

Bristol City Council Clean Air Plan

Commercial Case

Document: FBC-06

July 2021

Bristol City Council

Contents

4.	Commercial Case	1
4.1	Introduction	1
4.2	Bristol City Council Procurement Policy	1
4.3	Procurement Specification	1
4.4	Procurement Options	2
4.5	Recommended Procurement Strategy	3
4.6	Payment Mechanisms, Pricing Framework and Charging Mechanisms.....	5
4.7	Risk Allocation and Transfer	6
4.8	Contract Length	7
4.9	Human Resources	7
4.10	Contract Management	7
4.11	Accounting Treatment	8
4.12	Summary	8
4.13	Outstanding Contracts	9

4. Commercial Case

4.1 Introduction

The Commercial case will set out all the procurement options we have considered, in order to demonstrate how we identified the most efficient route to market for all CAZ related procurement items. In line with JAQU Guidance, this Commercial Case builds on the previous versions submitted as part of the Strategic Outline Case and Outline Business Case by confirming the detail where possible. We are following best practice which is caveated with the need to meet the deadline set, we are also working closely with BaNES and Birmingham sharing experience, expertise and resources where possible.

BCC are currently undergoing tender evaluation of the submitted bids for the BHAM&AWF Framework which currently runs to October 2021. This will be explained further within this document. The existing framework can be used post October 2021 where agreements are already in place. It is therefore possible that this project will utilize both the existing and new framework.

Furthermore, since the FBC was submitted in February 2021, the term contractor has been re-tendered and 'BCC Term Service Contract in relation to Maintenance and Installation of Highways Electrical Assets 2021-2025' was recently awarded to Centregreat Ltd.

4.2 Bristol City Council Procurement Policy

When carrying out procurement exercises, council staff must ensure that:

- the council acts in a fair and transparent manner
- we're accountable for the public money involved
- the contribution to the council's strategic objectives is maximised
- we act legally

To achieve this, there is a set of procurement rules which include the need to 'promote social value, including the local economy and environmental sustainability, to the extent that it is legally permitted'.

Another rule particularly relevant to the CAZ is: 'Timescales for submission of tenders / quotations shall be reasonable, sufficient and proportionate in order to enable suppliers to submit a suitable response in order to facilitate genuine competition and compliance with the relevant PCR requirements'.

And furthermore:

'Public authorities are required, under the Public Services (Social Value) Act 2012 to, when commissioning a public service, consider how the service they are procuring could bring added economic, environmental and social benefits'.

When considering appropriate routes to procurement the council's procurement rules must be adhered to. The CAZ is under very strict timescales, but we still can't deviate from policy which is in place to protect the interest of all involved. This has been followed for all current and recent CAZ procurement exercises and will continue to be used for any remaining procurement actions.

4.3 Procurement Specification

In order to deliver the small CAZ D option consisting of 1 initial operational zone, the following measures will need to be procured:

Commercial Case

- Design (including specification)
- Approved Device (included ANPR cameras, back office system and comms)
- Infrastructure (on road)
- Traffic Management
- Back office system
- Enforcement
- Operations - staff
- Communications and Engagement activities and resources (including working with a telemarketing team).

The following measures will be required as part of the CAF bid but will still need to be procured / documents signed once funding is confirmed / awarded.

- Provision of grants and loans for taxi, private hire, HGV and LGV drivers to upgrade and / or retrofit their vehicles
- A loan and grant scheme to assist businesses replace their vehicles
- A refurbishment scheme for scheduled bus services to upgrade their vehicles engines alongside retrofitting
- A cycle scheme – Old Market Gap
- Increase, Improve, update Legible City Signage
- Mobility credits and/or subsidised bus travel for certain demographic or income groups. Business support including personalised travel planning, targeted door knocking and roadshows, travel plan support and CAF scheme promotional publicity.
- Micro - consolidation unit.

