

Appendix 2 Option Appraisal Details

Procurement Strategy for Contract Award for Highway Works for up to 7 years commencing April 2022.

Review of Operation of Current Contract -"Lessons Learned"

The current contract was entered into via the London Highways Alliance Contract (LoHAC). The LoHAC was a joint initiative between London's boroughs and Transport for London intended to deliver highways service across London and this arrangement expired in April 2021.

LoHAC provided a framework panel of highway contractors and prospective clients were able to procure contracting services via mini-tenders from within the panel. LoHAC was effectively managed by Transport for London and twelve London Boroughs were party to the framework. The remaining London Boroughs opted to deliver major contracts through other mechanisms such as competitive tenders. Four contractors formed the panel and LoHAC was in operation from late 2012 to early 2021.

TfL's intention was for the majority of major highway works in London to be delivered through LoHAC. Whilst the majority of Boroughs have made use of LoHAC on occasion this has often been for specialist projects and services and many have chosen to enter into contracts for the routine delivery of highway works directly with contractors following a competitive tender.

The contractors available within LoHAC are of a size capable of delivering major highway works projects across London. Islington officers have however experienced difficulties in receiving priority from LoHAC contractors who instead prioritise TfL's much larger work programme.

The conclusion of the review is that a direct and long term contractual relationship is important when delivering both the Statutory Duties of a Local Highway Authority and high profile programmes of works.

Criteria for Option Assessment

Procurement Guidance to make use of Framework arrangements where appropriate.

Direct and long term contractual relationship.

Capability of delivering the range and volume of highway works required by Islington.

The inclusion of Islington values such as supporting local employment, apprenticeships and environmental issues including net zero carbon Islington 2030.

Ability to carry out reactive maintenance works cost efficiently.

Value for money.

Option 1 - Partnering with another borough and using their contract to deliver the Islington Service.

The following summarises a review of identified current contracting arrangements across London with a focus on the twelve central authorities. It identifies that there are currently no suitable opportunities for a partnering arrangement to enable a medium to long term delivery of highway works from mid-2022.

City of London

Carried out their own procurement for highway works. The City of London have their own closed contract with no option for "buy in" so option dismissed.

Camden

Carried out their own procurement for highway works. A relatively short term contract arrangement in two parts. Recently extended to 2023. This arrangement is too short in duration and so dismissed.

Greenwich

Carried out their own procurement for highway works. Mid-way through a five year contract. This arrangement is too short in duration and so dismissed.

Hackney

Carried out their own procurement for highway works. Mid-way through a five year contract. This arrangement is too short in duration and so dismissed.

Hammersmith and Fulham

Carried out their own procurement for highway works. Mid-way through a five year partnership framework arrangement with Kensington and Chelsea. This arrangement is too short in duration, Islington may be a junior partner, and so dismissed.

Haringey

Has its own framework, the London Construction Programme, considered later in this appendix.

Kensington and Chelsea

Carried out their own procurement for highway works. Established own partnership framework arrangement with Hammersmith and Fulham. Whilst a central borough, this geographically remote. Islington may be a junior partner, and so dismissed.

Lambeth

Makes use of LoHAC framework, considered later in this appendix.

Lewisham

Carried out their own procurement for highway works. Elements of highway maintenance contracted separately. Major surfacing contract extended to 2022. This arrangement is too short in duration and so dismissed.

Newham

Makes use of LoHAC framework, considered later in this appendix.

Southwark

Some minor works brought in-house.

Carried out their own procurement for highway works. Remainder and major works under five year contract that commenced 2020. This arrangement is too short in duration and so dismissed.

Tower Hamlets

Contracting arrangements not established.

Waltham Forest

Progressing their own procurement for highway works. Contract due December 2022 for five years. Does not provide for highway works from June 2022 onwards. An option only it is accepted that Islington Values are compromised. Many values will however be shared. No direct contractual relationship though this could be strengthened in any partnering arrangements. This would require a short term "plug" between July and December 2022, discounted due to disproportionate procurement costs and limits the inclusion of Islington Values.

Wandsworth

Carried out their own procurement for highway works. Established a joint partnership with Richmond. Two years into a ten year contract. Whilst a central borough, this geographically remote. Islington may be a junior partner, and so dismissed.

Westminster

Carried out their own procurement for highway works. Six years into a possible twelve year contract. Informal officer contact indicates that this is a closed contract so option dismissed.

Ealing

Carried out their own procurement for highway works. A closed contract with no option for "buy in" so option dismissed.

Option 2 - Entering into a call-off contract from an existing Framework Agreement.

The following summarises the pros and cons of available framework arrangements.

General Pros

Making use of frameworks generally reduce the cost of procurement as contractors within a panel, in this instance highway works, have applied for inclusion on the panel, been vetted as suitable and been awarded a position on the framework panel. The details depend on the arrangements within individual frameworks but broadly potential clients prepare specifications and schedules of items and any specific requirements and commonly invite contractors on the panel to submit to a mini-tender exercise.

