



**Report of Civil Engineering Manager (Major Schemes and Procurement)**

**Report to Chief Officer (Highways and Transportation)**

**Date: 17 November 2020**

**Subject: Highways & Transportation Contractor Framework Agreements**

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main issues**

- In recent years, the Capital Programme for the Highways & Transportation Service (H&T) has increased significantly with an established pipeline of infrastructure works over the next 5 years in excess of £400m. With the current pressures to deliver on the West Yorkshire Transport Fund, the possible implications of future devolution, and Central Government’s commitment to spend on infrastructure to aid the recovery from the Covid-19 pandemic, a clear and robust procurement and delivery mechanism will be required.
- Procurement and delivery routes presently available to the H&T include;
  - YorCivils2 Framework
  - SCAPE Framework
  - Highway Works Term Contract
  - Crown Commercial Services Framework
  - Stand-alone Tender
  - DLO
- A number of major infrastructure schemes are currently being delivered through a combination of the above, each with differing approaches and differing terms and conditions. Whilst generally the procurement route chosen is the best available

option, each option has its own nuances making these contracts more difficult to administer effectively.

- The purpose of this report is to seek authorisation to develop and subsequently procure new Contractor Frameworks which will run for four years to provide a consistent contractual mechanism to assist in the delivery of the Highways & Transportation capital programme of future infrastructure works.

## **2. Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- A key element of the Best Council Plan is to have Sustainable Infrastructure. There is also a significant move to incorporate greater social value into future contracts for all Council procurements. The framework proposals in this document will also incorporate performance measures around climate change risks and air quality. It will also be instrumental in improving the city's transport infrastructure.
- Other key areas to be addressed within the proposed frameworks will include health and wellbeing, supporting active lifestyles and especially the recovery from the Covid-19 pandemic. Inclusive growth will also feature heavily in the provision of future infrastructure and again will be targeted and monitored within the frameworks' conditions including the use of the Social Value Portal.

## **3. Resource Implications**

- The Civil Engineering Service within Highways and Transportation is evolving to become much more of an enabling service and as such has recently procured a Consultant Framework to assist in the development, design, supervision and also assurance of infrastructure schemes.
- The logical progression from this is to procure bespoke Contractor Frameworks to sit alongside the Consultant Framework to work together principally in the construction phase, and provide advice and support, where required, in the pre-construction phase.
- The enabling function can be resourced from existing staffing levels within the Civil Engineering Service area

## **Recommendations**

The Chief Officer Highways and Transportation is requested to;

- a) note the content of this report, and
- b) authorise the development and procurement of bespoke Contractor Frameworks to best suit the delivery of the increasing capital programme of Highways and Transportation
- c) authorise a departure from the price-quality separated approach under CPR15.1 and adopt a combined 60:40 quality:price split in the tender evaluation process.
- d) Authorise the procurement of the recommended framework through the OJEU procedure.

## **1. Purpose of this report**

- 1.1 The purpose of this report is to outline the current position with regard to the delivery of the H&T capital programme, identify current issues and to seek approval to the procurement of bespoke Contractor Frameworks.

