

**Clean Air Zone Programme FBC Private Cabinet Report
Appendix B2 – Procurement Strategy (Public)**

1. Executive Summary

1.1. Background

Following the Government Issued Air Quality Standard Regulation in 2010, DEFRA updated its Air Quality plans and identified Birmingham as a city with significant air quality problems. In response to this Birmingham City Council has initiated a programme of works which will implement air quality improvement in and around the city centre of Birmingham. The programme known as 'Brum Breathes' is encompassing of five programmes of work which collectively achieve the overall aims and objectives. The five programmes are: Early Measures, Clean Air Zone (CAZ), Air Quality Policy, Environmental Developing Infrastructure and Behaviour Change. This document outlines the procurement strategy for the CAZ programme of works.

The CAZ Programme requires a number of highways and infrastructure improvement projects to be undertaken in order to achieve successful delivery of the anticipated benefits. These projects will be managed by the City Council project delivery team; however the supply chain will be engaged through existing frameworks and other procurement routes available to the City Council. This document outlines the various procurement activities which will be undertaken on this programme of work. A number of non-infrastructure projects are also required which will deliver the package of mitigation measures.

1.2. Scope and Specification

The scope of work is detailed in the Options Appraisal (PDD) Report which this Procurement Strategy is appended to. For reference, a scope summary and procurement route for each element is included below as Table 1.

Project	Scheme	Type (Goods / Services / Works) & Value (indicative)	Framework Procurement Route
Main CAZ	Civils	Works	Birmingham City Council Highways and Infrastructure Works Framework
Main CAZ	ANPR Cameras	Works	Existing BCC service provider (Capita)
Main CAZ	Design Checking Commercial & Construction Support	Services	BCC's Multi-Disciplinary Transportation Professional Services Framework (WMTPS)
Back Office	IT Infrastructure - Systems	Works	Existing BCC service provider (Capita)
Back Office	IT Infrastructure – Data Centre	Works	Existing BCC service provider (Capita)

Additional Measures	Controlled Parking Zones	Works	Birmingham City Council Highways and Infrastructure Works Framework
Additional Measures	Suffolk Street Queensway (A38) NORTH	Works	Birmingham City Council Highways and Infrastructure Works Framework
Additional Measures	Suffolk Street Queensway (A38) SOUTH	Works	Birmingham City Council Highways and Infrastructure Works Framework
Additional Measures	Dartmouth Middleway - Jct. Lister & Great Lister	Works	Birmingham City Council Highways and Infrastructure Works Framework
Additional Measures	Dartmouth Middleway – Jct. Great Lister Public Transport	Works	Birmingham City Council Highways and Infrastructure Works Framework
Additional Measures	Dartmouth Middleway – Moor Street Queensway to Masshouse	Works	Birmingham City Council Highways and Infrastructure Works Framework
Professional Services	Project Management, Cost Management and Project Controls	Services	Birmingham City Council Highways and Infrastructure Professional Services Framework
Mitigation Measures	M1a – SWIFT Credit, Low Income	Services/COGA	BCC – CAZ Admin Team
Mitigation Measures	M1b – SWIFT Credit, Scrappage	Services/COGA	BCC – CAZ Admin Team
Mitigation Measures	M2a – Hackney Carriage LPG Retrofit	Services/COGA	BCC – CAZ Admin Team
Mitigation Measures	M2b – ULEV Hackney Carriage Lease	Goods	BCC – CAZ Admin Team
Mitigation Measures	M2c – Private Hire Vehicle Support	Services/COGA	BCC – CAZ Admin Team
Mitigation Measures	M3 – EV Network Credit	Goods	BCC – CAZ Admin Team
Mitigation Measures	M4 – HGV Funding Competition	Services/COGA	BCC – CAZ Admin Team
Mitigation Measures	M5 – Marketing	Services	BCC – CAZ Admin Team

Mitigation Measures	M6 – Residents Parking Scheme	Works	Birmingham City Council Highways and Infrastructure Works Framework
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2. Procurement Routes

2.1 Contractor Responsibility

Given the low definition of the projects and significant programme pressures, the Design and Build approach is the most desirable procurement route for the works elements of the scheme. The contractor will be able to assist in finalising the scope, programme and delivery methodologies. The design and build contractor will take design responsibility from the scheme designs already developed by BCC's appointed designers in support of the OBC and FBC. For schemes with reduced programme pressure and smaller works cost a more traditional approach can be taken by appointing Consultants to design the works and using the smaller Lots on the construction framework to deliver the works.

