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Contract

Highway Maintenance, Design, Construction and Other Services - CPU 455.

Oxfordshire County Council

F03: Contract award notice

Notice identifier: 2021/S 000-010451

Procurement identifier (OCID): ocds-h6vhtk-02b044

Published 12 May 2021, 4:13pm

Section I: Contracting authority

I.1) Name and addresses

Oxfordshire County Council

County Hall

Oxford

OX1 1ND

Contact

Ms Amy Keylock

Email

Amy.Keylock@Oxfordshire.gov.uk

Country

United Kingdom

NUTS code

UKJ14 - Oxfordshire

Internet address(es)

Main address

<http://www.oxfordshire.gov.uk>

Buyer's address

<http://www.oxfordshire.gov.uk>

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

General public services

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Highway Maintenance, Design, Construction and Other Services - CPU 455.

Reference number

DN530639

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

The Highways Contract is for the contractor to develop, with the Council, a high performing comprehensive highways service. The Highways Contract encompasses highway maintenance, design, construction, transport planning consultancy, with other services including but not limited to vehicle and grounds maintenance.

On 13 July 2010 the Council entered into the Highways Contract with Atkins Limited ("Atkins") to provide the above works following a tender process commenced by contract notice 2008/S 210-279078 dated 29 October 2008. The Highways Contract is for a contract period of 10 years commencing 1 April 2010, extendable by up to a further 10 years. So far, the contract has been extended by three years so that the contract period expires end of March 2023. The values set out at II.1.7 of this Contract Award Notice represent the estimated remaining value of the Highways Contract across the possible remaining term.

In 2013 Atkins contracted to sell its highways maintenance business to Skanska Construction UK Limited ("Skanska"). The sale proceeded by way of an asset sale and included the plant and equipment required to operate the highways maintenance business of Atkins, the transfer of leases or rights to use properties and facilities previously used by the highways maintenance business, and the transfer of approximately 1,200 employees, including around 80 in the central management and business support functions. It also included the transfer of customer contracts, including the Highways Contract with the Council. The Highways Contract between the Council and Atkins permitted assignment by Atkins of the benefit of the Contract with the consent of the Council. Atkins requested

consent to assign the benefit of the Contract to Skanska and the Council consented to such assignment. The Highways Contract also provided that the original Provider should remain legally responsible for performance of the Contract, even if the benefit of the Contract is assigned. The Council relied on this provision.

A VEAT notice was published in OJEU in September 2013.

Skanska have contracted to sell its highways maintenance business to Milestone Infrastructure Limited (“Milestone”). The sale was by way of an asset sale, and includes plant and equipment required to operate the highways maintenance business of Skanska, the transfer of leases or rights to use properties and facilities previously used by the highways maintenance business, and the transfer of approximately 1,200 employees, including around 80 in the central management and business support functions. It also includes the transfer of customer contracts, including the Highways Contract with the Council. The sale to Milestone completed on 30th April 2021. The Council has entered into a contract in the form of a Deed of Novation to novate the underlying Highways Contract (the “Contract”) to Milestone Infrastructure Limited. The novation took effect on the completion of the sale on 30th April 2021.

In addition, the Council published a Voluntary Ex Ante Transparency Notice (2021/S 056-142734) with respect to the novation of the Contract on 22nd March 2021.

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Lowest offer: £97,000,000 / Highest offer: £166,000,000 taken into consideration

II.2) Description

II.2.2) Additional CPV code(s)

- 45221110 - Bridge construction work
- 50000000 - Repair and maintenance services
- 50100000 - Repair, maintenance and associated services of vehicles and related equipment
- 71000000 - Architectural, construction, engineering and inspection services
- 77000000 - Agricultural, forestry, horticultural, aquacultural and apicultural services

II.2.3) Place of performance

NUTS codes

- UKJ14 - Oxfordshire

II.2.4) Description of the procurement

The Highways Contract is for the contractor to develop, with the Council, a high performing comprehensive highways service. The Highways Contract encompasses highway maintenance, design, construction, transport planning consultancy, with other services including but not limited to vehicle and grounds maintenance.