## **2. Background information**

- 2.1 The H&T service has seen an unprecedented increase in its capital programme and in order to support the Best Council Plan is required to deliver this programme at a pace over the coming years.
- 2.2 There are already a number of major infrastructure schemes currently in the construction phase including;
- Leeds Public Transport Infrastructure Programme (LPTIP)
  - Regent Street Flyover
  - East Leeds Orbital Route (ELOR)
- 2.3 Traditionally, H&T has used the YorCivils2 Framework to tender large infrastructure schemes such as the LPTIP. LPTIP is a £174m scheme of individual packages aimed at improving public transport provision in Leeds.
- 2.4 More recently it has utilised the SCAPE framework to deliver the MBARC programme of interdependent schemes around the city centre which includes Regent Street Flyover.
- 2.5 ELOR however, was procured as a stand-alone contract through the OJEU restricted tender route.
- 2.6 H&T also has a Highway Works Term Contract with Colas which it has used very successfully to deliver much of the smaller infrastructure schemes including traffic schemes, S278 schemes and some of the smaller capital schemes. This contract expires in March 2021.
- 2.7 Sitting alongside the contractors procured through the mechanisms above is the Council's own Direct Labour Organisation (DLO) who generally fulfil an asset management function maintaining the existing highway network, including essential winter maintenance. The DLO do not have enough spare capacity and in some cases the expertise to undertake some of the major infrastructure schemes.
- 2.8 It can be seen from above that H&T currently has flexibility in procurement options to deliver various infrastructure schemes and there are some benefits in doing this, however as delivery currently uses a number of different procurement routes it can be difficult to administer these contracts in a consistent manner.
- 2.9 Moving forward, Leeds City Council is committed to providing social value within all tendering opportunities. The Council's social value policy covers areas such as corporate social responsibility, foundation living wage, modern slavery Act 2015, and the climate emergency. Under corporate social responsibility tenderers are encouraged to use local firms, local SME's, local supply chains and employ local people in order to support the local economy.
- 2.10 Many of the current delivery mechanisms do not incorporate the levels of social value that are expected so tendering bespoke Contractor Frameworks will give the opportunity to incorporate these measures alongside other LCC terms and conditions.

### 3. Main issues

- 3.1 As mentioned in the opening summary, the H&T Service has a capital programme in excess of £400m to deliver significant infrastructure works for Leeds over the coming years. The speed of delivery and having control of work programmes has to some extent dictated the current procurement routes to date.
- 3.2 There are already a number of major infrastructure contracts being delivered including LPTIP, ELOR and the MBARC programme.
- 3.3 The MBARC programme consisting of Meadow Lane, Bishopgate Street, Armley Gyratory, Regent Street Flyover and City Square is being delivered using the SCAPE framework. As all the elements of the programme are interdependent, by using the SCAPE framework much greater control of the individual elements and, more importantly, the impact the works will have on Leeds can be effectively managed.
- 3.4 Accessing external frameworks does give a route to market but do not always give access to suitable contractors. There are also fees to be paid which in many cases are not transparent and/or are included within contractor's rates.
- 3.5 The recent LPTIP tender produced only 2 out of 6 tenderers that passed the quality threshold in their tender submissions.
- 3.6 Again using external frameworks limit the ability to introduce Leeds City Council terms and conditions into the contract such as social value or adjustments to gain share mechanisms.
- 3.7 The current Highway Works Term Contract expires on 31 March 2021. This is currently delivered by a single contractor with the intention that this will be replaced within the proposed framework as one of the Lots.
- 3.8 Considering the above, it is proposed to develop and tender two new Contractor Framework Agreements to provide a much simpler vehicle for delivering the pipeline of highway infrastructure schemes within Leeds.
- 3.9 The Frameworks will last for four years and consist;
  - Framework 1 for schemes valued up to £2.5m
  - Framework 2 with 2 lots
    - Lot 1 - £2m to £10
    - Lot 2 - >£10m
- 3.10 It is proposed to have 2 contractors in Framework 1 and 4 contractors in Framework 2, 2 in each lot with no contractor being allowed in more than 1 lot. This will give a maximum of six Contractors on the Frameworks. It is proposed to allow a degree of flexibility on the Lot boundaries on Framework 2 to allow bids above or below the Lot thresholds, at the Employer's discretion, dependent on the type of work and current pipeline.
- 3.11 Framework 1 will effectively replace the current Highway Works Term Contract when it expires but instead of a single supplier will now have two Contractors. Lot 1 will be very much based on the current Term Contract with a schedule of rates being tendered but with other options being available.
- 3.12 Lots 1 and 2 in Framework 2 will be very similar in nature apart from the size of schemes being promoted. The bidding criteria will be heavily dependent on the Best Council Plan and include for Inclusive Growth, Health and Wellbeing and

Social Value, including Climate Emergency, as well as the more traditional requirements of a highways infrastructure contract.