The framework costs are directly met by the contractors who then reflect their costs within their rates. The intention is that there are efficiencies in reducing duplication of the first stages of procurement, in this case across London, and that efficiency is reflected within contract prices.

Contractors of the scale suitable to be included on framework panels are able to share good practice and expertise, efficiencies of scale and stable supply chains though this would expected to be the case in the context of Islington's highway works contract with a predicted value of £32 million.

General Cons

The duration of Islington's highway works contract (five years plus an option of two years) diminishes the proportional cost of procurement when compared to short term contracts and those for individual projects.

Pre selection of contractors through a framework reduces the clients' ability to emphasise local values. Issues such as local employment and apprenticeships will be difficult to embed within a contract arrangement intended for use across London or indeed nationally.

Frameworks recently arranged and indeed contractors' working practices will reflect environmental issues but are unlikely to reflect the increasing requirement of net zero carbon. This potentially can be a requirement but may be subject to increased costs as this may not have been fully embedded in the framework arrangements. Frameworks will not reflect Islington's objectives of a net zero carbon Islington 2030.

Management of contractors' resources is subject to demands of other clients, notably Transport for London. Part of the assessment of an Islington tendered contract will be the ability of the tenderers to properly resource and deliver the contract outputs.

Frameworks have a fixed duration and may not readily provide for a five year contract with an option of a further two years.

Pros and Cons of Extending Existing London Highways Alliance Contract (LoHAC) Arrangement

Framework ends March 2021 and does not have any further extension clauses so cannot be extended. Option dismissed.

London Construction Programme

This Framework arrangement is operated by Haringey.

The general pros and cons of using a framework apply to this option.

A number of Boroughs make use of this framework especially for individual projects and this framework has a specific highways Lot with five contractors on that panel. Only three of the five could be considered true London contractors however all have committed to contracting in London. This level of competition is relatively limited.

This framework is fairly flexible in its contract conditions which allows for a greater reflection of Islington Values though these would not be fully embedded. The London Construction Programme operates until mid-2024. Whilst there is an option of extending any contract via this framework the duration is relatively short. For this reason this option is dismissed but it is a viable option.

Pros and Cons of Crown Procurement Framework

Broadly, the Crown Procurement Framework is available to the public sector nationally and includes for civil engineering and highway works. This is available to late 2026 with options for individual contracts to have extensions. These timescales, whilst not quite as long as ideal, do provide for a medium to long term contractual relationship.

The Crown Procurement Framework is split into regions with London being within the “South.” The working environment in the South does vary but London highway work has very specific demands. The panel of contractors within the South may be more geared to other working environments and therefore the potential attractiveness of a contract in Islington may be marginally reduced. There are some London based contractors within the panel but it is a reduced pool from which to draw tendered rates.

The general pros and cons of using a framework apply to this option.

The Crown Procurement Framework has annual financial limits of £3 million, not well suited to a London Borough, and this would require Islington’s works to be split, most likely between major carriageway surfacing and minor highway works. This duplicates procurement costs and is likely to lead to the appointment of two contractors for the two contracts. There are some contractual management advantages in appointing two contractors in this way however these are balanced against the scale of costs advantages that a single contractor would expect when submitting tenders.

Embedding Islington Values within a framework and the opportunity to prepare a contract that fully reflects Islington’s net zero carbon 2030 objectives means that the Crown Procurement Framework is not the preferred option. Using this framework would not reflect the “Lessons Learned” however it is a viable option but at the margins.

Pros and Cons of New London Highways Alliance Contract (LoHAC) Framework

A replacement for LoHAC has been developed and commenced in April 2021. If a framework approach is to be taken then this would be the mechanism to follow.

The general pros and cons of using a framework apply to this option.

The new LoHAC framework is intended to serve London authorities and has been in place for one year. The framework will be in place until 2026 and contracts arranged through this

framework can be extended for a further two years, so the potential duration is comparable to the recommended option.

The new LoHAC framework is relatively contemporary and will address London-wide issues in terms of sustainability and environmental approaches. It will not fully address net zero carbon Islington 2030 however this issue can be partly addressed within any contract entered into via the framework.

It will be more difficult to fully incorporate Islington Values as the framework has been established for works across London.

Industry feedback is not available and many London Boroughs have made their own contractual arrangements for their own reasons however the new framework was prepared to attempt to address criticisms of the previous LoHAC arrangements. It is however likely that the needs of Transport for London programme of works will dominate the contracting resources.

The potential dominance of Transport for London's programme during a period where contracting resources will be under increasing pressure combined with the difficulties in embedding Islington Values within a framework and the opportunity to prepare a contract that fully reflects Islington's net zero carbon 2030 objectives means that the new LoHAC framework is not the preferred option. Using the new LoHAC framework may not reflect the "Lessons Learned" however it is a viable option.

