

CHESHIRE EAST COUNCIL

REPORT TO: Cabinet

Date of Meeting: 6 June 2011

Report of: Strategic Director – Places

Subject/Title: Transformation of Highways Services

Portfolio Holder: Cllr Rod Menlove / Cllr Jamie Macrae / Cllr Peter Mason

1.0 Report Summary

- 1.1 This report provides a summary of the procurement process, and recommends a decision to appoint a Highways Services Contractor to start on 6th October 2011. It sets out rationale for change as well as the key provisions of the new Highways Services Contract.
- 1.2 The procurement of the Highways Services Contract is a key work stream within the Total Transport Transformation Programme, which is one of six major transformation projects supported by the Council.
- 1.3 Our roads are a corporate priority. User demand combined with the effects of increasing periods of prolonged severe weather conditions have accelerated deterioration such that existing funding is unable to maintain the steady state of our highway network. Consultation has also confirmed that most stakeholders recognise that the highway network should be a priority for the Council.
- 1.4 The new arrangement will reduce back-office costs and generate efficiencies of more than £1 million per annum and will enable the Council to maximise the output from its existing budgets, ensuring that any future decline is reduced significantly.

2.0 Decision Requested

- 2.1 To approve the evaluation process used to determine the Preferred Bidder for the Highway Services Contract.
- 2.2 To award Preferred Bidder to the company which received the highest score, in accordance with the tender evaluation process, and enter into the Highways Services Contract.
- 2.3 To delegate final contract negotiations with the preferred bidder to the Borough Solicitor, Borough Treasurer and Strategic Director, Places in consultation with Members of the Highways Sub-Committee.

- 2.4 To note that the award of the Highways Services Contract will trigger the automatic application of the TUPE Regulations which will effect a transfer of a number of existing Council Highways Service staff and BAM Nuttall term maintenance operatives currently providing highway services to the Council, to the Preferred Bidder.
- 2.5 To receive the detailed recommendation on the day of the meeting (6th June 2011), specifying the Bidder with the highest score and therefore the successful Preferred Bidder.

3.0 Reasons for Recommendations

- 3.1 Final Tenders from Bidders have now been fully evaluated by the Council and its advisers in accordance with the timetable for the procurement.
- 3.2 The Council needs to have a new Contractor in place by 6th October 2011 (when the present contract with BAM Nuttall comes to an end) in order to be able to continue the delivery of the Highways Services.
- 3.3 The final recommendation cannot be provided until the day of the meeting (6th June 2011), as the evaluation process will be ongoing until that date. In order to meet the programme identified above and maximise the time for mobilisation the timetable for evaluation runs until 3rd June.

4.0 Wards Affected

- 4.1 All Wards are affected by the proposal.

5.0 Local Ward Members

- 5.1 All Ward Members are affected by the proposal.

6.0 Policy Implications including – Carbon Reduction

- 6.1 The contract requires that the Preferred Bidder carries out the Services in a manner that achieves greater value for money for Council, year on year, by reducing costs and delivering the Services more efficiently whilst seeking to maximise the achievement of the our Strategic Objectives throughout the contract period. Our Strategic Objectives include “limiting carbon emissions”, which ensures that the Preferred Bidder will be required to demonstrate that they are achieving this. Additionally, in support of this, the Preferred Bidder must also maximise the “achievement of the objectives set out in the Local Transport Plan”. The local Transport Plan includes Priority Policies that work towards carbon reduction, through for example, minimising the future need to travel and through encouraging technological development in transport services in partnership with operators.
- 6.2 The Preferred Bidder has put forward proposals to reduce emissions through use of carbon efficient vehicles and reducing fuel use through route

optimisation. Additionally, they have proposed the use of energy saving technology for street lighting and energy saving tools and techniques for all of their operational activities.

- 6.3 The Preferred Bidder will be required to measure performance in this area with challenging targets established for energy reduction.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The services which are included within the scope of works for the Highways Services Contract as core services are set out in Appendix 1 and have a current annual value of around £15 million (capital and revenue), which the Council will commit to the new arrangement (subject to the reductions outlined below) during the contract period.
- 7.2 The new contract will deliver savings in excess of £7 million over the contract period when compared to existing Highway Service costs. This is achieved by a stepped budget reduction of £1million; in year 1 of the contract, combined with a further year on year reduction of 3% per annum associated with innovation and efficiency gains.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Having taken the appropriate steps to terminate the existing term maintenance contract with BAM Nuttall with effect from 6th October 2011, the Council needs to enter into the Highways Services Contract in order to ensure continuity in the provision of highways services, including the discharge of the Council's statutory obligations referred to below.
- 8.2 The Council, as Highway Authority for the Cheshire East area, has numerous powers and duties under the Highways Act 1980 to carry out maintenance, improvement and repair work on the highway network. None of the duties discharged by the provider on behalf of the Council relieves the Council of those powers and duties. However, the Council is likely to have potential remedies against the Preferred Bidder in respect of many of its obligations if breach of any of these obligations results from the non-performance by the Preferred Bidder under the Highways Services Contract.
- 8.3 The Highways Services Contract sets out very clearly the statutory obligations of the Council which are delegated to the Preferred Bidder and the protocol for the discharge of other statutory obligations of the Council.
- 8.4 Any claims against the Council as the Highway Authority, even if they relate to matters within the proposed contract, will still remain the ultimate responsibility of the Council.
- 8.5 The procurement is subject to the EU Procurement Regulations and, as such, could lead to the Council being challenged by a Bidder on the grounds that it has been conducted unlawfully or unfairly. External legal advisers (Bevan Brittan) have been engaged and have provided clear

