

Decision by Portfolio Holder



Report reference: PAG-014-2017/18

Date of report: 01 March 2018

**Epping Forest
District Council**

Portfolio: Planning and Governance

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Democratic Services: J Leither

Subject: Procurement of Air Quality Monitoring activities to support the West Essex/East Hertfordshire Housing Market Area Memorandum of Understanding 'Managing the impacts of growth within the West Essex/East Hertfordshire Housing Market Area on Epping Forest Special Area of Conservation'.

Decision: That, in accordance with paragraphs 5.2(c) and 5.5(c), of the Procurement Rules AECOM be appointed without the need to obtain further competitive quotes due to their previous work on the Council's Local Plan and support to East Herts and Harlow Councils to undertake Air Quality Monitoring activities to support the West Essex/East Hertfordshire Housing Market Area Memorandum of Understanding 'Managing the impacts of growth within the West Essex/East Hertfordshire Housing Market Area on Epping Forest Special Area of Conservation'.

ADVISORY NOTICE:

*A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest.
A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.*

I have read and approve/~~do not approve~~ (delete as appropriate) the above decision:

Comments/further action required:

Signed: Cllr J Philip

Date: 2nd March 2018

Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member:

NONE

*Dispensation granted by Standards Committee:
Yes/No or n/a*

N/A

Office use only:

Call-in period begins: 5th March 2018

Expiry of Call-in period: 9th March 2018

***After completion, one copy of this pro forma should be returned to
Democratic Services IMMEDIATELY***

Reason for decision:

There is a longstanding professional relationship between EFDC and AECOM (and its

predecessors) including to deliver HRA elements required to support the preparation of the Local Plan and supporting both EFDC and neighbouring authorities on wider considerations relating to the effects of development within the West Essex/East Hertfordshire HMA on the Epping Forest. Given the stage reached in formulating the Local Plan, and the importance of establishing a baseline of evidence to support the implementation of policies it is neither practical nor desirable to seek alternative quotes at this stage. To do so would introduce unnecessary delay to a process which is already being very tightly managed, with the need to move forward with the development of a Mitigation Strategy as committed to in the Memorandum of Understanding (MoU) and which is needed to support the Local Plan at Examination.

Options considered and rejected:

Option – to pursue competitive tendering for Air Quality modelling work to support the development of the Mitigation Strategy and Implementation of EFDC Local Plan policy.

It is neither practical nor desirable to seek alternative quotes for this work, as there is a longstanding relationship with AECOM (and its predecessors) in understanding the interrelationships between the HRA of the Local Plan, the MoU activities and the site specific issues pertaining to the Epping Forest. AECOM are proven in their field, and have previously provided support to the MoU Oversight Group, have undertaken the Habitats Regulation Assessments for Harlow and East Herts as well as EFDC in an efficient and cost effective manner.

Background Report:

1. Currently air pollution is adversely affecting the Epping Forest with Critical Loads of Nitrogen exceeded across the whole Forest and Critical Levels exceeded across a significant proportion of Forest Land. This affects the health and resilience of trees and impact on the balance of vegetation and fungal communities. The spatial options for the distribution of growth across the HMA were subject to an assessment of air quality to determine whether any of those options are likely to have an unacceptable impact on the Epping Forest SAC. The detailed findings of this assessment were the subject to a separate report as part of the Habitats Regulations Assessment (HRA) process.
2. The initial assessment of air quality was derived from transport modelling data, which were forecasts based on the best available data at the time and took into account development arising across the HMA. The preferred spatial option proposes the development of a number of strategic sites which together form the Harlow and Gilston Garden Town. It is necessary to continue to monitor the position with respect to air quality, and ensure that where any adverse impacts begin to emerge, that the partners are aware of these, and in a position to respond to the changing evidence. It is therefore necessary to establish an appropriate evidence base and monitoring framework. The purpose of the MoU is to ensure that the parties named (that is the four HMA authorities together with Essex and Hertfordshire County Councils, Natural England and the City of London Corporation), work in partnership to fulfil the following requirements:
 - i. to collect and analyse data and evidence related to the impacts of proposed development and growth under the Local Plans to provide sufficient and robust evidence on which to base a strategy for the protection of Epping Forest SAC;
 - ii. to commit to prepare a joint strategy, based on relevant available data and evidence and to an agreed timetable; and
 - iii. that the joint strategy will address both the requirement to avoid, or effectively mitigate, adverse impacts on the integrity of the SAC from Local Plan-led development and the requirement to prevent deterioration of the SAC features.

