

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
CABINET

Date: 24th April 2019

REPORT TITLE Award of Air Quality Local Development Plan -
Technical Consultant Contract

Submitted by: Head of Environmental Health – Nesta Barker

Portfolio: Environment & Recycling

Ward(s) affected: All

Purpose of the Report

To approve the procurement approach taken and award of a contract for the Air Quality Local Development Plan Technical Consultant work

Recommendations

That the Chief Executive is authorised to enter into a contract by direct award (and inform the Cabinet member for Environment and Recycling), to a known and previously used supplier for the delivery of technical consultancy work required to meet Ministerial Directive relating to Air Quality deadline of 31st October 2019.

Reasons

To carry out a transport, air quality and economic assessment of a range of measures in order to identify a preferred option for achieving compliance with the legal limits in the shortest possible time as mandated by JAQU (Joint Air Quality Unit - DEFRA / Department of Transport) as a key part of the production and delivery of the Outline Business Case and Full Business Case to JAQU by 31st October 2019.

1.0 Background

- 1.1 The Borough of Newcastle-under-Lyme and City of Stoke-on-Trent, like many areas across the UK, continues to experience areas of poor air quality. The relevant Councils were highlighted by DEFRA as two of a number of Local Authorities where the UK's national air quality assessment has identified road links that are currently exceeding the annual mean nitrogen dioxide (NO₂) limit value, with exceedances predicted to continue in 2019 and beyond.
- 1.2 In October 2018, Ministers Coffey and Norman for the Department for Environment, Food and Rural Affairs (DEFRA) and Department for Transport (DfT) respectively, served the ministerial direction on the Council; this was served under the provisions of The Environment Act 1995 (Feasibility study for nitrogen dioxide compliance) (No 2). This work is being co-ordinated by the Joint Air Quality Unit (JAQU).
- 1.3 The Ministerial directions formally mandate several local authorities (including Newcastle-under-Lyme Borough Council) to undertake further work with the main objective being to explore options for reducing levels of nitrogen dioxide in the air.

1.4 The direction requires:

Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council to jointly further investigate EU exceedances of nitrogen dioxide (NO₂) on roads within the Borough and identify measures that could bring forward compliance with NO₂ limits as soon as possible or review the implementation of a chargeable clean air zone.

At its meeting on 6th February 2019, Cabinet received a report setting out a range of actions required to respond to the Ministerial Directions. Cabinet resolved to note the Ministerial Directions, the actions and statutory deadlines associated with them, and the arrangements proposed to involve Members in the development and assessment of potential options and the production of a preferred policy.

Members were all in agreement that a charging Clean Air Zone would not solve the problem but would move it elsewhere. It would also have a detrimental impact on small local businesses. Members expressed a preference for a highway led solution.

Cabinet further resolved that the Leader of the Council write to Mr Paul Farrelly MP asking for his involvement and support in taking up the case with Central Government and to actively lobby against any 'charging Clean Air Zone' on the A53 (Basford Bank area).

1.5 Members received a further report on 20th March 2019, which outlined the content of the Strategic Outline Case which included undertaking a qualitative assessment of a longlist of measures. This resulted in a shortlist of preferred options to take forward to the next stages of the business case process. Cabinet resolved to note the content of the Strategic Outline Case and approve the proposed shortlist of measures to be further evaluated as part of the Air Quality Local Plan Development works required by DEFRA.

1.6 The shortlist will include the following packages of options:

- 1.6.1 Etruria Valley Road and A500 Improvements, plus Council boundary scale Low Emission Strategy
- 1.6.2 A city centre / A53 traffic management scheme, plus Council boundary scale Low Emission Strategy
- 1.6.3 A city centre / A53 Workplace Parking Levy, plus Council boundary scale Low Emission Strategy
- 1.6.4 A Council boundary scale Workplace Parking Levy, plus Council boundary scale Low Emissions Strategy
- 1.6.5 A city centre / A53 chargeable access restriction (Class A / B / C or D)

2.0 **Issues**

- 2.1 The timely award of a contract for the work required to carry out the transportation, air quality and economic assessment to support the selection of a preferred option to meet compliance with the legal (NO₂) limits.
- 2.2 This assessment needs to identify whether the proposed options will achieve compliance with the limit values and whether this is likely to be achieved by 2021 as a primary objective.
- 2.3 Given the mandated short timescales associated with delivery of this work and the existing contract with a suitable specialist provider on this project, the Council have not advertised this opportunity nationally via contracts finder (even though the contract value exceeds

£25,000 the limit at which Public Contract Regulations (PCR) 2015 requires appropriate advertising).

