

## **Wiltshire Council**

### **Cabinet**

**11 June 2019**

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**Subject: Award of the New Highways Term Consultancy Contract**

**Cabinet Member: Cllr Bridget Wayman, Cabinet Member for Highways, Transport and Waste**

**Key Decision: Key**

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#### **Executive Summary**

In September 2018 Cabinet approved the invitation of tenders for a single supplier to provide Wiltshire's Consultancy Services from 1 December 2019 for a duration of five years, with the option to allow the service manager to extend the contract for up to two more years subject to performance.

A procurement exercise, which followed the two stage process, was undertaken in accordance with the Council's procurement procedures. Stage one of the procurement commenced on 26 November 2018. Potential bidders were invited to complete the selection stage documents. These submissions were evaluated, and a shortlist of suitable bidders was prepared.

Stage two of the process was the invitation to tender in which the shortlisted consultants were invited to submit tenders by 29 March 2019.

The tender assessment process consisted of the consideration of tenders in terms of price and quality, using the Price/Quality weightings of 50/50 as described in the tender documentation and in accordance with the procurement procedures.

The detailed scoring and financial information is contained in a confidential report to be considered in Part 2 of this meeting.

#### **Proposal**

It is recommended that Cabinet delegates authority to the Director, Highways and Environment to award the Wiltshire Highways Term Consultancy Contract, instruct legal to execute all necessary documentation: that officer should consult with the Director of Finance and Procurement and the Cabinet Member, Highways, Transport and Waste.

### **Reasons for Proposal**

- (i) There is a need for specialist advice and support in connection with roads, bridges and related services. Awarding the Highways Term Consultancy Contract is considered to be the most economical way to provide this.
- (ii) The tender documents were assessed in terms of Price and Quality as set out in the report to Cabinet on 25 September 2018. The quality of the service is important because the contract is substantially involved with design work. Poor quality design can have a disproportionate effect on construction costs, especially in terms of capital road and bridge maintenance work which will form a large proportion of the workload.
- (iii) The most advantageous tender for the Council, taking into account quality and price, should be accepted in accordance with the procurement procedures.

**Alistair Cunningham**  
**Executive Director**

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### Purpose of Report

1. To approve the award of the New Wiltshire Council Highways Term Consultancy Contract.

### Relevance to the Council's Business Plan

2. Procurement of a new Wiltshire Council Highways Term Consultancy Contract will help meet the priorities of the Council's Business Plan 2017 – 2027, including:
  - Growing the Economy:
    - High Skilled Jobs (Employment)
      - Ensuring the Consultant establishes a local office will provide additional employment opportunities, including apprenticeships.
      - Promoting and informing school children of the career opportunities in, and associated with Engineering.
    - Transport and Infrastructure (Access)
      - By providing assistance to the highways teams in bidding and managing the successful delivery of highway schemes for improved road infrastructure and strategic roads and rail services.
  - Strong Communities:
    - Safe Communities (Protection)
      - The use of the latest design and specification considerations for road improvements will help improve safety, reducing casualties and the risk of flooding to properties.
  - Working with Our Partners:
    - Community Involvement
      - Ensuring appropriate consultation with local communities as part of the design process.
    - Performance
      - Through the delivery of successful schemes to program.
    - Change
      - Continuously reviewing performance and results, and applying lessons learned on schemes will ensure an improved experience for the customer and staff.
    - Delivering Together

- By ensuring the Consultant acts as the Council's partner and promotes a shared vision for all public services, providing the best outcomes for our communities.

## **Background**

3. On 25 September 2018 Cabinet resolved:
  - (i) That tenders be invited for a single supplier to provide Wiltshire's Council Highway Term Consultancy Services from 1 December 2019.
  - (ii) That the contract be tendered in accordance with the Council's procurement procedures, for a duration of five years with the option to allow the service manager to extend the contract for up to two more years subject to performance.
4. The appointment of a new Highways Consultant would ensure assistance with the delivery and management of important aspects of the highway service, enabling the authority to carry out its duty to maintain the highways network and related infrastructure in accordance with the Highways Act and other legislation.
5. The Highways Consultant would also support delivery of the Wiltshire Council Business Plan priorities of Growing the Economy and Strong Communities in terms of improving road and rail infrastructure, supporting housing and employment growth by tackling the maintenance backlog on the roads, addressing congestion and 'pinch points' on the road network and successful bidding for future government funding linked to the delivery of the Swindon and Wiltshire Strategic Economic Plan, funding of new infrastructure and improvements to the strategic roads and rail network.
6. It is proposed that the new contract would come into operation on 1 December 2019 in order to continue service provision at the end of the existing contract.

