

COMMUNITIES, ENVIRONMENT AND HIGHWAYS SELECT
COMMITTEE

THURSDAY, 16 SEPTEMBER 2021



Procurement of Highways' Term Maintenance Contract

Purpose of report: To provide the Select Committee an update on the Procurement of the Term Maintenance Contract and some of the key features of the new arrangements scheduled to start in April 2022

Introduction:

1. In September 2020, Cabinet approved the strategy for the procurement of Highway contracts. Over the past 12 months, Officers from Highways and Transport supported by Officers from procurement, legal and finance have carried out a procurement exercise to select a Service Provider to deliver the services under a Term Maintenance Contract from April 2022 for an initial period of 10 years with the option to be extended up to a total of 21 years.
2. The Council is in a fortunate position in undertaking this procurement at a time when the current contract arrangements are generally considered to be performing well albeit with some areas of opportunity to improve.
3. It has been our focus and is our ambition that following commencement of the new contract arrangements in April 2022, Members and residents will begin to see those improvements come to fruition. We anticipate that some elements will become apparent early on with changes to working practices regardless of the successful bidder whilst more transformative improvements, innovations and changes will take some time to develop and will begin to have an effect over the first few years.
4. There will of course be a continued focus on improvement throughout the life of the contract as we adapt to the changing environment and world around us and the contract term provides an opportunity for the Council and Contractor to invest together to bringing those improvements to life.
5. The Council has undertaken a “Competitive Procedure with Negotiation” (CPN) procurement exercise which allows both the Council and bidders to discuss and develop their solutions in several stages allowing open discussion and negotiation to enable each bidder to put forward their very best solution and offering.

6. Not only has this approach allowed the Council to really test and improve each bidder's tender giving confidence in the substance of the written submission, it has also allowed detailed scrutiny of the associated pricing to deliver those services, understanding where risk pricing had been included and allowing where appropriate the reallocation of risk to reduce the artificial inflation of prices.
7. Officers are in the latter phase of evaluating the three final tenders and following award in the Autumn there will be a period of mobilisation of the new arrangements which start on 27th April 2022.
8. This report provides more detail on the procurement phase alongside some of the key considerations in evaluating the tenders and some of the key outputs of the future arrangements.

Background

9. In 2017, Officers began a programme of research and evaluation to determine the future structure of Highway Maintenance and Improvement contracts allowing sufficient time to prepare the necessary documentation, conduct the procurement and mobilise the new arrangements.
10. Full detail on this activity is covered in the September 2020 Cabinet Paper (item 134/20, paragraphs 14-30). In summary, supported and scrutinised by a Member Reference Group from the Select Committee, officers undertook extensive internal and external research which included:
 - Interviews with other Local Authorities who had recently or were imminently procuring new contracts
 - Interviews with a cross-section of Service Providers in the sector from SMEs to larger, national and multi-national organisations
 - Survey of residents to identify key priorities for Highways and Transport Services
 - Third Sector and other Council partner organisations
 - Analysis of sector practice through industry bodies including the Association of Directors of Environment, Planned and Transport (ADEPT), The Future Highways Research Group (FHRG) and the Department for Transport's Highways Maintenance Efficient Programme
 - Application of the Council's Strategic Commissioning Framework following its development and implementation in late 2018/early 2019
11. Whilst a key focus was on the various maintenance and improvement activities to highways assets, the research enabled the Council to procure the services in a way that would help contribute to the Council's strategic priorities including

reducing carbon emissions in line with the Greener Futures ambitions and targets, delivering social value as well as providing a quality service to residents.

12. Given the range of services being procured and the importance of the additional strategic elements described above, officers determined the delivery strategy and the CPN procurement process to be the most efficient mechanism to achieve the desired outcomes.

Competitive Procedure with Negotiation (CPN)

13. The CPN process took place over 4 stages as illustrated in Table 1 below:

Table 1: Four stages of the Competitive Procedure with Negotiation

Stage	Purpose	Outcome
Selection Questionnaire	Invite any interested party to submit evidence against pre-set criteria of their suitability and capability to deliver the scope and scale of services in the contract	Top 4 bidders taken forward
Initial Tender	Bidders provide high level responses (up to 50 pages) explaining how they will deliver each element of the services in the contract covered across 13 questions	Top 3 bidders taken forward Feedback on Initial Tenders provided by Council to inform Detailed Tender
Detailed Tender	Bidders develop their Initial Tender responses providing much greater levels of detail (up to 280 pages) explaining how they will deliver each element of the services in the contract covered across 13 questions. Initial pricing submitted alongside the “quality” submission	No reduction in the number of bidders Feedback on Detailed Tenders provided by Council to inform Final Tender Feedback on Pricing
Final Tender	Bidders refine their Detailed Tender responses using the Council’s	Contract awarded to most