- 3.13 Given very heavy workloads, the H&T service rely on external support with the recent introduction of the consultant framework. The proposed contractor frameworks will allow consultants and contractors to work together much more consistently on the future pipeline and allow the core internal procurement team to administer the process more effectively.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

4.1.1 It is important that there is an appetite for the proposed contractor frameworks and in order to test this, a number of informal workshops and soft market testing exercises were undertaken with a number of Contractors. This has helped to develop the current framework shape and strategy and there is ongoing interest.

4.1.2 The individual schemes that will be brought forward to be delivered through these Frameworks will continue to undergo current levels of consultation and engagement. The Frameworks will simply be the vehicle for delivery.

### **4.2 Equality and diversity / cohesion and integration**

4.2.1 In itself, the tendering of a new Consultant Frameworks will not have any direct impact on equality and diversion or cohesion and integration, the conditions within the frameworks' specification will dictate that any works delivered through the framework will have due consideration to the above.

### **4.3 Council policies and the Best Council Plan**

4.3.1 The delivery of the proposed programme of infrastructure for Leeds is crucial in delivering key elements of the Best Council Plan including health and wellbeing, inclusive growth and climate emergency.

#### Climate Emergency

4.3.2 Climate Emergency will be one of the key considerations in the selection criteria linking in with the social value portal to give a dashboard of measures to be recorded and monitored against.

### **4.4 Resources, procurement and value for money**

4.4.1 The newly updated CPR's promote a price-quality separated approach i.e. tenderers passing a quality threshold are then assessed on price only. This approach could lead to a situation where the cheapest lowest quality bidder could be successful.

4.4.2 For the delivery of the H&T infrastructure pipeline, many of the schemes will be delivered on a defined cost form of contract, making quality much more important than in the price-quality separated approach. There will still be an element of competition when awarding work through the framework and for this reason the Chief Officer is requested to depart from the price-quality separated approach under

CPR 15.1 and adopt a more conventional 60:40 quality:price assessment model.  
*Note: This does not require a waiver report.*

- 4.4.3 Having the potential for two Contractors for each promoted scheme will continue to give an element of competition when allocating work. Framework 1 will mainly be competitively tendered through a schedule of rates whilst the larger Lots of Framework 2 will be based more on actual cost, open book accounting forms of contract giving much more transparency on spend.
- 4.4.4 The procurement of larger schemes will also allow for Early Contractor Involvement to assist in developing designs in terms of buildability, supply chain and cost.

#### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 This is a key decision and the notice has been published on the Forward Plan

#### **4.6 Risk management**

- 4.6.1 The current procurement routes available to H&T can be cumbersome with differing terms and conditions with the inclusion of significant access fees. Coupled with the pending expiry of the current Highway Works Term Contract in March 2021, it is clear that having bespoke Contractor Frameworks would address many of the current issues.
- 4.6.2 The increasing requirements of Leeds City Council in the procurement process cannot easily be included in many of the current routes. Again the procurement of bespoke frameworks will enable much of this to be addressed.

### **5. Conclusions**

- 5.1 Looking at the quantum of proposed infrastructure to be delivered in Leeds over the coming years, the introduction of bespoke Contractor Frameworks is an attractive proposition.
- 5.2 The frameworks will provide a core partnership with contractors who are capable of delivering small, medium and large infrastructure schemes in accordance with the Council's own terms and conditions including social value and the climate emergency. They will also enable the ability to encourage the use local firms, local SME's, local supply chains and employ local people in order to support the local economy.
- 5.3 There will be no access fees to be paid either directly or indirectly and there will be a quicker route to market with shorter tendering times.
- 5.4 The framework will also provide a suitable replacement for the current Highway Works Term Contract which expires in March 2021.