## **Main Considerations for the Council**

7. The procurement has followed the restricted procedure advertised in accordance with the EU Procurement Rules. This involved tenderers being invited to bid following an initial selection process based on their capabilities and experience. This ensured that those being invited to tender met the minimum requirements to deliver the services. The process followed in inviting tenders and the assessment methodology is described below.
8. The return date for the shortlisted tenderers completed bid documents was midday on the closing date of 29 March 2018. The tender documents included both price and quality elements, which are taken into account in awarding the contract.

### Tender Assessment

9. The tender evaluation was carried out on the basis of the 50/50 Price/Quality proportions as set out in the contract documentation. These proportions recognised the equal importance of price and quality for this particular service.

10. The price and quality assessments were carried out separately, and the results were then combined to determine the overall tenderer score.

### Quality Assessment

11. The tenderers were required to provide responses in accordance with the information set out in the Quality Questionnaire, which was in two parts:

**Part 1** – Information from tenderers – this was supplemental information that is not scored.

**Part 2** – Undertakings and Associated Measurement Mechanisms – these form part of the quality questions and each undertaking was scored out of ten.

12. The tenderers were required to provide ten clear undertakings for each of the ten performance objective, along with associated measurement mechanisms.

13. The ten performance objectives are:

- A. General Management
- B. Financial Management
- C. Customer Service and Quality
- D. Health and Safety
- E. Staffing Issues
- F. Service Development and Innovation
- G. Information Technology
- H. Environmental Management
- I. Technical Performance – Quality
- J. Technical Performance – Programme and Cost

14. The responses were assessed by a panel comprising the relevant Heads of Service and officers who have had extensive experience of the type of work to be procured through the Contract. The response to each undertaking was given a score of up to ten. The individual scores were reviewed and moderated in order to determine a score for each question.

15. The maximum scores for each quality question is indicated in the table below:

| Question Number                                  | Maximum Available Score |
|--------------------------------------------------|-------------------------|
| <b>A1 to A10</b> - 10 marks per each undertaking | 100                     |
| <b>B1 to B10</b> - 10 marks per each undertaking | 100                     |
| <b>C1 to C10</b> - 10 marks per each undertaking | 100                     |
| <b>D1 to D10</b> - 10 marks per each undertaking | 100                     |
| <b>E1 to E10</b> - 10 marks per each undertaking | 100                     |
| <b>F1 to F10</b> - 10 marks per each undertaking | 100                     |
| <b>G1 to G10</b> - 10 marks per each undertaking | 100                     |
| <b>H1 to H10</b> - 10 marks per each undertaking | 100                     |
| <b>I1 to I10</b> - 10 marks per each undertaking | 100                     |

|                                                         |             |
|---------------------------------------------------------|-------------|
| <b>J1 to J10 - 10 marks per each undertaking</b>        | 100         |
| <b>Interview Question 1</b>                             | 10          |
| <b>Interview Question 2</b>                             | 10          |
| <b>Interview Question 3</b>                             | 10          |
| <b>Total Maximum Available Quality Evaluation Score</b> | <b>1030</b> |

### Tenderer Interviews

16. Tenderer Interviews were held on 16 April 2019. Three specific questions about the service provision were provided to the Tenderers a week in advance of the interview. The responses to the questions at the interviews were scored by a panel of officers.
17. The three questions were scored out of ten and added to the score for the undertakings to form the Quality Evaluation Score.
18. The Total Quality Score for each Tenderer was then calculated as a percentage of the Maximum Quality Ratio (50%) relative to the total score received for the Quality Evaluation Score. For example, if the Tenderer receives 100% of the available marks, they would be awarded a score of 50% for Quality. If the Tenderer receives 50% of the available total marks they would be awarded a score of 25% for Quality.