4.4 Procurement Options

With a complex scheme of this nature, all procurement options must be considered for each of the deliverables within the project. There are four primary routes available to deliver the scheme which were considered in detail prior to making a final decision:

- Leveraging relevant current BCC contracts;
- Through existing BCC frameworks;
- Through frameworks commissioned by other conveners such as Crown Commercial Services (CCS), the UK Government's professional procurement service for the public sector. We are also working with BaNES to share frameworks where possible; and
- Open tender through the Official Journal of the European Union (OJEU), or as otherwise instructed post Brexit.

Commercial Case

These options were considered for each of the deliverables at the OBC stage and a preferred approach is identified as being through Bristol frameworks.

Bus Lane Enforcement

Collaboration with the Bus Lane Enforcement Team was set up to purchase the cameras required for both schemes. This builds on and utilises a long-standing understanding, experience and expertise for operating such systems within BCC. This was agreed and to align with the CAZ requirement both provisions were put out together as one tender. The tender ran through to December 2020 and was recently awarded to Systems Engineering Assessment Ltd (SEA), this is detailed further in FBC 32- Procurement Strategy.

Further details of this collaboration will be included in other sections of the Full Business Case (FBC) but there is a copy of the project mandate attached as an appendix item.

4.5 Recommended Procurement Strategy

It is recommended that the Clean Air Zone for Bristol is delivered, where appropriate, through pre-existing contracts and frameworks established by BCC for most of the deliverables. This provides the following assurances to the project:

- To meet the tight timescales of the project, leveraging existing arrangements or frameworks will provide a compliant procurement process in the shortest timeframe.
- These contracts were competitively tendered and were awarded on MEAT (Most Economically Advantageous Tender) criteria ensuring both quality and value for money
- By utilising current technology, existing operations can maintain business as usual and minimise disruption
- Existing supplier relationships will allow for swift project on-boarding and encourage innovation
- Current technology deployed which is utilised to also support the CAZ will offer savings on licenses

Although it is envisaged that BCC contractual arrangements will be able to fulfil the majority of the deliverables, it is acknowledged that some agreements were not optimal. When found to be the case and current arrangements are not wholly aligned with the CAZ requirements then BCC sought alternate supply routes. Where a BCC contract or framework was not deemed appropriate or for deliverables where no existing arrangements are in place, other public sector frameworks were investigated, for example CCS, Central Government (in the case of GOV.UK Pay and GoGardess) and ESPO. These arrangements provide the benefits of spend aggregation across the public sector, have been competed compliantly and have robust commercial terms. BCC ran a mini competition to re-open competition between the pre-selected suppliers to ensure specification compliance, delivery targets and value for money.

Please see below for a summary table of CAZ deliverables and how BCC will achieve these:

	Procurement Option	Procurement Route
DecoVMS Design CAZ System and Implementation	Design (including specification)	BCC Highways consultancy framework
	Approved Device	CCS Traffic Management Technology 2 Framework competition. The suppliers that submitted were Neology, SEA Ltd and Siemens with SEA Ltd winning the bid
	Connecting camera equipment to existing BCC electrical infrastructure (on road)	Current BCC Term Service Contract in relation to Maintenance and Installation of Highways Electrical Assets 2021-2025 with Centregreat Ltd
	Traffic Management (Cameras)	Current BCC Term Service Contract in relation to Maintenance and