2.1 Route to Market – Goods and Professional Services

To support the delivery of the above schemes there will be a requirement for professional services such as project management and programme management, and design work etc. The Council's approved route to procure the resource to provide these services will be using the Council's West Midlands Transportation Professional Services Framework Agreement and the Crown Commercial Services (CCS) Traffic Management Technology 2 Framework.

Where it is found that these framework agreements do not cover the scope of goods or services required or the organisations on the framework agreement do not have the capacity to deliver, alternative procurement routes will be considered including using alternative public sector framework agreements or carrying out a full procurement process. The selected route will be carried out in accordance with the Council's Procurement Governance Arrangements.

The proposal to manage the implementation of the package of Mitigation Measures for the CAZ scheme would be to recruit a Team to work in house directly for BCC on a short term contract.

The IT elements of the scheme whether advice, design or works will be procured through the existing partnering arrangement with Capita (ICTDS).

2.2 Route to Market – Works

The Council's Highways and Infrastructure Works Framework Agreement is the Council's approved route for these types of works and will be the procurement route utilised. The procurement route will follow approved processes in the Framework Contract.

The works programme is particularly challenging and there is a risk that there will be a reluctance from some Contractors to tender for the works. This may require adjustments to the strategy set out in section 4 and these would be dealt with in a Delegated Authority report to the Cabinet Member setting out any revisions required to remain on programme and deliver by 2020.

Where it is found that these framework agreements do not cover the scope of works required or the organisations on the framework agreement do not have the capacity to deliver, alternative procurement routes will be considered including using alternative public sector framework agreements or carrying out a full procurement process.

The selected route will be carried out in accordance with the Council's Procurement Governance Arrangements.

2.3 Available Framework Procurement Routes

Type	Project	Framework	Start Date	End Date
Goods	Main CAZ	CCS Traffic Management Technology 2	October 2016	October 2020
Services	Main CAZ	WM Transportation Professional Services	October 2015	October 2019
Works	Main CAZ	BCC Highways and Infrastructure Works	October 2014	September 2019*
Works	Back Office	Capita ICTDS	March 2013	March 2021
Works	Additional Measures	BCC Highways and Infrastructure Works	October 2014	September 2019

*Note – works can be undertaken beyond the completion date of the Framework if orders are already placed under the current framework.

3. Contract Model

3.1 Contract Form

The nominated Framework Procurement Routes mandate use of the New Engineering Contract version 3 (NEC3) suite of contracts. The NEC3 contract suite will therefore be utilised on all contracts awarded through a nominated Framework Agreement.

Where an alternative route of procurement is required, an NEC3 contract will be the preferred form of contract.

Table 2 below outlines the NEC3 contract type to be utilised by each project type.

Project Type	NEC3 Contract Type
Goods	Supply Contract
Professional Services	Professional Services Contract
Works	Engineering and Construction Contract

3.2 Payment Mechanism

The NEC3 contract suite provides options on payment mechanism (option A-F). The Framework contracts set up by BCC have payment mechanisms set out in them and these arrangements will be followed on each project as below.

Type	Framework Procurement Route	Payment Terms
Design	BCC's Multi-Disciplinary Transportation Professional Services Framework (WMTPS)	30 Day from application
Civil; Infrastructure works	Birmingham City Council Highways and Infrastructure Works Framework	30 Day from application
Technology; ANPR cameras and supporting systems	Existing BCC service provider (Capita)	30 Day from application

Due to programme being the key driver and challenge that will be encountered in co-ordination and delivery of work between both civil related and technology related construction works (based on procuring these separately), then consideration of some form of incentivisation model will be considered. There are a number of incentive models that may be adopted as shown below;

- Contractor Share Percentage – Allows the financial performance of the contractor to be rewarded for any underspend or the Employers financial risk exposure to be limited if any overspend occurs;
- Milestone Incentives - Contractor(s) can be incentivised against meeting key dates of a particular contract or programme;