Option 3 - Undertaking a competitive tender exercise.

As identified within the details of appraising Option 1, a significant number of boroughs have procured highway works through a competitive tender process.

This approach was a traditional method of securing contracting services for highway works. Due to a number of factors such as the increasing value of these contracts lead to additional procurement regulations (notices within OJEU, now Find A Tender). To partly address additional administration and partly to take opportunities of efficiencies of scale, collaborative approaches such as framework agreements and partnerships have evolved. As noted in the "Lessons Learned" and the analysis summarised for Option 2 there are pros and cons in frameworks and other boroughs have chosen competitive tenders as a preferred procurement route.

The significant disadvantages (cons) of a competitive tender approach are associated with the procurement costs in terms of staff resourcing and timescales. This proportionately diminishes with longer term contracts and with contracts of high value. The preferred procurement approach is for a five year contract with an option for a further two years and the predicted contract value is approximately £32 million and in this context the costs of procurement are not considered to be a determining factor, though is still a factor.

Of importance is establishing a long term relationship with a contractor to ensure highway works programmes and high profile projects are delivered to agreed timescales. Similarly, embedding, monitoring and building on Islington Values and especially progress towards a net zero carbon 2030 Islington is a key issue. These important matters can be properly addressed through a contract prepared for Islington's needs whereas the use of partnering arrangements or frameworks will involve a level of compromise.

Option 4 - Insourcing and providing the service using Islington resources.

The capacity of Islington's in-house resource has been increased in recent years following on-going reviews and training. This increase in capacity will continue to be developed so that the in-house resource has greater flexibility in the range of highway works that can be delivered and a greater ability to deal with minor reactive repairs, typically small areas of defective carriageway surfacing and small areas of damaged footways. This allows the in-house resource to undertake minor, straight-forward highway works whilst being locally available for urgent minor repairs.

There are however difficulties in sufficiently resourcing the in-house capacity to deal with the full range of works required by the contract or service. Examples of this include major carriageway works which involve expensive plant and machinery that would likely not be utilised throughout a year, supply chain issues in securing specialist materials such as specific bituminous surfacing and paving, the likely need for a large contractor's yard and an upscaling in labour together with upscaling of support staff.

For the above reasons the in-house resource will not be able to deliver all of the services required and is unlikely to deliver the more complex works required under the contract at competitive rates. For these reasons this option is discounted.

Making greater use of the in-house resource is part of the analysis of Option 5, the preferred and recommended option.

Option 5 - A mixture of insourcing and external delivery through a competitive tender exercise.

As noted in the main body of the report, Option 5 is the preferred and recommended option for the reasons summarised within the report.

In-House Resource

Separate to the purpose of the main body of the report, that being the determining an appropriate procurement strategy for the delivery of highway works, the capability of the in-house resource will continue to be enhanced to meet staff development objectives and to meet the ever increasing complexity of carrying out highway works of all scales. This in parallel allows a greater range of minor works to be undertaken by the in-house resource and a greater capability of being able to respond to the need to carry out urgent highway repairs (reactive work). A greater level of skilled in-house resource ever present within the Borough allows more flexibility in responding to reactive work whilst routinely carrying out small scale work. This approach provides for a cost effective way of dealing with reactive works which would otherwise be carried out by an external contractor at rates that reflect the cost of having spare capacity on stand-by.

There will still be a requirement to have external stand-by resource available to supplement the in-house resource both for reasons of capacity and complexity. Reactive highway works range from damaged paving, carriageway surfacing defects (often referred to as “potholes,” though this is not necessarily a correct term) and dealing with damage resulting from road traffic accidents. Highway works frequently escalate upon commencement. As example, carriageway defects may occasionally result not from failure of surfacing but from the formation of hidden sinkholes, and so a fully equipped stand-by resource will need to be available. Reducing the use of external stand-by resource whilst making fully productive use of the in-house resource ever present within the Borough will however offer efficiencies as well as flexibility.

As noted in the main body of the report, the construction industry has experienced shortfalls of resources, both labour and materials, and making full use of the in-house resource reduces the Council’s exposure to these shortfalls and any associated price increases. Similarly, making full use of the in-house resource allows a greater level of application of Islington Values in that these works are under the Council’s direct control. Matters such as local employment, apprenticeships, investment in electric vehicles and plant and cleaner and greener ways of working, for example, will be matters that the Council will determine as will be the progression towards net zero carbon in Islington for 2030.

External Contractor Resource

The analysis of Option 2 has identified two viable options for making use of a framework arrangement to procure an external contractor. Neither of these two options is the preferred option in that they do not reflect past difficulties in receiving priority over demands from other London authorities, notably Transport for London. These two options would also involve a level of compromise in the delivery of Islington Values. Given these issues and the need for a long term contractual relationship that outweighs any additional procurement administration costs, the recommended option is for the appointment of an external contractor following a competitive tender exercise.