Commercial Case

	Procurement Option	Procurement Route
		Installation of Highways Electrical Assets 2021-2025 with Centregreat Ltd
	Provisional item (BNET connection for Cameras if WiFi signal found wanting)	BCC Term Contractor for BNET installation and maintenance - Fibre and CCTV contract (Chroma Vision).
	Non illuminated traffic signs (boundary and advanced) on BCC and North Somerset Council Highway Networks	Bristol Highway Asset Management and Associated Works Framework (BHAM&AWF) 2021-25, yet to be awarded under evaluation Lot 6 Contractor - Competitive mini tender between 4 contractors
	Non illuminated traffic signs accommodation works - NAL sockets	Existing Bristol Highway Asset Management and Associated Works Framework (BHAM&AWF) 2017-21 Lot 6 Contractor - ETM Contracts Limited
	Illuminated sign removal and repositioning to enable boundary sign installation	Current BCC Term Service Contract in relation to Maintenance and Installation of Highways Electrical Assets 2021-2025 with Centregreat Ltd
	Temporary Signage to support launch	Bristol Highway Asset Management and Associated Works Framework (BHAM&AWF) 2021-25, yet to be awarded Lot 5 Contractor
	Design and Supervision of advanced traffic sign on M32 (Highways England)	WECA Professional Services Framework
	Advanced traffic sign on M32 (Highways England)	Highways England Approved Contractor from their Local Construction Works Framework (CWF) - Competitive mini tender. May use BCC BHAM&AWF 2021-25 if yet to be appointed Contractors are on HE CWF.
	Decommissioning of non-illuminated traffic signs (boundary and advanced)	Bristol Highway Asset Management and Associated Works Framework (BHAM&AWF) 2021-25, yet to be awarded Lot 6 Contractor - Competitive mini tender between 4 contractors
	VMS Signs	BCC Traffic Signals and UTC and specialist contractor
	Back office system	Part of the Approved Device
	Enforcement	Current BCC contract with Conduent (SiDem contract has been amended to change from an on prem to a hosted site). Amend contract value to allow for development enforcement interface with CAZ
	Closure of Cumberland Rd	Bristol Highway Asset Management and Associated Works Framework (BHAM&AWF) 2021-25
	Enforcement	Current BCC contract with Chipside (MiPermit contract will be amended to include CAZ Permits for exemptions)
	Operations	In House provision using BCC existing resource and contracts as required
	Telemarketing Team	To be delivered under the BaNES Framework
	Communications and Engagement	In House provision using BCC existing resource and contracts as required. An additional contract will be required to fill a gap in expertise which will involve a mini quotation exercise

Commercial Case

	Procurement Option	Procurement Route
	New air quality monitoring units	In House provision using BCC existing resource and contracts as required
Additional Measures	Provision of grants for taxi, private hire, HGV and LGV drivers to upgrade and / or retrofit their vehicles (CAF)	BaNES have established a framework which BCC and other authorities are able to draw down from. We will be signing a Participation Agreement to be able to use the BaNES framework, which has been approved by the BCC Legal Team in preparation
	A loan and grant scheme to assist businesses and the public meeting certain criteria to replace their vehicles (CAF)	BaNES have established a framework which BCC and other authorities are able to draw down from. We will be signing a Participation Agreement to be able to use the BaNES framework, which has been approved by the BCC Legal Team in preparation
	Provision of a grant for scheduled bus services to retrofit their vehicles (CAF)	In House provision from the Transport Engagement Team, an existing in-house resource
	Increase, Improve, update Legible City Signage (CAF)	BCC Highways framework and BCC Electrical Term Contract, existing contracts already in place or nearing award for the majority of this work
	Mobility credits and/or subsidised bus travel for certain demographic or income groups (CAF)	In House provision from the Transport Engagement Team, an existing BCC resource
	Business support including personalised travel planning, targeted door knocking and roadshows, travel plan support and CAF scheme promotional publicity (CAF)	In House provision from the Transport Engagement Team, an existing BCC resource
	Micro-consolidation unit (CAF)	Competition for a concession contract to be run following market engagement, once funding is awarded
	Old Market Gap cycle scheme (CAF)	BCC Highways framework (BHAM&AWF 2021-2025), team member already lined up and developer is engaged

The proposed procurement route for each item listed in the table, is described in more detail in FBC-32 'Procurement Strategy' in Appendix I of this FBC.

4.6 Payment Mechanisms, Pricing Framework and Charging Mechanisms

BCC arrangements for payment terms have been pre-defined and deliverables awarded based on the pre-existing terms. New agreements will be based on the pre-defined payment terms of the framework where an open tender has been completed on the standard payment terms of BCC, which are 30 days from receipt of an undisputed invoice. Stage payments will be applied for services and works - this is in arrears following satisfactory completion of the work.