4. Procurement Delivery

4.1 Overview

The tender option to be utilised wherever possible throughout the CAZ programme for works is a Tender or the 'Mini Competition through an existing Framework'. This is a competitive bidding situation where the contract is agreed following a competitive tendering process where the award is often made to the most economically advantageous tender (MEAT principle). Tenders being evaluated by a set of quality, social value and price criteria requirements as well as providing significant other benefits as outlined within the CAZ commercial case

4.2 Tender Structure

The procurement proposals for the various elements of the Main Caz scheme are set out below:

Main Civils Procurement

In view of the complexity, variety and volume of works and services to be delivered within extremely tight timescales, a traditional approach to delivery contractor procurement is not deemed suitable on the grounds of cost, time and risk reduction. The normal process would include issuing Tenders to all Lot 4 Framework Contractors based on a Price, Quality & Social Value Assessment. This results in evaluating up to 6/7 Tender submissions that can add several weeks to a scheme Programme.

The CAZ team has taken the view that a more innovative, flexible and participative approach to the procurement should be taken that has been used successfully on other schemes with challenging programme's.

Therefore, it is proposed to adopt Design and Build with Early Contractor Involvement (ECI) as the delivery process and utilise a pre-selection process to reduce the number of tenderers and subsequently cut down the evaluation and appointment process. This would allow the designing and planning of the CAZ project scheme with the contractor(s) as a partner thereby increasing the likelihood of the Council being able to meet the Programme delivery dates, have sufficient time to produce robust designs, meet the expenditure profile but also increase transparency and therefore reduce risk, and limit the reasons for any future contractual disputes.

The Highways and Infrastructure Works Framework Agreement will to be used as the procurement route to call-off works. The framework Agreement is suitable to use ECI and Lot 4 is utilised for Works above £500,000. It is felt that this route will not subject the council to challenge as all Lot 4 Contractors were given the opportunity to tender for the works. The greater risk to the project is an extended Tender and Assessment Period.

Initially, the proposed Design & Build procurement route is to follow the process set out below:

- An Expression of Interest for the scheme was issued to all the Lot 4 Framework Agreement Contractors – Amey, Jacksons, Volker Fitzpatrick's, Dawnus, McPhillips, Fitzgerald's and Balfour Beatty. To identify which Contractors were interested in the works package.
- Four contractors responded confirming an interest and confirming they had the appropriate skills, capacity, experience and reliability to deliver such a project and these were Amey, Jacksons, McPhillip's and Fitzgerald's.
- A pre-qualification stage will further deselect to 2 contractors

- An invitation to tender will be issued to the shortlisted Contractors that will result in the evaluation of tenders with the recommendation to appoint a Contractor(s) to undertake the lead in the detailed design development and construction planning (the ECI process) which would result in the agreement of target prices for packages of work.
- The final stage would be the formalised appointment of the contractor(s) to cover the period of construction and handover of the works by the successful Contractor.
- If the Target Price produced by the Contractor is not acceptable a break clause will be inserted in the Contract that can be enacted at the completion of the Detail Design and ECI stage. The design will be retained by BCC and an alternative delivery partner sought.

The key stages of the procurement process with indicative dates are set out below:

- Engage with Lot 4 Contractors for Expressions of Interest on the D&B Contract – June 2018
- Pre-Qualification (to reduce tenders down to 2) – October 2018*
- Pre-Qualification Evaluation – November 2018
- Tender Period D&B and ECI Contract – November – December 2018
- Tender Evaluation – December 2018/January 2019
- Draft OBC to Defra Approval – September 2018
- PDD Outlining Procurement Strategy – December 2018
- Final Business Case to Defra Approval – November 2018
- BCC FBC Approval – January 2019**
- Appoint ECI Contractor(s) including Design and Build – January 2019
- Stage 1 – ECI to support Detailed Design and undertake Construction Planning - January 2019 to May 2019
- Stage 1- ECI contractor(s) to develop and to agree a Final Target cost - January 2019 to May 2019
- Stage 1 – If ECI Contractor(s) Final Target Price with approved budget in January FBC proceeds to stage 2 and appoint for Main Works Contract.
- Construction Lead in (Part of ECI Stage)– March 2019 to April 2019
- Stage 2 – Main Works Contract - Construction Period – April 2019 to January 2020
- *The Post Implementation Review - End 2020*

*Note there is a risk that at or during the PQQ stage some Contractors may withdraw from the process leaving one contractor involved in the process. At this stage approval will be sought via a Delegated Authority Report to adjust the Procurement Strategy to ensure Programme deadlines are met.