Part of the data and evidence needed is an understanding of the current position regarding air quality within Epping Forest to act as a baseline against which future monitoring outputs (the cost of which would be funding by way of S106 agreements in relation to development proposals) can be compared.

3. Working with the partners across the Housing Market Area (HMA), EFDC has taken a lead in commissioning an assessment of the impacts on air quality arising from increases in traffic movements from the development of new homes. This is required as Epping Forest is designated as a Special Area of Conservation (SAC), and EFDC has a statutory responsibility, as competent authority, to provide evidence to support the submission Local Plan with regard to the likely future effect of development on the SAC in this regard. The Air Quality Monitoring would be undertaken over a period of nine months at a number of different locations, with a requirement to undertake regular changes to the monitoring tubes and would provide the provision of a baseline report. The approach has been developed with support from the MoU partners and also with other relevant authorities including Broxbourne Borough Council, London Boroughs of Redbridge and Waltham Forest and the Conservators of Epping Forest. Progressing the work is key to ensuring that the proposed growth within the HMA and in particular the Harlow & Gilston Garden Town sites can be brought forward in a timely fashion.
4. EFDC has retained an ongoing relationship with AECOM as part of the work being undertaken at both the District and Housing Market Area levels. Given this longstanding and ongoing relationship, it is neither practical nor desirable to seek quotes for the next steps in this area of work from alternative providers. Approval is therefore sought to waive Procurement Rules to allow the award of contracts without competitive quotation. As this area of work is within AECOM (albeit in a separate team to the Habitat Regulations and Sustainability Assessment work), approval is sought to waive the Procurement Rules in respect of the value of work awarded to a single organisation.
5. The current value of work is quoted to be £40,000, assuming no substantial change in approach and incorporates the total costs of undertaking the monitoring work, together with project management support costs.

Procurement Rules – sections to be waived

6. Given the longstanding relationship with AECOM (and its predecessors) for HRA work it is neither practical nor desirable to seek further competitive quotes. In accordance with paragraphs 5.2(c) and 5.5(c) of the Procurement Rules, it was determined that AECOM are most appropriately placed to deliver this further element of work.
7. Having determined that the existing relationship and previous good performance of AECOM in this regard under the paragraphs identified above, authority is sought to waive Procurement Rules (2016) paragraphs 2.9 and 10.1, both in relation to seeking quotes via competition.

Resource Implications:

Funding for the Air Quality monitoring work to support the MoU commitment to prepare a mitigation strategy has been agreed from funding allocated by Homes England as part of the technical work for the Harlow and Gilston Garden Town project rather than from EFDC budgets. However, EFDC is the budget holder for this funding and therefore the procurement needs to comply with EFDC procurement rules. The quotation now received is within expectations, and the budgetary provision will continue to be monitored.

Legal and Governance Implications:

This work is linked to the EFDC Local Plan HRA and the MoU (which supports the Duty to Co-Operate), both of which are statutory elements of the Plan making process.

The details of the approach taken in respect of the Procurement Rules (2016) is set out within the report above.

Safer, Cleaner and Greener Implications:

The MoU activities are in accordance with the Council's approach to the "Safer, Cleaner, Greener" agenda.

Consultation Undertaken:

Corporate Procurement Officer

Background Papers:

Memorandum of Understanding: 'Managing the impacts of growth within the West Essex/East Hertfordshire Housing Market Area on Epping Forest Special Area of Conservation' between East Hertfordshire District Council, Epping Forest District Council, Harlow District Council, Uttlesford District Council, Essex County Council, Hertfordshire County Council, City of London Corporation (Conservators of Epping Forest), Natural England. February 2017

Updated proposal from AECOM on 28 February 2018

Impact Assessments:

N/A

Risk Management:

The MoU forms a part of the Duty to Co-Operate activities undertaken by the Council in partnership with the other HMA partners and is a statutory element of the Local Plan process. It must be completed in a timely and robust manner to support the submission Local Plan and to enable planning applications to come forward.

Key Decision Reference (Y/N): n/a

Equality Analysis:

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided at Appendix 1 to the report.