For the hardware:

Commercial Case

BCC requires a Programme of Works to be provided by the Principal Contractor and a Costed Programme by SEA (the supplier of the approved devices and back office system). Milestone 1 - Payment one on production of the approved full design and implementation programme/plan (20%).

Payments will then be made monthly on an 'as built' basis against the completion of works as specified in the respective programmes.

BCC will be sent early warning notices in the event of any potential delays and the monthly invoices will be paid with a 10% retention until full sign off on a fully working system.

BCC have standard penalties in all Lot 6 or 7 schemes using the NEC3/NEC4 calculation from BHAM&AWF Contract Data Part one and two, but it is rarely, if ever, actioned because of the multitude of factors that can influence it, that are outside the contractors control especially when dealing with a site on the live public highway.

For the software:

Payment one; software licenses to enable solution build.

Payment two; on production of an approved full system design and implementation programme/plan (20% of the implementation costs)

Payment three; following production of the approved SAT certificates- including integrations (40% of the implementation costs)

Payment four; following satisfactory UAT (40% of the implementation costs) and remaining software licenses.

Charging Mechanisms

Should the Supplier fail to pass all of the acceptance test set out in the Programme, the cost of the Software Licenses shall be refunded back to BCC

Delay damages for delivery of the whole system will be 25% of JAQU fine for failing to meet the deadline for implementing the Clean Air Zone. The contract will describe the deadline date as a revised baseline date expected to be no earlier than summer 2022 but exact date yet to be confirmed by JAQU.

4.7 Risk Allocation and Transfer

As with any agreement, there is always risk. BCC have identified where these risks can be mitigated by the procurement approach and/or by the contractual terms applied to the agreements. Using existing contracts or established frameworks provides mitigation.

Procurement Risk	Likelihood	Impact	Mitigation
Delays in procuring approved ICT hardware, e.g. secure managed network switches leading to a delay in go live and potential impact on other aspect of the programme leading to delays	M	M	Agreed scope early with BCC ICT. Use existing approved hardware where possible. Try to avoid 'goldplating' the solution This risk is 80% owned by the project team and 20% owned by BCC ICT
Procurement of signs for neighbouring local authorities / HE - not covered by the BCC Framework which could lead to delays in the programme due to their policy and procedures	M	H	Continue to engage with HE and neighbouring LAs to agree procurement routes. Considering all viable options well in advance. Could use temporary signage.

Procurement Risk	Likelihood	Impact	Mitigation
			This risk is 80% owned by BCC, 10% owned by HE and 10% owned by North Somerset Council
Steel and cement are in short supply due to Covid and therefore cost will have increased threefold by end of this year	H	M	Conversations taking regarding purchasing these materials earlier that required to avoid and delay in delivery and increased costs. This risk is owned by the Principal Designer.
Requirement for BNET (Bristol’s fibre network) due to poor network coverage for approved devices to capture images	M	M	We have already carried out an initial assessment and determined 10 sites that may potentially require BNET. The BNET team and supplier are engaged. This risk is owned by the Project Team

4.8 Contract Length

The contract length is for five years with an option to extend for a further five years in periods of 12 months at a time.

An indicative programme of works has been developed for the implementation and is further detailed in FBC-32 ‘Procurement Strategy’ in Appendix I of this FBC.

It is envisaged that the implementation works will commence as soon as the FBC approval is received.

Contracts to maintain the supporting technology and infrastructure are further detailed in FBC-32 ‘Procurement Strategy’ in Appendix I of this FBC.

4.9 Human Resources

No relevant personnel, people management or trade union implications, including Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) have been identified for this project. However there will be some recruitment required to support the programme. HR is supporting CAZ in the early production of relevant paperwork in preparation for recruitment to take place. This will be managed within current Bristol City Council HR policies.

