forward Plan Reference: FP/22/10/16

Decision Date - 15/03/23



### **Contract Award for Professional Consultancy Services for Planning, Design, Engineering and Place Services**

Executive Member(s): Cllr Mike Rigby - Lead Member for Transport and Digital

Local Member(s) and Division: All

Lead Officer: Mike O'Dowd-Jones. Strategic Manager Highways and Transport

Author: Mike O'Dowd-Jones. Strategic Manager Highways and Transport

Contact Details: mike.odowdjones@somerset.gov.uk

#### **1. Summary / Background**

- 1.1** This is to request a decision to award contracts for Professional Consultancy Services for Planning, Design, Engineering and Place Services to the proposed supplier as per the attached confidential report (Appendix A) for a period of four years with the option to extend for two 24 month periods. The anticipated contract spend for the full duration is £16m

#### **2. Recommendations**

##### **2.1. The Executive**

- **approves the award of a four-year contract (with the option of up to four year extension) to Supplier C as identified in the attached Appendix A; for the provision of Professional Consultancy Services for Planning, Design, Engineering and Place Services from 18<sup>th</sup> July 2023.**
- **Agrees that Appendix A be treated in confidence, as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information.**
- **To agree to exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information (Appendix A).'**

### **3. Reasons for recommendations**

- 3.1** The proposed supplier offers best value to the Council, in terms of quality and price.
- 3.2** Appendix A contains exempt information. "Exempt Information" is defined by Section 100 of the Local Government Act 1972 and by Schedule 12A to that Act. The information in Appendix A is exempt information because it is considered to fall within paragraph 3 of Schedule 12A. "information relating to the financial of business affairs of any particular person (including authority holding that information). The public interest test is then applied and in this instance it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **4. Other options considered**

- 4.1.** Various approaches for sourcing the required services have been considered. The key reasons for the agreed approach are:
- There will always be specialist activity that the Council needs to draw upon, sometimes at short notice, and a flexible resource pool is necessary, particularly given challenges in recruiting in this sector and the unpredictable nature of Government funding competitions.
  - A professional services contract will provide core highways and transport resources (such as engineering design & assessment, transport planning and modelling, economic appraisal, specialist skills etc), but also enable provision of resources for wider unitary professional services.
  - Existing contracts (often using existing public sector frameworks) for development and design of infrastructure and public realm works will transfer to the new council in addition to this proposed contract. The district contracts tend to be for specific projects and are not considered to be appropriate to replace the core highways and transport resourcing needs; but will enable a variety of project-based service delivery mechanisms for the new council.
  - The NEC3 form of contract includes provision for task orders based on time-charge which can be costed using agreed staff rates, which is the Councils preferred approach.
  - The initial four-year term will enable an early review of the suitability of the arrangements once the new unitary council has had an opportunity to bed-in along with any associated transformation activity.
  - A single supplier was considered extremely important in enabling a positive relationship, ability to resource plan and ability to draw down resources quickly as necessary without needing mini-competitions.

### **5. Links to County Vision, Business Plan and Medium-Term Financial Strategy**

- 5.1.** The proposed contract will particularly support the current County Council business plan 2021-23 outcomes:

- A County Infrastructure that drives recovery, supports economic prosperity, productivity and sustainable public services.
- Safe vibrant and well-balanced communities able to enjoy and benefit from the natural environment whilst addressing climate change.
- Improved health and wellbeing and more people living healthy and independent lives for longer

## **6. Consultations and co-production**

- 6.1.** Public consultation was not considered necessary in developing and awarding this contract as this is not a public facing service and primarily provides resources for back-office design, planning and engineering functions. Public-facing consultations tend to be undertaken by Council staff for specific infrastructure projects.
- 6.2.** The scope of the new contract was co-produced between relevant council staff; and district council staff were involved in collating information on the range of infrastructure programmes across the 5 authorities that could utilise this contract going forward.

