

Report to	South Downs National Park Authority
Date	7 July 2020
By	Head of Business Services
Title of Report Decision	Contract for Construction Works at Seven Sisters Country Park

Recommendation: The Authority is recommended to

- 1. Approve the commencement of a procurement process leading to the appointment of a contractor to undertake construction works at sites at Exceat and Foxholes, within Seven Sisters Country Park**
- 2. Approve delegation of authority to the Chief Executive to award contracts for the above, following the competitive process laid out in this report.**

1. Summary and Background

- 1.1 The agreement for SDNPA to acquire Seven Sisters Country Park ("SSCP") from East Sussex County Council ("ESCC") is in part predicated on SDNPA investing £1.4 million in upgrading the existing buildings at Exceat and Foxholes (sites within SSCP).
- 1.2 After agreement was reached in principle with ESCC for SDNPA to acquire SSCP, in 2019, SDNPA moved to appoint an architect to design and oversee the work to upgrade the buildings as agreed. The firm of architects appointed, Pritchards, has completed the outline plans and those have been submitted with the planning application. They will shortly commence working on the detailed design and the schedule of employer's amendments for the construction contract.

2. The Procurement Route

- 2.1 The indicative contract value is forecast to be in the region of £1.5 – 1.6 million, taking into account additional costs which are subject to the NPA's decision on the updated Seven Sisters Business case (anticipated to be considered in the exempt section of this meeting). The total procurement cost will reflect the final business case adopted for this stage of the works. In any case, the amount falls significantly below the threshold set out in the Public Contracts Regulations 2015 ("PCR 2015") for works contracts. The threshold for 2020/21 is £4,733,252. The Regulations, other than Chapter 8, will not therefore apply to this procurement process.
- 2.2 Contract Standing Orders (CSO 10) applies to this contract (above £75,000 but less than the relevant EU threshold) and states that tenders should be invited from at least five companies. It is intended in this procurement to select companies to be invited to tender through a selection process, using a Pre-Qualification Questionnaire (PQQ).

- 2.3 Interested companies will be invited to submit a PQQ in respect of this contract, by way of a contract notice placed on Contract Finder, which is the government website covering England. The opportunity will also be advertised on the SDNPA website.
- 2.4 At each stage of the procurement route, all bidding organisations will be made aware that any award is subject to the Secretary of State approving the transfer of ownership and of SDNPA gaining ownership of the Country Park.

3. The Selection Stage

- 3.1 The selection stage uses a Pre-Qualification Questionnaire to establish the capability of the suppliers and their suitability to bid for the contract. The questionnaire typically examines the financial standing of the prospective bidders, their Health and Safety, Equalities and Environmental policies and crucially their experience and track record in carrying out similar commissions.
- 3.2 The main reason for using the restricted process is to use selection criteria to reduce a large number of bids to a more manageable set before the main tender and award process. In this case a weighted scoring mechanism will be used to select between five and eight organisations to progress to the tender stage.
- 3.3 While the selection stage is underway the architects will be completing the technical drawings and compiling a schedule of rates which will be used in the Invitation to Tender.

4. Evaluation of the tenders

- 4.1 SDNPA use the Most Economically Advantageous Tender (MEAT) criteria for awarding the contract, using a combination of quality factors, such as Approach to the Contract, Project Resourcing, etc. and price. The panel will be looking at the sustainability aspects of any approach as well as looking for proposals that will add social value to the contract.
- 4.2 Evaluation is carried out by a number of officers (and in this case involving the architects) scoring independently, before meeting on a panel basis. The evaluation programme will also allow for a process of clarification on all aspects of bids and due diligence before the award is made.

5. Outline Timetable

- 5.1 With Committee Approval, it is intended to publish the Contract Notice and release the Pre-Qualification Questionnaire in mid-July.
- 5.2 The pre-qualification process will remain open for four weeks, followed by a two week period for assessment before tender documents are issued to shortlisted bidders at the end of August.
- 5.3 The deadline for tender responses will be set at the end of September with four weeks allocated for tender evaluation and due diligence, allowing the contract to be awarded at the end of October for work beginning in January.

6. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	SDNPA has sufficient resources in place, in terms of staff qualified to undertake the procurement exercise.
How does the proposal represent Value for Money?	The competitive tender process is aimed at delivering value for money for SDNPA by following a two stage procurement process and compliance with MEAT principles.

Are there any Social Value implications arising from the proposal?	Consideration has been given as part of the procurement strategy as to how the tender process could be formed to enhance social value
Has due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	The procurement exercise and the terms of the subsequent contract will meet the terms of the Equality Act.
Are there any Human Rights implications arising from the proposal?	The selection process will examine the bidding companies' compliance with the laws on Modern Slavery.
Are there any Crime & Disorder implications arising from the proposal?	The probity of the companies bidding for the contract will be examined as part of the selection process.
Are there any Health & Safety implications arising from the proposal?	The works contractors' Health and Safety policies and record will be examined during the selection processes.
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	<p>The environmental policies of the bidding companies will be examined during the selection process, as will their track record on sustainable construction.</p> <p>Those companies shortlisted will also need to demonstrate how their policies and experience in sustainable construction will influence their approach to the contract. This will be evaluated at the Award stage of the procurement process.</p>

7. Risks Associated with the Proposed Decision

- 7.1 There are four well documented risks with any procurement and those are listed as follows;
- 7.2 *Commercial Risk* – That either the price objectives aren't achieved up front or there are other costs that arise during the contract that diminish the overall benefits. Construction contracts are particularly susceptible to price overruns. The schedule of rates will be drawn up by the Architect in conjunction with the Quantity Surveyor and the construction project will be managed by the Architect. The detailed design will be agreed by the Client and further alterations, which can add significantly to the tendered price, will be kept to a minimum. The construction work is likely to be carried out during a period of severe economic downturn and insolvency on the part of the contractor is a significant risk. There are provisions within SDNPA Standard Terms and Conditions of Contract to allow insolvency situations to be managed and financial standing will form part of the due diligence process. Neither of those is sufficient to eliminate this risk.
- 7.3 *Technical Risk* – This concerns the difficulty in being able to specify the desired outcome and on the market being able to deliver to the specification. SDNPA is using a traditional contract to manage this delivery with a single architect designing and overseeing the build.
- 7.4 *Performance Risk* – This concerns the ability of suppliers to perform consistently over the life of the contract to deliver the planned benefits. The supplier may encounter supply chain issues with obtaining materials due to Covid-19. Stage payments and regular supervision will provide the necessary incentives for the timely completion of the work to the required standard. However, see insolvency risk above.

- 7.5 *Contractual Risk* – This covers things like being able to remedy the shortcomings in the contractors’ performance without severely damaging the contract and about avoiding reliance on the contracted supplier as the contract develops. There is obviously a reliance on the main contractor in any construction process and it is important to ensure intelligent and active contract management. A robust construction contract will be used to ensure that there is a defects liability period.
- 7.6 In Public Procurement, there is also the *Legal Risk*, where a procurement is found unsound in law, either through the remedies directive or the public procurement rules or the original Treaty of Rome principles. The application of the PCR 2015 to a works contract of this value is limited, however professional procurement staff will ensure that the contract process complies with the general EU principles of transparency, non-bias and fairness, thus reducing the risk of any challenge.

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Appendices: None
SDNPA Consultees: Chief Executive; Director of Countryside and Policy Management;
Director of Planning; Directory of Operations; ; Chief Finance Officer;
Monitoring Officer; Legal Services
External Consultees: None
Background Documents: None