4.10 Contract Management

BCC have a new contract management team in place following a service restructure. Procurement has been split resulting in there now being a Strategic Procurement Team and a Strategic Supplier Relations Team (SSRM). The Strategic Supplier Relations Service will be developing tools and governance to support contract owners and contract managers manage their contracts. SSRM will support the development of a contract management plan (CMP) which will document all the key information about the contract, how it must be managed and what the reporting requirements will be.

The CAZ Team are already working with the SSRM to ensure effective management of all of the contracts involved in the delivery of the CAZ for Bristol. Individual project managers working on discrete work packages will report to the CAZ programme manager who will maintain overall responsibility. The contractors’ performance will be monitored and reported on using Key Performance Indicators (KPIs), where appropriate, to ensure any issues are highlighted early and can be remedied before effecting dependent work-packages. These KPIs’ were pre-agreed in order for suppliers to access the framework.

Where BCC are using NEC3 contracts there are a number of roles to help administer the contract. The team already includes 2 members who specialize in managing construction contracts. It is acknowledged that the NEC7

Commercial Case

Project Manager role is key to managing these objectives. There is also a Supervisor role to check that the works are delivered in accordance with the contract and in line with CDM guidance. Unless we are bound by a framework, we will look at either NEC 3 or 4 if they are appropriate. However, we may also use a different form of contract if we think that appropriate.

The contract management support runs right through to contract award, management of the contract and KPIs and on to the handover to BAU.

4.11 Accounting Treatment

The CAZ Implementation costs are deemed to be Capital expenditure and will be treated as creating an asset which will be depreciated in accordance with the Councils accounting policies.

The grant will be held on balance sheet. It will be used as financing the capital cost similar to deferred grants but charged straight to the Capital Adjustment Account as part of financing the capital programme. Note Service areas will receive the budget for depreciation charges.

The CAZ schemes Operating costs will be offset against revenue generated from the CAZ charges and any revenue generated from Penalty charge notices, and any potential surplus generated will be allocated to a designated account similar to a PPRA and will be ring-fenced for use towards, offsetting future year deficits, funding the Decommissioning costs, to fund any mitigation measures against realised risks, as well as fund transport related initiatives including those that support the CAZ objectives.

A specific reserve will be created to cover the cost of decommissioning the scheme after 10 years, as well as mitigating any potential risks during operation. The cost of decommissioning has been estimated as £0.56m and it is deemed that a year of operational cost (£2m) will provide adequate provision for potential risk (allowing for a full year of costs with no offsetting Revenue, which could be the case in extreme cases like a pandemic year). The Council will decide how to build up such a reserve within the early years of the scheme.

Clean Air Fund (CAF)

For all the CAF mitigations measures, the Council will treat the expenditure as "Revenue Expenditure" applying a statutory exemption available for "Revenue Expenditure Funded by Capital Under Statute" (REFCUS). This allows items that commonly require revenue funding to be funded through a capital grant. Capital funded items will use REFCUS to be expensed in the year of expenditure although they are capital funded, as they will not be creating an asset on the Council's balance sheet. Expenditure can only be treated as capital expenditure if the authority grant funding to a third party towards expenditure which would, if incurred by the authority, be capital expenditure.

Any CAF Grant received will be held in a designated account and disbursed within the year of receipt. Any balance at year-end will be carried forward and disbursed in subsequent year or used to enable other mitigation measures in line with the terms of the grant conditions or returned to JAQU if it is agreed to be surplus to requirement.

4.12 Summary

The procurement process ran over the course of 5 weeks and a total of 3 submissions were posted on the ProContract website. No suppliers were disqualified during the process, and all questions were evaluated by 2 or more individuals. The evaluation process had to be carried out twice due to a formal challenge by an unsuccessful bidder. This has now been concluded and BCC will be awarding at the end of the standstill period, subject to there being no further challenge.