## **7. Financial and Risk Implications**

- 7.1. Implications for new unitary council.** The contract will provide access to a wide range of professional services for the new unitary council.
- 7.2.** The proposed contract offers no specific financial commitment to the successful consultant. It will be the key contract for most of the Council's external spend on highways and engineering consultancy services and will be an option for wider unitary council spend, for instance on regeneration and public realm design and development activity. The current annual contract spend on highways and transport related activity is between £1.4m and £1.8m which is a mix of revenue and capital spend. The scope of the new contract allows for up to £3m per year indicatively to reflect the opportunity for a wider range of unitary council services to use the contract.
- 7.3.** Revenue spend through the contract comprises a proportion of the allocated revenue for relevant services (such as highway structures, flood and water management, transportation planning and highways development management) as well as specific DfT revenue grants (such as for bus service improvement plan development, local transport plan development, major scheme development etc).
- 7.4.** Capital spend through the contract comprises a proportion of relevant DfT grants and allocated capital approvals for highways and specific major projects where design and development activity is needed at the pre-construction stage, and where for instance project management, supervision and inspection resource is needed during and post construction.

**7.5.** The key risks to the Council have been considered and there is no risk in awarding the contract. The only identified risk is that the decision to award to the preferred supplier is not approved in which case it will be necessary to put into place an emergency measure to ensure continuity of supply of professional services, whilst a new procurement strategy is considered. Such a measure would likely require commissions to be packaged up into work packages, which would then be subject to mini-competitions among providers within appropriate framework lots. It is likely that commissions procured in this way would take longer to deliver and cost more than they would otherwise have done had the decision been taken.

Likelihood	1	Impact	3	Risk Score	3
------------	---	--------	---	------------	---

## **8. Legal and HR Implications**

### **8.1. Market and Sourcing Approach**

**8.2.** The Council's in-house legal expertise was utilised over an extended period via a regular project steering group, to discuss and agree the approach to market and the scope and preparation of contract documentation. The contract is an NEC3 Professional Services Contract (PSC) which is a standard contract for this type of engineering focused consultancy service, with additional bespoke clauses to meet the Council's requirements and protect its position. It should be noted that the compensation event regime under the NEC3 contract provides a right of compensation to the consultant in certain defined circumstances, most notably if the Council changes the service requirements under the contract or if there is a change in UK law which affects the consultant's costs. Further, there is provision for the tendered rates to be adjusted annually in line with inflation (the index used is the Average Weekly Earnings Index Total Pay Index Whole Economy, published by the ONS). The consultant is required to have in place insurance for professional negligence, with a limit of £5m in respect of each claim.

**8.3.** An open approach to the market has been taken. This allows any supplier to respond to the request for Tenders. To allow for suppliers to offer optimum proposals the arrangements a lengthy response time was offered.

**8.4.** The tenders were issued on the Supplying The South West procurement portal on 23<sup>rd</sup> September 2022 with responses received back on 25<sup>th</sup> November 2022.

**8.5.** Members of the team evaluated the bid responses prior to a moderation session conducted by the Commercial & Procurement team. This then provided a final Quality score which was combined with the pricing score. Evaluators, final agreed scores and prices are shown within the Confidential Appendix A

- 8.6. Any change in contractor will involve consideration of Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006.

## 9. Other Implications

### 9.1. Equalities Implications

**Access:** Implications for access to services have been considered and as the decision is to award a replacement contract this presents no immediate changes in access to services. In the main the services provided are professional support to officers of the County Council rather than direct to customers or communities.

**Equality and Diversity:** Implications for people with protected characteristics have been considered through the attached equality impact assessment and no adverse impacts have been identified. The proposed contract is largely for back-office capacity to deliver existing services, largely concerned with making improvements to the build environment which are generally beneficial for people with protected characteristics; and there will be no changes that would impact externally. Professional service provision will continue to operate under national guidance and legal requirements for considering access for people with disabilities within engineering design processes and provision of other professional services.

**Human Rights:** Implications for human rights have been considered and as the decision is to award a replacement contract this presents no immediate impacts on human rights. Contracts with the service provider will include requirements to have due regard to human rights issues.

### 9.2. Community Safety Implications

Implications for community safety have been considered and as the decision is to award a replacement contract this presents no immediate impacts on community safety. The professional services provided through the contract will include resources to undertake activity related to highway safety such as design of road safety schemes and provision of safety audits etc.

### 9.3. Sustainability Implications

Implications for sustainability have been considered and as the decision is to award a replacement contract this presents no immediate adverse impacts on sustainability. The professional services provided through the contract will include resources to undertake activity related to sustainability such as design of sustainable transport schemes and provision of travel plan advice.

The new contract includes specific climate change requirements as follows:

- Reduce their own organisational carbon emissions over the lifetime of the contract delivering services to Somerset Council by at least 50%

over the initial four-year term. Targets and trajectories for each of the two further 2-year extensions will be agreed based on learning and evidence from the initial term.

- Ensure that all advice delivered through the contract includes opportunities to reduce carbon emissions associated with the plan, project, scheme, or initiative that the advice relates to.
- Ensure that all scheme or project designs seek to reduce embedded carbon as 'business as usual' rather than as additional services.
- Provide expertise on carbon assessment, management and monitoring issues as a bespoke service as and when required.

#### **9.4. Health and Safety Implications**

Health and safety implications have been considered. The new contract includes specific health and safety requirements for the contractor.

#### **9.5. Health and Wellbeing Implications**

Health and wellbeing implications have been considered, and the contract presents no adverse impacts on health and wellbeing. The professional services provided through the contract will include resources to undertake activity related to promoting active travel which has considerable benefits for health and wellbeing.

#### **9.6. Social Value**

The tender process required contractors to propose Social Value commitments in line with the Themes Outcomes Measures approach and the social value benefits associated with the proposed contractor are discussed in the confidential Appendix A.

### **10. Scrutiny comments / recommendations:**

**10.1** Scrutiny for Policies and Place Committee considered the contract award at its meeting on 7 February 2023. The Committee supported the proposed award with the following recommendations:

- That the social value offer is utilised effectively to support priority issues and projects particularly for children and adults services.
- That the executive directors and service directors for the new council put in place effective management procedures to manage the transition from current contracts to use of the new contract; with an expectation that the new contract will be the first choice for securing professional services advice for place services based on value for money.
- That a report is brought back to the Committee before the end of the calendar year to review operation of the new arrangements.

## **11. Background**

- 11.1.** Somerset County Council has a contract with WSP consultancy for provision of Engineering Consultancy Services which commenced in July 2014, terminating in July 2023.
- 11.2.** The Director for Economic and Community Infrastructure took a non-key decision in October 2018 authoring commencement of a procurement process or processes for a replacement engineering consultancy contract or contracts and/ or framework agreement/s. This work was paused during the Covid 19 pandemic and a decision was taken to let the contract run to its full term.
- 11.3.** The Service Alignment Local Government Reorganisation sub-workstream for Infrastructure Delivery and Active Travel undertook a contracts review during 2022 considering the range of relevant contracts in place across the five authorities. This concluded that professional services are delivered through a range of providers either procured through a tender process for specific projects/ programmes, or utilising external frameworks. It was noted that the County Council has a wide-ranging top-up engineering consultancy contract with WSP that is being replaced in 2023, and that this should be tendered as a professional services contract with a scope designed to enable utilisation across a wide range of professional services by the new Somerset Council. Services will be able to use this new contract or continue to utilise available external frameworks for specific pieces of work. Services will be able to consider the most cost sourcing effective route for specific requirements, but it is important to have a long-term contract in place for core services.
- 11.4.** The Strategic Commissioning Manager for Highways and Transport took a non-key decision in August 2022 to agree the procurement strategy for a replacement contract to comprise:
- A wide-ranging professional services contract which will focus on highways and transport service provision with flexibility to accommodate wider unitary authority requirements. Contract requirements will be drafted to enable professionals for a wide range of related disciplines to be deployed on Somerset Council services.
  - Utilisation of the NEC3 professional services contract for an initial term of 4 years with two opportunities for further extensions of two years each.
  - Indicative annual values of work with no guarantee for a specific annual volume, to enable flexibility to build-up in-house provision over time and reduce reliance on external resources.
- 11.5.** The invitation to tender was issued on 23<sup>rd</sup> September 2022 with tender returns submitted by the end of November for evaluation during December 2022.

## 12. Background Papers

### 12.1 Appendix A – Confidential Sourcing Report

#### Report Sign-Off

		Date completed
Legal Implications	Honor Clarke	24/02/23
Governance	Scott Wooldridge	06/03/23
Corporate Finance	Jason Vaughan	21/02/23
Customers, Digital and Workforce	Chris Squire	24/02/23
Property	Paula Hewitt / Oliver Woodhams	22/02/23
Procurement	Claire Griffiths	22/02/23
Senior Manager	Paula Hewitt	21/02/23
Commissioning Development	Sunita Mills / Ryszard Rusinek	27/02/23
Executive Member	Cllr Mike Rigby - Lead Member for Transport and Digital	25/01/23
<b><u>Sign-off Key Decision / Consulted on Non-Key Decision</u></b>		
Local Member		
Opposition Spokesperson	Opposition Spokesperson - Transport & Digital - Cllr Diogo Rodrigues	08/02/23
Scrutiny Chair	Scrutiny for Policies and Place Committee - Cllr Gwil Wren	08/02/23





## Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer

<b>Organisation prepared for</b>	Somerset County Council		
<b>Version</b>	1	<b>Date Completed</b>	05/01/23
<b>Description of what is being impact assessed</b>			
<p>Decision to award a contract for a professional services contract focusing on highways and transport services and a range of other professional services that might be needed by the unitary authority: including but not limited to the following:            Transport assessment, traffic modelling, economic appraisal, data analytics, surveys, highway and transport scheme design, contract preparation, supervision, highway safety studies, design of safety improvements, road safety audits, travel plans, travel planning studies, design of traffic regulation orders, highway structures design inspection and supervision, railway structures inspections assessment and design, coastal structures inspections assessment and design, surface water drainage, hydrological modelling and design, flood modelling and surface water management, CDM coordinator and related health and safety management auditing and advice, contract management, quantity surveying ,works supervision, intelligent transport systems/ traffic signals/ traffic signing design and construction/ supervision, coastal defence modelling assessment and design, geotechnical design and advice, topographical surveys, public consultation, street lighting design and construction supervision, other highway electrical installations, electrical and mechanical engineering support, traffic noise and vibration surveys studies and advice, contaminated land assessment and site remediation design, preparation and supervision of environmental studies including landscape design and assessment.</p>			

## Evidence

**What data/information have you used to assess how this policy/service might impact on protected groups?** Sources such as the [Office of National Statistics](#), [Somerset Intelligence Partnership](#), [Somerset's Joint Strategic Needs Analysis \(JSNA\)](#), Staff and/ or [area profiles](#),, should be detailed here

There is not intended to be a change in policy or public facing services, and indeed the specification of the contract is very similar to existing contracts. This is a contract to supply professional services to the Council in largely 'back office' engineering and transportation planning services and other unitary place-based services. The Council is likely to retain its current approach of a significant in-house resource to deliver these services utilising contracts for specialist activity or additional capacity to cover peaks and troughs of workload. As the change is not public-facing, it is considered unnecessary to undertake a detailed assessment on how a new contract might impact on protected groups.

**Who have you consulted with to assess possible impact on protected groups?** If you have not consulted other people, please explain why?

No consultation has been undertaken for this purpose for the reasons set out above.

## Analysis of impact on protected groups

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.

**Protected group**

**Summary of impact**

**Negative  
outcome**

**Neutral  
outcome**

**Positive  
outcome**

<b>Age</b>	<ul style="list-style-type: none"> <li>No impact expected.</li> </ul>	□	⊗	□
<b>Disability</b>	<ul style="list-style-type: none"> <li>As public body we have a responsibility to proactively consider and improve any barriers that disabled people may face through the reasonable adjustment element of the Equality Act 2010. Should our supplier not give this specific consideration and take steps to reduce/minimise this impact outcomes for disabled people could be worse (whether that be getting around the public environment, safety crossing roads or in another way).</li> </ul>	⊗	□	□
<b>Gender reassignment</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□
<b>Marriage and civil partnership</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□
<b>Pregnancy and maternity</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□

<b>Race and ethnicity</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□
<b>Religion or belief</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□
<b>Sex</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□
<b>Sexual orientation</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□
<b>Other, e.g. carers, veterans, homeless, low income, rurality/isolation, etc.</b>	<ul style="list-style-type: none"> <li>No impact expected</li> </ul>	□	⊗	□

**Negative outcomes action plan**

Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

Action taken/to be taken	Date	Person responsible	How will it be monitored?	Action complete
Professional service provision will operate under national and local guidance and legal requirements for considering	Select date			□

access for disabled people within engineering design processes and provision of other professional services				
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>

**If negative impacts remain, please provide an explanation below.**

--

<b>Completed by:</b>	<b>Mike O'Dowd-Jones</b>
<b>Date</b>	<b>05/01/23</b>
<b>Signed off by:</b>	<b>Mike O'Dowd-Jones</b>
<b>Date</b>	<b>05/01/23</b>
<b>Equality Lead/Manager sign off date:</b>	<b>08/03/23 Tom Rutland</b>

<b>To be reviewed by:</b> (officer name)	<b>Mike O'Dowd-Jones</b>
<b>Review date:</b>	None needed – final stage in contract award process.