### Price Assessment

19. Tenderers had to price a schedule of items for a basket of goods representing the hours of work anticipated to be ordered through the contract during a typical year. The Price List contained a schedule of items based on the type of resources required in the contract. The Council has good information on works ordered during the current contract, and can identify likely annual resource requirements with a good level of accuracy.
20. Tenderers had the opportunity to provide different prices for the defined resources required to be provided under the contract. For example, a Design Engineer working on major schemes and capital projects would be required to have a different knowledge of design than one required to provide design works for highway major maintenance works. This provided the opportunity to provide specific rates for different types of work.
21. The Total Price score was calculated by ranking the Tenderers' Total Price, with the lowest price allocated the maximum weighted score contribution. Remaining tenders are awarded a weighted contribution score pro rata the most competitive tender.

### Combined Quality/Price Scores

22. The price and quality scores were combined to achieve an overall tender score for each tenderer.

23. The tender assessment process recognised the vital importance of obtaining cost-effective services, and has also taken into account the importance of the quality of the services provided by the consultant.

### **Overview and Scrutiny Engagement**

24. The Environment Select Committee considered a report on the options for the re-procurement of Wiltshire Council Term Highways Consultancy Service in September 2018. Recommendations made by the Environment Select Committee were included in the report subsequently considered by Cabinet.
25. The Environment Select Committee received an update on progress at its 23 April 2019 meeting. During 23 April 2019 meeting, when the Committee received an update on the item, the Committee resolved to consider the outcome of the tender assessment; once the information can be made available to the public (following 30 April Cabinet). The Committee are due to receive this information at 18 June 2019 meeting.

### **Safeguarding Implications**

26. The contract requires the Highway Consultant to comply with current legislation and any subsequent revisions, as well as with the Council's Policies and Procedures for the Safeguarding Adults in Wiltshire.

### **Public Health Implications**

27. Improving road safety is an important aspect of the highway service. The Highway Consultant will be required to have access to the latest design guides and specifications, as well as having wider experience in the use of new materials and technologies to improve safety. This will assist in the design of safe accessible road layouts, reducing pinch points and congestion. The consultant's work will also help the Council in improving air quality, promoting greater highway use by pedestrians and cyclists, and reducing the possibility of accidents and the numbers killed and injured on the road network. Consideration will also be given to involving the consultant in key public health strategies such as environmental elements of the obesity strategy.

### **Procurement Implications**

28. The new contract will deliver consultancy services that support the Council's highway teams in delivering a range of highway services, and assisting the authority with specialist designs, studies investigations and funding bids.
29. The procurement has followed the Restricted Procedure, was a two stage process, including the relevant OJEU notices and procedures. The Council's Procurement Team has been actively involved in the process and has monitored the procurement and tender assessment process to ensure it is carried out properly and to reduce the risk of a legal challenge.
30. The scope and details of the new contract have been developed to take into account a number of factors, including accurately delivering work to time and budget. It also includes contract undertakings and associated measurement mechanisms to ensure there is a robust contract management process.

## **Equalities Impact of the Proposal**

31. An initial equality analysis was carried out, and it was concluded that vulnerable people or communities would not be directly affected by the award of the new consultancy contract. However, it did acknowledge that staff employed by the current consultant would have concerns over their future employment and transfer to a new provider. TUPE regulations have been applied to these staff as part of the procurement process. No Council staff will be transferred as a result of the award of this contract.
32. The successful tenderer has been required to demonstrate good practice in terms of employment policies and practices, and conform to the Council's standards and behaviours framework. The tenderers' employment policies have been taken into account in assessing the tenders, and will be monitored during the contract.
33. The successful tenderer will need to demonstrate that they have robust health and safety procedures and training programmes in place.

## **Environmental and Climate Change Considerations**

34. As part of the procurement process the bidders had to provide a series of undertakings that they would put in place to demonstrate their approach to environmental considerations and innovations, including reducing their carbon emissions during the life of the contract.
35. The procurement of the new contract offers the Council the opportunity to obtain specialist technical support to achieve environmental improvements, especially in terms of reduced carbon footprint and recycling of materials in connection with the Works Contracts. The existing Highways Consultant has introduced road construction techniques to reduce landfill and the environmental impact of the Council, including the introduction of energy efficient LED lighting units, and this is expected to continue with the new contract.
36. The tender assessment process for the new consultancy contract has taken into account the environmental management policies of the tenderers in the quality assessments. A questionnaire was issued at the Pre-Qualification Stage and required the potential tenderers to have suitable environmental management policies in place before being invited to tender.