** Note the Contractors cannot be appointed until the FBC is signed in January at which stage works can commence.

Tendering Model - Technology

As part of the Capita partnership and joint venture arrangements, the City Council has appointed Capita (ICTDS) to be its exclusive provider of ICT, for the term of the contract. As the Council's exclusive ICT provider there are contractual day rates that can be applied. The day rates are benchmarked against industry standards to ensure competitiveness and value for money. The ICT

requirement relating to CAZ are in line with the ICT services already provided by Capita, so as such the Council are contractually obliged to procure via Capita (ICTDS).

Capita (ICTDS) have experience of delivering the Bus Lane Enforcement regime that operates within Birmingham with the procurement of the ANPR cameras, the back office and interfaces it is appropriate to use Capita to procure the CAZ ANPR solution and associated charging systems. It is considered this approach will de-risk the implementation and commissioning of the ANPR system which is a critical element of the effective delivery and enforcement of the CAZ, thus further supporting viability and deliverability of the overall scheme of works

Additional Measures

CPZ's /Network Change Schemes

Given the value of these schemes which will be much smaller than the Main CAZ scheme they will be delivered using a more traditional routes. An Indicative proposal is set out below:

- Final Business Case to Defra Approval – December 2018
- PDD Outlining Procurement Strategy – December 2018
- BCC FBC Approval – January 2019
- Mini Bids to engage with Consultants on Lot 2 of BCC's Multi-Disciplinary Transportation Professional Services Framework Contractors for Design of Additional Measures – January 2019
- Appoint Consultant for each Additional Measures package to undertake Feasibility and Detail Design – February -May 2019
- Engage with Lot 2/3 Contractors with Tenders for the Delivery of each Additional Measures Package – May to June 2019
- Tender Evaluation – June 2019
- Appoint Contractor(s) for Build Contracts– June/ July 2019
- Construction Lead in – June/ July 2019
- Main Works Contract - Construction Period – July 2019 to January 2020 (In case of CPZ's this will extend beyond January 2020)
- *The Post Implementation Review - End 2020*

Social Value

Compliance with the Birmingham Business Charter for Social Responsibility (BBC4SR) is a mandatory requirement that will form part of the conditions of all contracts on CAZ. The suppliers undertaking this project work under the Council's Highways and Infrastructure Framework and Agreement and BCC's Multi-Disciplinary Transportation Professional Services Framework are certified signatories to the BBC4SR and will provide additional actions proportionate to the value of each contract awarded. The actions will be monitored and managed during the contract period.

PFI Contract Alignment

Liaison will take place with the Highway Maintenance PFI Contractor through the design development stage to align, where possible, the CAZ works with planned maintenance work.

4.3 Evaluation and Selection

Award criteria, tender evaluation and contract award will be monitored and approved by Commissioning and Procurement Services in order that it complies with the Council's Evaluating Tenders Procedure. Where required by the Council's Procurement Governance arrangements, Social Value criteria will be between 10% and 20% to be set dependent upon the value and complexity of each scheme. Social Value will only be applicable to contracts above the value of £200K for Services, £1M for Goods and £1M for Works. The evaluation of tenders will be undertaken by officers from Infrastructure Delivery Team, supported by the Commissioning and Procurement Services. Where applicable, external consultants will support the Infrastructure Delivery Team officers with tenders evaluation where there is no conflict of interest or confidentiality.

4.4 Contract Management

The contract will be managed by individual Project Managers and will be monitored and report to the Heads of Infrastructure Delivery who will maintain overall responsibility. The contractor's performance in delivery of the services will be monitored via Key Performance Indicators (KPIs).

The NEC3 contracts also require a number of roles to help administer the contract and it is important that the correct resources are selected to fulfil these due to the NEC's very clear requirements regarding roles and processes to administer the contract. The NEC Project Manager role is to manage the contract for the Employer with the intention of achieving the Employers objectives for the completed project. The Supervisor is to check that the works are constructed in accordance with the contract.