advice on the procurement of the new arrangements using the competitive dialogue procedure with a view to minimising the potential risk of procurement challenge. Whilst the risk of a procurement challenge can never be ruled out, it can be said that the Council has acted throughout the procurement process in a manner designed to minimise that risk.

9.0 Risk Management

9.1 The potential risks to the Council of a procurement challenge are dealt with in paragraph 8.5 above.

9.2 The Council's objectives for the present procurement are to achieve greater value for money from the provision of its highways services, improving the customer perception of highways services and modernising the provision of the service to meet the flexibility of operational needs). The Council is happy that having been through numerous meetings with Bidders and having refined their proposals, the proposal put forward by the Preferred Bidder will enable the Council to best meet its objectives for this procurement. However, as with any contractual arrangement, the Council will need to continue to work with the Preferred Bidder to ensure the Highways Services Contract delivers the intended objectives.

9.3 The Highways Services Contract is based on the Preferred Bidder taking the lead in developing a revolving Three Year Plan and Annual Plan to meet the asset management needs of the highways network but also the Council's highways policy objectives. The Council has to sign off the Annual Plan via a Strategic Board comprising senior representatives of the Council and Preferred Bidder. This ensures that the Annual Plan reflects the wider social need of Cheshire East as well as the strict asset management needs of the highways network. The Preferred Bidder takes the primary risk of delivery of each Annual Plan within the agreed target cost. The successful outcome of the Contract will depend on the parties working together as a genuine partnership focused on the needs of Cheshire East ratepayers. Therefore, the on-going quality and effectiveness of the relationship between the Council and Preferred Bidder will be at the heart of the effectiveness of the Contract.

10.0 Background and Options

Highway Network & Existing Arrangements

10.1 The Adopted Highway is the Council's largest asset and is maintained to a safe standard through the identification of works required and the implementation of these. The Council's highway network has a replacement value of £2.2bn with a current annual budget provision of around £15 million (revenue and capital) spent annually on its maintenance and improvement.

10.2 Cheshire County Council appointed Edmund Nuttall Limited (now BAM Nuttall Limited) as Highways Term Maintenance Contractor in 2004. The contract will end on 5th October 2011. An extension of the current contract (for another year, which would have represented the maximum extension to the original term) was considered at the commencement of the procurement process. However, there are significant drivers to securing improvements in service delivery that it was considered could not be achieved under the current service delivery model. They are:

- the present and future projected reductions in the capital funding allocation;
- the major backlog of works necessary to stop the deterioration, and achieve the restoration, of the highway network;
- the priority our communities have given to highways when consulted;
- the important effects of the highway service on customer perception; and
- the need to direct as much resource as possible into front-line delivery and investment into the highway network.

The New Contract

10.3 An Options Appraisal was carried out in the first half of 2010, prior to the current procurement process being started. The result of the Options Appraisal recommended that the Council procured an integrated service for highways. This would result in some Council staff, along with many of the existing contractor's staff transferring to a new contractor in October 2011.

10.4 The new contract covers highways management, design and maintenance services including street lighting. Verge maintenance and development management are currently excluded from the scope (see Appendix 1 for full schedule).

10.5 The term of the Contract is 5 years with the opportunity to extend for a further 2 years (depending on performance and at the Council's ultimate discretion).

Member Engagement

10.6 At a very early stage in the procurement process, the Procurement Team took the advice of the Scrutiny Panel with respect to increased Member involvement. This was addressed by the creation of the Overview Group and on-going involvement of the Transformation of Highways Sub-Committee. A series of meetings have been held with the two groups and the programme was amended to ensure the Overview Group and Sub-Committee's timely involvement.

10.7 The groups inputted into the performance framework and the criteria for evaluating the dialogue sessions and Final Tender stages.

- 10.8 The Bidders also came and presented to the Highways Sub Committee members on how they would meet the objectives of the Council. The Members were able to stress those objectives that they considered a priority for the Council.
- 10.9 The Procurement Team also attended the Environment and Prosperity Overview and Scrutiny Meeting on the 8th February and discussed progress made and took feedback on the Performance Indicators.
- 10.10 In addition, two Member presentations have been held in which all Members were invited. The purpose was to give a comprehensive review of the status of the procurement and to allow Members the opportunity to raise questions on the process. These took place on the 29th July 2010 and 8th April 2011.