On 13 July 2010 the Council entered into the Highways Contract with Atkins Limited ("Atkins") to provide the above works following a tender process commenced by contract notice 2008/S 210-279078 dated 29 October 2008. The Highways Contract is for a contract period of 10 years commencing 1 April 2010, extendable by up to a further 10 years. So far, the contract has been extended by three years so that the contract period expires end of March 2023. The values set out at II.1.7 of this Contract Award Notice represent the estimated remaining value of the Highways Contract across the possible remaining term.

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A VEAT notice was published in OJEU in September 2013.

Skanska have contracted to sell its highways maintenance business to Milestone Infrastructure Limited ("Milestone"). The sale was by way of an asset sale, and includes plant and equipment required to operate the highways maintenance business of Skanska, the transfer of leases or rights to use properties and facilities previously used by the highways maintenance business, and the transfer of approximately 1,200 employees, including around 80 in the central management and business support functions. It also includes the transfer of customer contracts, including the Highways Contract with the Council. The sale to Milestone completed on 30th April 2021. The Council has entered

into a contract in the form of a Deed of Novation to novate the underlying Highways Contract (the “Contract”) to Milestone Infrastructure Limited. The novation took effect on the completion of the sale on 30th April 2021.

In addition, the Council published a Voluntary Ex Ante Transparency Notice (2021/S 056-142734) with respect to the novation of the Contract on 22nd March 2021.

For the purposes of the award criteria at II.2.5 below, although the field has been completed in this notice, the award criteria for the Contract is the award criteria applied when this was originally awarded in 2010. Award criteria are not applicable to the contract award covered by this notice because in this instance the Council was only seeking to novate the Contract to a replacement contractor in accordance with regulation 72(1)(d)(ii) of the Public Contracts Regulations 2015.

II.2.5) Award criteria

Price

II.2.11) Information about options

Options: No

II.2.13) Information about European Union Funds

The procurement is related to a project and/or programme financed by European Union funds: No

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

The Council considers the effect of entering into the Deed of Novation to be a permitted modification to the Contract under regulation 72 of the Public Contracts Regulations 2015 and, as such, the Deed of Novation is not an opportunity that required prior publication.

In particular, the novation to Milestone falls within the safe harbour at regulation 72(1)(d) on the basis that a new contractor replaces the one to which the Council had initially awarded the contract. More specifically:

1. Milestone is replacing the original contractor following a corporate restructuring in the form of a business sale to Milestone. This business sale has the consequence of the universal succession of Milestone into the position of the initial contractor (within the meaning of regulation 72(1)(d)(ii));
2. Milestone fulfils the criteria for qualitative selection initially established in the procurement of Contract; and
3. The novation of the Contract to Milestone does not entail any other substantial modifications to the contract, and is not aimed at circumventing the application of the Public Contracts Regulations 2015.

For the reasons set out in this notice, the modification to the Contract by way of the Deed of Novation is permitted under the Public Contract Regulations 2015, and the Council is permitted to enter into the Deed of Novation without the prior publication of a call for competition.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: Yes

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure

Notice number: [2021/S 056-142734](#)

Section V. Award of contract

A contract/lot is awarded: Yes

V.2) Award of contract

V.2.1) Date of conclusion of the contract

30 April 2021

V.2.2) Information about tenders

Number of tenders received: 1

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor

Milestone Infrastructure Ltd

Abel Smith House, Gunnels Wood Road

Stevenage

SG1 2ST

Country

United Kingdom

NUTS code

- UK - United Kingdom

National registration number

10260164

The contractor is an SME

No

V.2.4) Information on value of contract/lot (excluding VAT)

Lowest offer: £97,000,000 / Highest offer: £166,000,000 taken into consideration

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

High Court of England and Wales

Royal Courts of Justice

London

WC1A 2LL

Country

United Kingdom