

OPTIONS APPRAISAL

Title for Business Need	Highways Contract Renewal – Main Tender	
Pipeline Reference	tbc	
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Service Area	Highways, Environment & Place	
Version	V 1	
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Approvals Given	Approver	Date
Service Lead		
Category Manager	Basil Waloff	5 December 2022
Relevant Governance E.G. Project Board; DLT or other forum		

1. Description of Proposal

The Highways Maintenance tender expires in 2025. There is a need to re-procure these arrangements, however the Council is taking the opportunity to review its requirements, in particular how these are delivered by the market, to ensure that it has the most appropriate and cost effective model for this next contract.

Estimated values of the contract are £30m p.a. and currently the working assumption is that the contract will be issued for 10 years. This is an above threshold tender and must comply with PCR2015 regulations.

A pre tender analysis has been completed by DM Squared to review all potential delivery models available and to recommend the best fit for Oxfordshire County Council (OCC).

Due to the complexity of this tender, a tender for consultancy support to create the specification, run the tender and to support during the implementation process will be run. It is anticipated that this consultancy partner will be in place by 1 April 2023 to support the development of the specification, with the aim to issue the tender by 1 September 2023. Given the complexity of the tender itself, and potentially a move from the incumbent (depending on the outcome of the tender), the appointment of the successful supplier will be by 1 April 2024, allowing for a 12 month implementation process if needed.

Expert support from (external) Legal may also be needed in this process to mitigate risk and to ensure full compliance with PCR2015. They will also be able to add value through prior experience on these types of tender.

General Comment - For a contract and tender of this size, there are realistically only a few suppliers who will be able to deliver the requirements. They will have their own views as to whether they see OCC as a desirable client, in terms of capacity to deliver the tender, capacity to deliver the contract, fit with other contracts, OCC's fit as a client plus any future / current tenders / contracts which may tie up resource. Some suppliers may choose not to bid as a result, leaving a reduced pool of viable candidate suppliers.

2. Options Analysis

There are several options which are available for the procurement of this Consultant.

2.1 Option 1 – Open Tender

A tender is run, open to the whole market; any consultancy who is able to meet the terms of the specification would be able to submit a response.

Strengths	Weaknesses	Opportunities	Threats
<p><i>Considers whole of market</i></p>	<p><i>Multiple responses</i></p> <p><i>No pre qualification of suppliers</i></p> <p><i>Can take time to create tender, analyse tender responses and select winning bidder</i></p>	<p><i>Whole market responses may create innovative approaches</i></p>	<p><i>There are very few suppliers who are able to deliver a contract of this size. Using an Open tender may mean that attention is distracted on those who are not capable, time is lost and outcomes are not as good for OCC</i></p> <p><i>Highest risk of procurement challenge</i></p>

2.2 Option 2 – Use of Framework (Mini Competition or Direct Award)

Frameworks are pre-selected group of suppliers who have already met minimum standards for particular categories. Local Authorities are able to use such Frameworks if they are named on them (specifically or generally) and the process becomes much shorter and involves less gathering of standard information from the suppliers. Depending on the Framework, there are options to either run a mini competition involving all suppliers, or else to direct award to one specific supplier.

Strengths	Weaknesses	Opportunities	Threats
<p>Smaller preselected group of suppliers</p> <p>Shorter tender process</p> <p>Minimises risks through procurement approach</p> <p>Pre agreed rates or some other financial comparison</p> <p>Minimal risk of procurement challenge</p>	<p>Only able to go out to smaller preselected group of suppliers</p> <p>There may not be a framework out there which uses all of the relevant suppliers who would be interested in, capable of and with capacity to do this contract</p>	<p>Quicker time to implementation</p> <p>Potential for direct award, if framework permits</p> <p>Negotiation on pricing for whole project still possible</p>	<p>Suppliers may not be interested in the work and not respond to tender</p>

2.3 Option 3 – Restricted Tender

A Restricted process is a 2 stage process, whereby a whole market group of suppliers is reduced down by use of a Selection Questionnaire (SQ). This SQ is based around industry standard questions, allowing for more technical questions to be asked later on in the process. The purchasing organisation must specify how many suppliers are to be taken forward to this second stage, prior to receiving responses (this can be a minimum score or else ‘a maximum of....’)

Strengths	Weaknesses	Opportunities	Threats
<p>Original call to market considers full market options</p> <p>SQ stage allows to whittle this down to only those who could genuinely do the contract</p> <p>Procurement challenge risk mitigated through two step tendering process</p>	<p>Two stage process, therefore takes longer than a single stage tender</p>	<p>Whole market approach at first stage may introduce suppliers who were not previously known to the tendering organisation</p>	<p>SQ questions need to be considered carefully to ensure that they are an effective means of reducing the tendering field</p>

2.4 Option 4 – Competitive Dialogue

A Competitive Dialogue (CD) process is one which is used when the purchaser is not quite sure of the outcome which they want to achieve. In a CD process the purchaser is able to revise the specification several times, based on the tendered responses to date, and the suppliers are also allowed to revise their tender responses, based on these changes. It is a highly technical process, needing expert support, and can take considerable time.

Strengths	Weaknesses	Opportunities	Threats
<p>Good for when the final outcome is not known – where purchaser needs to work with the market to identify the best end solution</p> <p>Procurement challenge risk mitigated through ongoing engagement with process throughout tender</p>	<p>Time taken</p> <p>Specialist support expensive</p> <p>Not good where there is a wide pool of candidate suppliers as involves considerable investment from suppliers when creating their bids</p>	<p>Good when needing to create innovative response or where final parameters of contract are unclear</p>	<p>Not suitable for all tenders due to the complexity of the process and the support required</p>

2.5 Critical Success Factors Table

Critical success criteria	Open Tender	Framework	Restricted	Competitive Dialogue
<i>Time to run tender process</i>	2	1	3	5
<i>Cost of tender</i>	2	1	2	5
<i>Pre selection of suppliers (1 = able to pre select)</i>	5	3	1	1
<i>Quality of Responses</i>	4	3	2	1
<i>Total</i>	13	8	8	12

3. Preferred Option

For the main tender, a Restricted process would be the best option.

There is no need to carry out a CD process as the end result is known and there is not uncertainty which needs to be bottomed out during the tendering process. A CD process is expensive for both supplier and OCC and is not normally the best option where there is no need to mitigate uncertainty.

Running an Open process may result in multiple unqualified responses which would still have to be evaluated, taking time and resource away from realistic potential responses. All would need to be treated equally, but the time and resource investment required in the tendering process would be considerable.

Whilst a Framework approach might be appropriate, there may be constraints issued by the owner of the framework selected which would limit OCC's options and decision making. Depending on which framework was selected might also limit the number of potential bids, as it must be remembered that not all suppliers will choose to bid for this contract; it depends on their capacity, other contracts and attractiveness of OCC as a client, amongst other things, and this would need to mesh with those suppliers on the selected framework.

In comparison a 2 stage Restricted process would enable the whole market to engage and to register their interest, whilst only allowing those with a realistic chance of delivering the end contract to proceed to the next stage. In this way all

realistic suppliers are offered the opportunity to bid, as opposed to potentially only those who are on the framework selected by OCC.