	<p>feedback where desired to strengthen their submission</p> <p>Final pricing submitted alongside the “quality” submission</p>	economically advantageous tender
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14. The CPN process started in late 2020 with a Supplier Questionnaire (SQ) to identify interested parties, scrutinise and evaluate their capability and suitability to deliver the new contract and take forward the four best scoring to the Initial Tender phase. The questions focussed on a wide range of areas but with an evidenced based submission to demonstrate previous experience.
15. Bidders were asked questions covering a number of areas including:

Delivery of Core Services (reactive, routine, planned and project tasks)	Approach to driving innovation
Delivering Social Value and Return	Outlining their staff structure
Achieving our Greener Futures Ambitions	How they would collaborate with the Council, other contractors and other parties to achieve better outcomes
Equality, Diversity and Inclusion	Resident Engagement

16. The responses were evaluated by a panel of officers from Highways & Transport and Officers from elsewhere in the Council with specialist knowledge (e.g. Greener Futures, Strategic Commissioning Team.).
17. The lowest scoring Bidder did not proceed to the Detailed and Final Tender stages. The three bidders selected to succeed to the last two stages were Amey UK PLC, Kier Highways Ltd and Ringway.
18. Following the scoring of Initial and Detailed Tenders, there were a series of meetings with each of the bidders to discuss their submissions. These were 2-way conversations allowing the Council and each bidder to review the responses to each question testing understanding, clarifying certain elements and providing feedback to help each bidder improve and strengthen their offering. In some cases, this might have focussed on making firmer commitments or scaling back a “gold or platinum” level of service if deemed to be unaffordable. In most cases, the bidders were provided an opportunity to explain their intended response and then gain a clearer direction on how to represent that in the Final Tender submissions.
19. Alongside Detailed Tenders, bidders were asked to submit pricing for all the services covered and during these bidder sessions, officers were able to discuss these in detail, again often to clarify understanding, to seek improvements in the prices offered and to ensure all three bidders were pricing for the same elements.

20. Following the final round of bidder meetings, the three bidders were invited to submit their Final Tenders, and these are currently in the evaluation and moderation process with the successful bidder shortly being presented to Cabinet for approval.

Evaluation Process

21. A robust process has been followed to evaluate and moderate each bidder's submission with the evaluators for each question scoring them independently before coming together to discuss and agree a moderated score for each overseen by the Procurement Team.
22. During the Supplier Questionnaire and Initial Tender phase where no pricing was included, the weighting of these qualitative elements was spread across 100%. In the Detailed and Final Tender stages, these qualitative elements were assessed to a similar weighting but was considered alongside an assessment of the prices submitted. For these stages, the overall qualitative score amounted to 70% of the final total score whilst 30% was down to price.

Features of the New Contract Arrangements

Council Ambitions

23. Alongside delivering on the strategic ambitions in the Community Vision 2030, services and activities relating to Highways are among the top things likely to be important to residents/businesses and having confidence in the Service Providers' capability to meet these expectations has been the focus of the procurement.
24. Another key component from the planning and engagement phase through to the procurement itself has been to ensure that the new arrangements can support the Council's ambitions beyond "simply" carrying out the day-to-day maintenance and improvement activity on the road network. By combining the majority of services into a single contract, the Service Provider effectively becomes an extension of the Council, and it is much easier to align strategies and objectives when compared to working with multiple contractors. The combined capacity and capability of the Council and the Service Provider thereby have a greater opportunity to really deliver on some of those stretching ambitions.
25. For example, a substantial proportion of the Council's carbon emissions result from delivering highways maintenance and improvement activities whether through consumption of fossil fuels in vehicles, plant and tools or in materials' production such as bitumen in asphalt or concrete used in construction. Working with the Service Provider, we will be able to combine resources and

experience to identify and drive innovation within the sector seeking out funding opportunities from external bodies, reinvest savings for further innovation where available and create a culture where colleagues from all areas feel empowered to come forward with and develop ideas of how we can improve from day-to-day small interventions to larger potentially barrier-busting ideas.

26. Another key opportunity of working with the Service Provider as a large employer and presence in the County will be the ability to leverage investment (time, effort, energy and money) in delivering Social Value projects within the County, and bidders have been tasked with promoting this as a core part of their offering.
27. Notwithstanding all the wider ambitions, officers have ensured that delivering the core services continue to be at the heart of the future service delivery and a key focus on these important front line and often statutory functions has been presented clearly as an essential requirement throughout the procurement process.
28. A very important aspect of the new arrangements will be to work in close partnership with the new Service Provider whether in delivering core services or the wider ambitions. This relationship will provide a “backbone” upon which we can build greater and more productive relationships including our other Service Providers, District and Borough Councils, utility providers, business and other organisations across Surrey. Bidders have been assessed on their approach to collaboration and partnership and how they will help to develop and maintain a productive relationship with the Council and other partners.