- 2.4 A specification of requirements linked to the delivery of this contract has been developed by Head of Environmental Health (Senior Responsible Officer for Air Quality Project) with approval from the Councils' Procurement, Stoke-on-Trent City Council and JAQU.

3.0 **Proposal**

- 3.1 That the Cabinet member for Environment and Recycling, in consultation with the Chief Executive, is authorised to enter into a contract with the preferred supplier for the Air Quality Local Development Plan Technical Consultant work by direct award.

4.0 **Reasons for Preferred Solution**

- 4.1 This is essential work which is required to comply with Ministerial Direction served on Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council regarding serving their responsibility for Air Quality improvements by 31st October 2019.

5.0 **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 5.1 This work links to the following corporate priorities:

- 5.2 • Local Services that Work for Local People – There is a need to ensure that the transport systems are maintained and work for local people.
- 5.3 • Healthy, Active and Safe Borough – Air quality impacts are significant, they account for reduced life expectancy and adverse impacts on health and the economy, therefore improving air quality for our residents will not only help save lives but will also improve life expectancy.
- 5.4 • A Town Centre for All – The town centres are within designated air quality management areas, this work will assist in delivering wider improvements in air quality across the town centre.

6.0 **Legal and Statutory Implications**

- 6.1 To ensure that air quality is improved for the Borough's residents supporting their health and wellbeing. Under Part IV of the Environment Act 1995, Local Authorities have a legal duty to review and assess air quality in their areas and to report against objectives for specified pollutants of concern, to the Department for Environment, Food and Rural Affairs (DEFRA). Air Quality Objectives are defined in European Directives that are incorporated within UK Air Quality Strategies and Regulations.
- 6.2 The ministerial direction served on the Council under the provision of The Environment Act 1995 (Feasibility study for nitrogen dioxide compliance) (No 2) is legally binding. Failure to comply with the Direction may result in Judicial Review proceedings being brought against the Council. Any such proceedings may result in adverse costs awards being made against the Council.
- 6.3 The procurement approach that has been adopted involves the use of a compliant framework and as such offers some mitigation and reduces the risk to the Council of a challenge being made concerning the appointment of the successful provider.

6.4 Officers have identified the Project Management & Full Design Team Services Framework RM 3741 (Lot 5) <https://ccs-agreements.cabinetoffice.gov.uk/contracts/rm3741> which is operated by Crown Commercial Services (CCS) as the most appropriate OJEU compliant procurement framework.

6.5 Under this OJEU compliant framework, relevant services can be procured via either a mini competition amongst the relevant framework suppliers listed or via a direct award to one of these suppliers (so long as the council can evidence the reason for such an approach). Following discussions with CCS this contract will be awarded by way of a direct award.

6.6 The appointment of the preferred provider will be subject to them meeting the council's insurance requirements, demonstrating adequate risk management and health and safety arrangements and having the relevant skill sets in place to meet the needs of the specification issued.

7.0 **Equality Impact Assessment**

7.1 The development of the Air Quality Local Development Plan includes a requirement to produce an assessment of the strategic case, economic case, commercial case, financial case and management case; therefore all aspects will be reviewed as part of the proposed work.

8.0 **Financial and Resource Implications**

8.1 The cost of this contract is quoted to be £566,583 subject to final clarification with the contractor.

8.2 It should be noted that the costs incurred in the delivery of this contract will continue to be recorded and reported to JAQU to be fully reimbursed.

8.3 DEFRA has confirmed a commitment to cover the costs of the further study via grant. So far a grant commitment of £500,000 has been provided for the completion of the Air Quality Local Development Plan.

9.0 **Major Risks**

9.1 Failure to appoint technical specialists within this time frame will disable the Councils' ability to meet the Ministerial Directive and may result in further legal action being taken against Newcastle-under-Lyme Borough Council.

10.0 **Key Decision Information**

10.1 The contract value of over £50,000 makes this a key decision item.

11.0 **Earlier Cabinet/Committee Resolution**

11.1 Cabinet Report Air Quality - Second Ministerial Direction 4th October 2018

Cabinet Report Air Quality 6th February 2019

Cabinet Report Air Quality Ministerial Direction – Strategic Outline Case 20th March 2019

12.0 **List of Appendices**

12.1 None

13.0 **Background Papers**

13.1 None.