## **Risks that may arise if the proposed decision and related work is not taken**

37. It is important that a suitable consultant is appointed to enable the contract to start on 1 December 2019 when the existing contract ends. In the event of the contract not being awarded, it may be possible to make temporary arrangements for the provision of some of the critical services through the Bloom Consultancy Services or by other arrangements.
38. The use of temporary consultancy arrangements may enable the delivery of smaller works/design packages over shorter time periods, but it would not enable the procurement of the whole service, which is designed to provide continued

highway support over a minimum five year period, and there would be potential TUPE and cost implications.

39. If a contract is not awarded there is a risk of delays to highway improvement works due to designs not being completed in time, and that the Council may not be in a position to submit bids in order to take advantage of opportunities to bid for central government funding.
40. The early award of the contract and an early start on preparations for the new contract would reduce the risk of potential adverse impact on costs and poor service delivery.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

41. There is a risk that despite the stringent procurement procedure and assessment processes that the selected consultant does not meet expectations, and that performance is not as good as anticipated. In order to reduce this risk, the Consultant's performance will be monitored against agreed undertakings and their associated measurement mechanisms. There is an incentive for good performance through the contract extension mechanisms.
42. The new contract will be managed through established and clearly defined processes. An Annual Highways Review of Service report will continue to be submitted to the Environment Select Committee, reporting on performance of the highways consultant and contractors.
43. Careful consideration was given to the scope of the new contract, including a lessons learned exercise to ensure that the scope included what worked well under the current contract, and identifying areas where improvements could benefit the Council. The results of these reviews were incorporated into the new contract provisions.
44. There is a risk that there could be a legal challenge to the contract award. There is a ten day standstill period following award during which this could happen. The processes followed in procuring the contract have followed due diligence in order to reduce this risk.

### **Financial Implications**

45. There was an identified risk that tendering the new contract could result in increased costs.
46. A comparison of the tendered rates with the existing rates has been carried out and the results are described in the Part 2 item to be considered at this meeting.
47. The financial assessments of the bids were compiled in line with the evaluation criteria within the tender documentation. The financial implications of the contract award are described in the Part 2 item to be considered at this meeting

### **Legal Implications**

48. The Council has a duty to maintain the highways network and related infrastructure. The new consultancy contract helps deliver and manage important

aspects of the highways service, and helps ensure that the Council meets its obligations under the Highway Act and other legislation. The new Contract and the appointment of a suitable supplier will help ensure that the services are provided to the standard necessary for the Council to fulfil its statutory duties.

49. The transfer of staff under TUPE from the existing service supplier to any new supplier will be managed with appropriate legal advice as part of the contract procurement and transition process. This will include the protection of pension rights of transferring staff through either access to the Local Government Pension Scheme or a broadly comparable scheme.
50. It is important that the procurement process and contract award follow the correct processes in order to avoid legal challenges during the process which could delay or prevent the start of any new arrangements.

### **Options Considered**

51. It is necessary for the Council to award a new contract because the existing contract will end in November 2019. The contract provides support for services which are important to the Council and the communities in Wiltshire, including highway improvement works and surfacing schemes throughout the county.
52. There are safety, legal, reputational and financial risks associated with not having a suitable consultancy service, or other arrangements, available to assist the highways service in carrying out its statutory duties.
53. Following publication of the OJEU notice the tender documents were made available to potential bidders from 26 November 2018. Despite an initial interest from a number of consultancy companies, two completed questionnaires were received from companies which met the requirements, and they were invited to submit tenders by 29 March 2019.
54. The tenders assessment process takes into account price and quality in accordance with the procedures set out in the tender documents.

### **Conclusions**

55. It is concluded that there is a need for specialist technical advice and support in connection with roads, bridges and related highway services, and that this should be provided by awarding the new Wiltshire Highways Term Consultancy Contract to the preferred bidder. The results of assessment to identify the preferred bidder are described in the Part 2 item to be considered at this meeting.

### **Parvis Khansari (Director - Highways and Environment)**

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**The following documents have been relied on in the preparation of this report:**

**Appendices**

None

**Background Papers**

None