### **6. Recommendations**

- 6.1 The Chief Officer Highways and Transportation is requested to;
  - a) note the content of this report, and
  - b) authorise the development and procurement of a bespoke Contractor Framework to best suit the delivery of the increasing capital programme of Highways and Transportation

- c) authorise a departure from the price-quality separated approach under CPR15.1 and adopt a combined 60:40 quality:price split in the tender evaluation process.
- d) authorise the procurement of the recommended framework through the OJEU procedure.

## **7. Background documents<sup>1</sup>**

7.1 None

---

<sup>1</sup> The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## Equality, Diversity, Cohesion and Integration Screening



As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being or has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

<b>Directorate: City Development</b>	<b>Service area: Highways and Transportation</b>
<b>Lead person: P Russell</b>	<b>Contact number: 0113 3787359</b>

<b>1. Title: Highways &amp; Transportation Contractor Framework Agreement</b>
Is this a: <input type="checkbox"/> <b>Strategy / Policy</b> <input type="checkbox"/> <b>Service / Function</b> <input checked="" type="checkbox"/> <b>Other</b>
<b>If other, please specify</b>

<b>2. Please provide a brief description of what you are screening</b>
Screening the tender procedure for a new Contractor Framework agreement for Highways and Transportation



### 3. Relevance to equality, diversity, cohesion and integration

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation. Also those areas that impact on or relate to equality: tackling poverty and improving health and well-being.

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?		X
Have there been or likely to be any public concerns about the policy or proposal?		X
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?	X	
Could the proposal affect our workforce or employment practices?		X
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"><li>• Eliminating unlawful discrimination, victimisation and harassment</li><li>• Advancing equality of opportunity</li><li>• Fostering good relations</li></ul>	X	

If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

<b>4. Considering the impact on equality, diversity, cohesion and integration</b>	
If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.	
Please provide specific details for all three areas below (use the prompts for guidance).	
<ul style="list-style-type: none"> <li>• <b>How have you considered equality, diversity, cohesion and integration?</b> (<b>think about</b> the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected)</li> </ul> <p>Consideration has been given to equality, diversity, cohesion and integration within the tender documentation with specific terms and conditions relating to Health and Wellbeing, Inclusive Growth and Social Value.</p>	
<ul style="list-style-type: none"> <li>• <b>Key findings</b> (<b>think about</b> any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)</li> </ul> <p>Tenders will be assessed with 70% of the tender being attributed to quality with much of the quality relating to EDCI.</p>	
<ul style="list-style-type: none"> <li>• <b>Actions</b> (<b>think about</b> how you will promote positive impact and remove/ reduce negative impact)</li> </ul> <p>Contractors performance will be monitored against key EDCI objectives</p>	

<b>5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.</b>	
Date to scope and plan your impact assessment:	n/a
Date to complete your impact assessment	n/a
Lead person for your impact assessment (Include name and job title)	n/a

<b>6. Governance, ownership and approval</b>		
Please state here who has approved the actions and outcomes of the screening		
<b>Name</b>	<b>Job title</b>	<b>Date</b>
P Russell	Civil Engineering Manager	05/10/2020
<b>Date screening completed</b>		

<b>7. Publishing</b>	
<p>Though <b>all</b> key decisions are required to give due regard to equality the council <b>only</b> publishes those related to <b>Executive Board, Full Council, Key Delegated Decisions</b> or a <b>Significant Operational Decision</b>.</p> <p>A copy of this equality screening should be attached as an appendix to the decision making report:</p> <ul style="list-style-type: none"> <li>• Governance Services will publish those relating to Executive Board and Full Council.</li> <li>• The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions.</li> <li>• A copy of all other equality screenings that are not to be published should be sent to <a href="mailto:equalityteam@leeds.gov.uk">equalityteam@leeds.gov.uk</a> for record.</li> </ul> <p>Complete the appropriate section below with the date the report and attached screening was sent:</p>	
For Executive Board or Full Council – sent to <b>Governance Services</b>	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate <b>Directorate</b>	Date sent:
All other decisions – sent to <a href="mailto:equalityteam@leeds.gov.uk">equalityteam@leeds.gov.uk</a>	Date sent: