

Divisions Affected – All

DELEGATED DECISIONS BY DEPUTY LEADER OF THE COUNCIL WITH RESPONSIBILITY FOR CLIMATE CHANGE, ENVIRONMENT AND FUTURE GENERATIONS

5 SEPTEMBER 2024

New Lead Local Flood Authority Drainage and Minor Groundworks Framework Contract

Report by Director of Environment and Highways

RECOMMENDATION

The Cabinet Member is **RECOMMENDED** to

- a) **Approve the development and subsequent procurement of a new Lead Local Flood Authority drainage and minor groundworks framework contract.**
- b) **Delegate the contract award and any contract extension award to Director of Environment and Highways.**

Executive Summary

1. Oxfordshire County Council is designated a Lead Local Flood Authority under the Flood and Water Management Act, 2010.
2. The proposal is to establish a drainage and minor groundworks framework contract, which will enable Oxfordshire County Council to award work to suppliers appointed to the framework to undertake works on our behalf to reduce flood risk for communities and residents.
3. It is proposed the framework contract will run for an initial period of 3 years, with an option for Oxfordshire County Council to extend for a further 3 years. The framework contract is for the provision of works across the whole of Oxfordshire on a “call-off” basis. Works will be on Oxfordshire County Council own land and assets and (by agreement) third party land.

4. Subject to approval by the cabinet member, we aim to award and establish the framework contract in Quarter 3 of 2024/25.

Introduction

5. The framework contract is to enable quicker and more cost-effective intervention in local flood risk issues across the county. Suppliers on the framework contract will be required to provide these services within a short time scale from the time of request.
6. This will allow efficient use of Lead Local Flood Authority funding to deliver works on the ground. This will enhance our current procurement options of issuing grants to third parties, delivering works via the Highways term contract, or going through the full procurement process for each project/works.
7. It is proposed the framework contract includes 3 Lots:
 - Lot 1) minor ground works, such as: ditch and pond creation, reinstatement or maintenance; small flood embankment, swale and infiltration device installation and maintenance; and vegetation management.
 - Lot 2) Culvert and small bridge works, such as: removal, replacement, alteration or repair.
 - Lot 3) Culvert and drainage pipe maintenance, surveying, jetting/clearance.

Corporate Policies and Priorities

8. The decision and creation of a framework contract will enable and support the work undertaken by the Flood Risk Management Team contributing to several Oxfordshire County Council Priorities in our 2023-2025 Strategic Plan, particularly 1, 3 and 9. Establishing a Lead Local Flood Authority framework contract will enable Oxfordshire County Council to strengthen and accelerate its work in these areas.
 1. Put action to address the climate emergency at the heart of our work.
 3. Prioritise the health and wellbeing of residents.
 9. Work with local businesses and partners for environmental, economic and social benefit.

Financial Implications

9. The funding to be spent through this framework contract has already been approved for 2024/25 by Cabinet, with an allocation of £500k for Lead Local Flood Authority flood work, and an additional £300k for sustainable drainage works and working with landowner owners on better land management and ditch clearance. Much of which could be delivered through the proposed framework contract.
10. The proposal is to set up the framework contract on a call off basis, whereby there will be no financial obligation on Oxfordshire County Council until

contracts are “called off”. Tenders and contracts issued under the framework contract will be managed in line with annual approved budgets and financial direction provided to the Flood Risk Management Team, so poses very limited financial risk to Oxfordshire County Council.

Comments checked by: Filipp Skiffins Assistant Finance Business Partner
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Legal Implications

11. Oxfordshire County Council is designated a Lead Local Flood Authority under the Flood and Water Management Act, 2010. As such it has powers and duties relating to “local” sources of flooding, these are flooding from surface water, ordinary watercourses and groundwater. The Flood Risk Management Team (within the Environment and Highways Directorate) carries out these functions within Oxfordshire County Council, working in partnership with the district and city councils alongside others.
12. The work supplied under the framework contract includes construction activities including work in communities and on third party land. This poses health and safety risks, risk of damage to third party assets, public liability, reputational and environmental risks.
13. A framework contract risk assessment has been produced and will be included in documents approved as part of the overall procurement and approvals process. The framework contract will require risk assessments to be provided and approved in relation to be each “call-off” project.

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Staff Implications

14. Time and cost savings are achieved by the framework contract providing a more certain route to construction, reducing time identifying suitable project partners. Tender production and assessment, and award times will be cut or eliminated. Contract award is simplified by using standard terms and conditions and suppliers’ familiarisation with our processes. The time and cost savings will increase with the length of the framework contract.
15. Procurement and mobilisation of the framework contract will be done with existing staff resource.

Procurement

16. An Open Tender Procedure will be used to award places on the Framework contract to suppliers who bid for the opportunity. Entry to the framework contract will be scored against cost, quality and social value.

Comments checked by: Amy Withers, Category Manager (Procurement)
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Equality & Inclusion Implications

17. A draft Equality Impact Assessment has been completed which shows some risk of some potential bias towards rural communities (although this is not a protected characteristic). Mitigating actions have and will continue to be taken to address this potential bias of the proposal, or negative impacts. Overall, the framework contract is considered to have a positive impact for all groups, with a minor additional benefit to older and vulnerable residents.

18. The Equality Impact Assessment will be reviewed and updated as we progress through the tendering and contract process, with specific schemes/work being subject to a specific Equality Impact Assessment if required.

Sustainability Implications

19. Establishing a framework contract is expected to improve the sustainability of flood risk management projects as we will be able to ensure high environmental and sustainability standards (scored under quality) from suppliers wishing to join the framework contract. Developing a partnership with suppliers on the framework contract allows greater opportunity to seek and test innovation over time compared with one-off project contracts.

Risk Management

20. A full risk assessment is in place and will be updated regularly. The main risks are summarised in Annex A.

21. The highest risks are appointing an unsuitable contractor and the reduction or withdrawal of funding.

22. Appointing an unsuitable contractor could lead to health and safety, financial, environmental and reputational risks. This will be managed through a robust and thorough tender process, with an Open Tender Procedure scored on cost, quality and social value.

23. The risk of reduced or withdrawn funding is being managed by establishing the framework contract on a “call off” basis so financial commitments will only be entered into once projects are ready for construction and funding is secure.

Consultations

24. Consultation with the district and city councils has been supportive of the proposal to set up the drainage and minor groundworks framework contract. West Oxfordshire and Cherwell Districts have already expressed interest in using the framework contract and Cherwell District have offered to work closely with us on the setting up of the framework contract.
25. Market testing with 12 potential suppliers has shown support for the establishment of a framework contract, and in the main the proposed format. Feedback from these meetings has been used to inform the final tender pack, tender process, and contract.
26. Procurement, Legal and Highway colleagues have been engaged in relation to setting up the framework contract and are supportive of the proposal.
27. Parish, district, and city councils, as well as catchment partnerships have been asked for expressions of interest for projects that could potentially be delivered through the framework contract. The high number of returns within a short deadline has highlighted the need and desire for quicker delivery of more flood risk management projects across the county.

Paul Fermer
Director of Environment and Highways

Annex A – Summary of key risks

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Lewis Purbrick (Flood Mitigation Officer)

Annex A

The main risks as currently identified.

Risk	Impact	Likelihood	Mitigation
New framework contract - may prove difficult to set up	Wasted time and money	Medium	Learn from other framework contracts and contracts – for example Highways Term Contract and Tree Services Framework contract. Work closely with Procurement Team
Withdrawal of funding	Legal liability - financial and reputational loss	Low	Develop "call -off" type contract and make this clear to suppliers and others throughout the process. Ensure regular updates with Head of Service and Directorate Leadership team
Insufficient projects brought forward to justify framework contract	Legal liability - financial and reputational loss	Very Low	A request for Expressions of Interest has generated over 70 project proposals in less than 4 weeks. Continued monitoring, reporting, and refreshing of programme of projects.
Unsuitable contractor appointed	Health and Safety, financial, environmental and reputational risks.	Very Low	Ensure robust and thorough tender process. Working closely with Procurement. Ensure Oxfordshire County Council and suppliers have suitable insurance and public liability.