A number of tenders that are aligned with this project are in the process of being procured once the CAZ measures have been approved. Some contracts have already been procured that directly affect this provision in order to provide more continuity, these include;

Commercial Case

- SiDem upgrade to hosted solution – a variation to the contract has been signed (Feb 21) to move this to a hosted solution and in addition extend the contract for a further 2 years (as it was due to expire in March 2021). This will provide a more robust solution for managing the additional PCNs; circa 50,000 that CAZ will likely generate. This upgrade is being funded Bristol Parking Services and has just moved to into the delivery stage with an expected completion date of the end of June 2021
- SiDem upgrade to develop an enforcement interface with JAQU back office solution – we have obtained a quote from Conduent and have submitted an official request to our Procurement team to assist us in agreeing the most appropriate procurement route
- MiPermit – potential variation to existing contract to manage the local exemptions that will require a permit. This includes installing ‘pods’ (tablets) in all hospital reception areas for patients to register their vehicle and see if they qualify for an exemption. We have captured the requirements and discussed and shared these with Chipside and obtained a quotation for the work. The Procurement Team will assist us in agreeing the most appropriate procurement route.
- GOV.UK/Pay / Stripe – The payment mechanism for charging users will be easily awarded as a direct award due to the fact that it is the only payment mechanism Gov.UK Pay will communicate with.

These outstanding tenders are being scoped now and will be progressed once the preferred option is approved following approval of the FBC as these contracts would not otherwise be being procured.

4.13 Outstanding Contracts

There are a number of procurement exercises outstanding. These are namely the call off projects linked to the main Camera Enabling Technology contract as noted above.

Where there are other contracts still to be tendered, this is largely due to the uncertainty around funding. We have the internal resource required to undertake the tenders, but this work would not ordinarily be taking place, so confirmation of funding is required as a first step. For example:

Telemarketing Team – as noted in the Procurement Route table above, there is a gap in the experience of the internal comms and engagement teams to run a large-scale cold calling exercise. We have worked with BaNES and have a copy of their procurement and project documents related to the tender exercise they undertook for the same service provision. We are adapting the paperwork to be Bristol focused and have already engaged in some light soft market testing to get an idea of the sort of support available from the finance providers. The Telemarketing Team will bridge a vital gap in contacting local businesses, understanding the potential issues being faced, mitigation required and creating a detailed database of contacts. This work would not be required if the CAZ was not taking place, so with no guarantees of funding, we will procure this as soon as we have funding approved. The procurement team are already on hand to help us with the tender. The cost assumptions are very robust as BaNES procured exactly the same work, so we are confident with our bid.

Cycle scheme – the scheme is fully developed and costed with a developer lined up to deliver the majority of the scheme, with one section missing. It’s this ‘missing link’ that we wish to fund through CAF. There may be scope to bring this section forward, but we can’t have those conversations until we have lined up the contractor to undertake this work. The costs in the CAF bid are based on many years of experience using schedules of rates from the frameworks and other schemes. The design has progressed to an advanced stage which provides an additional level of confidence in the plans included in the CAF Bid. BCC has a wealth of experience of delivering this type of project and there is a team member on standby to take this project through to delivery as soon as funding is awarded (more details of this are held in the CAF Bid, FBC 17).

VMS Strategy (Fast Track Measure) – this is a set of measures based around one central strategy aimed at being able to control areas which suffer from congestion and therefore poor air quality. This is a scheme designed purely for the CAZ Project, without it there is no funding to progress it. The experienced Traffic Operations Team have used existing framework costs and experience from other projects to put a proposal forward. This involves

Commercial Case

procurement of new software and traffic modelling to manipulate signals, moving traffic in a more controlled way around the city. There is no budget or resource to progress the proposal into a more robust scoping plan until we have the funding agreed. The expertise of the team has provided a 'best guess' forecast of the work involved and the potential benefits. We have some key corridors such as Marlborough St, where we have tried the majority of more traditional traffic management tools, but we still have exceedances. This scheme would focus on the most congested and polluted corridors first, seeking to use advanced and innovative technology / methods to approach a long-standing issue. This would then be rolled out to other corridors according to pollution / congestion levels.