Outputs/What's Different

29. As described, the CPN process has allowed the Council to evaluate each bidder's suggested approach at Initial Tender and Detailed Tender, providing feedback and helping to identify where ideas can be developed and stretched. Key to this approach however is ensuring ideas are achievable and sustainable whether in practical or financial terms or both.
30. As part of their submission, bidders have been asked to explain how they will help the Council achieve a net zero carbon position by 2030. A key part of this is their fleet proposal with a wide range of vehicles being used across the services and how these can be low or zero emission and where possible from day one of the contract.
31. The prevalence of zero and low emission cars and “light” goods vehicles (those below 3.5 tonnes) is increasing, and it is expected that subject to improved electricity capacity within the depots, most if not all vehicles within this category will be electric or hybrid based on the use of the vehicles.

32. The market for larger vehicles such as lorries and gritters are not quite in the same position; however, the manufacturers are investing heavily into research and development, and trials of larger vehicles with alternative fuels such as hydrogen alongside electrically powered vehicles is advancing. It is highly likely these larger vehicles will be converted to a zero or low emission option either during their life as the technologies mature or when they are replaced.
33. As intended, supported by the Council's Strategic Commissioning Team, we are expecting the Social Value outputs to be a core benefit arising from these new arrangements with each bidder providing a comprehensive overview of their intended approach and a number of commitments to be delivered over the initial years of the contract which will be developed and built upon over the subsequent years.
34. All bidders have provided suggested methods to improve engagement with residents including how defects are reported and progress communicated back to them as well as how they can engage and communicate effectively with communities and affected road users prior to work being delivered which might cause disruption. By including the majority of services under a single contract, the successful bidder will have much greater control over programming work in the same location to reduce disruption, and they will also be expected to work closely with the Council's other Highways Contractors and utility providers to combine works where possible further mitigating the potential impact of work on the road network
35. In our pre-market engagement, procurement documents and throughout the process we have maintained a strong focus on the importance of ensuring work is completed "Right First Time". As well as delivering greater value for money with fewer visits, this approach means defects are removed sooner improving safety and any traffic management interventions such as barriers, temporary lights or lane/road closures are in place for less time. By having this as a stated strategic focus, the successful bidder will drive their approach to planning and supervision of work ensuring operatives are equipped to carry out the required repairs and embed a right first-time culture.
36. The new Contract is focussed on ensuring effective governance to deliver against our strategic themes including Operational Excellence, Greener Futures, delivery Social Value and ensuring Financial Resilience. This includes the Cabinet Member being part of a Strategic Board alongside senior officers and Board representatives from the contractor which will have a strong focus on achieving these ambitions.
37. The Service has also created a new Strategic Contract Group to oversee, coordinate and manage performance and contract management activities supported by the Council's laboratory to carry out materials testing. The

Governance mechanism is centred around a tiered structure of regular contract meetings at all levels between officers and the contractor's team and where appropriate the supply chain. As well as measuring, overseeing and assuring performance, these groups or "Communities" will be tasked with working together to identify and drive improvements, new ways of working and innovations in the sector.

38. The contract documentation has been created to provide a robust set of mechanisms to enable the Council to ensure the new arrangements are delivered effectively. However, importantly with an initial 10-year period and the option to extend up to a total of 21 years, it was important to maintain a degree of flexibility and adaptability to it. This will allow us to make changes and improvements where new ideas, materials or ways of working emerge without the need for complicated or protracted contractual changes.

Conclusions:

39. The current contract operates to a high standard but having exhausted the extension options, a new contract is required for operation from April 2022.
40. Officers invested substantial time and effort engaging with the market and our peers to determine the shape of those arrangements to maintain those high standards of delivery and push beyond that to deliver a more ambitious agenda aligned to the Community Vision for 2030 and the Greener Futures strategy.
41. Over the past 12 months we have overseen an exhaustive, complex procurement process to drive the best outcomes in each of the bidder's tenders and are confident that any one of the three remaining bidders will be able to meet those high expectations.

Recommendations:

42. The Select Committee note the content of the report and are assured the Service has been able to progress the strategy and process as developed and agreed with the Member Reference Group.

Next steps:

43. Cabinet will shortly be presented with a decision paper to award the contract to the successful bidder.
44. Transition to the new arrangements is expected to start in October 2021 and the new contract will commence on 27th April 2022.

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Sources/background papers

Cabinet Paper September 2020 (item 134/20)

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