Payment and Performance Framework

- 10.11 In each Financial Year, the Council and Preferred Bidder agree annual target costs (in respect of capital and revenue expenditure respectively) based on the estimated cost of providing the relevant services. Payment is on an open book basis, which means the Council gets to see exactly what is spent in relation to different elements of the highways services. Over the life of the contract, this will allow potential savings to be identified and secured. Once the actual costs of providing services become clear, the process of agreeing target costs should become much easier. This approach also allows changing budgets to be managed without having to pay compensation to the Preferred Bidder. It means that the Council will pay the actual cost plus a fee for services.
- 10.12 The Preferred Bidder's performance is measured against the performance indicators that are included in the Highways Services Contract. Failure to achieve stated levels of Performance will put at risk the Preferred Bidder's entitlement to the whole of its profit element included in its "Fee", will prevent any sharing in any savings below a target cost and will prevent entitlement to extensions to the contract period.
- 10.13 The set of indicators link to the objectives of the Highways Services Contract and this procurement to ensure that those issues of most concern to the Council are monitored. The indicators can be changed over time to reflect changing priorities.
- 10.14 At an early stage in the procurement process the Scrutiny Working Group identified three key priorities for the new highways service: Addressing Localism; Innovation and Efficiency; and Staff Engagement.

Key Priorities - Addressing Localism

- 10.15 This is a key objective of the Council and considerable focus has been given to ensuring that the Preferred Bidder's solutions address localism. Examples of themes and solutions provided by the bidders include:

- a strong focus on the use of locally-based area stewards drawn from existing workforce and up-skilled; where possible area stewards will live local to “their patch” and will be an accessible single point of contact for all stakeholder issues;
- engagement of the existing Local Area Partnerships to form part of the decision making process;
- the potential to identify parts of the annual revenue budget to address local issues;
- improved collection and assessment of customer feedback through centralised management centre;
- local recruitment of subcontractors and suppliers to support the local economy; and
- the employment of local SMEs.

Key Priorities - Innovation & Efficiencies

10.16 A key focus under the Highways Services Contract is to improve the efficiency of the provision of highways services. The Preferred Bidder has produced a schedule of the potential efficiencies they could achieve and has confirmed that they will be able to make the required £1 million saving in the first year.

10.17 The Preferred Bidder operates similar contracts across the UK, providing an opportunity to bring their knowledge and innovation from elsewhere to benefit Cheshire East. Some examples of efficiencies and innovations that have been discussed are:

- the implementation of a “LEAN” review of highway services and processes (i.e. looking at all the steps in present processes and seeking to strip-out those that add no value to better meet intended outcomes at less cost);
- real time job allocation and feedback by hand-held computers;
- waste reduction through diverting waste from landfill;
- innovative waste reduction from gully cleansing by cleaning the “grey water” so as to allow it to be returned to the natural water system;
- drying out of solid waste and recycling;
- improved co-ordination of works, across Cheshire East;
- “Walk and Build” approach whereby simple works are designed on site rather than having to wait for a central design resource to provide the design input;
- Employee incentive schemes to develop ideas to improve the service;
- drainage:
 - combined jetting/ emptying;
 - needs-based cleansing;
- street lighting maintenance carried out on a needs based approach;
- quicker and more appropriate response to incidents through use of vehicle mounted cameras; and

- the ability to draw on experience elsewhere for innovation.

Key Priorities - Staff Engagement

- 10.18 A Staff Stakeholder Group was created in October 2010 to keep all Highways staff informed of the progress of the procurement process and also as an opportunity for representatives and union colleagues to air their issues and concerns on behalf of the wider staff.
- 10.19 The group consists of 15 dedicated and engaged representatives from across the service; including Union representatives and HR support. They attend the meetings and cascade information to the wider staff. Meetings have been held regularly throughout the tender process.
- 10.20 Key issues and concerns raised from these meetings have been:
- Pension issues – will the Preferred Bidder go into Local Government Pensions Scheme;
 - TUPE issues, when will information be released to staff;
 - depot strategy – ‘Where will I be based’;
 - programme – timeline of events; and
 - harmonisation issues;
- 10.21 As part of the detailed solutions stage in February 2011, the Staff Stakeholder Group visited each of the three bidders at their own sites on similar contracts. This was set up as an opportunity for the group to not only to meet the bid team and senior staff but to meet and talk to staff in similar roles that have transferred into the organisation.
- 10.22 These visits received very positive feedback from the group, highlighting the importance of being engaged with the bidders prior to transfer and generally left staff feeling that this could be a positive experience and could lead to more opportunities. In light of this success, a further meeting between the bidders and the stakeholder group was arranged for 4th May 2011. This was arranged as another opportunity with key members of each bid team to discuss concerns regarding the upcoming transfer. At this session it was agreed that the stakeholder group would continue to meet throughout the mobilisation period.
- 10.23 The first issue of the Highway Services Procurement Staff Newsletter was sent out in March 2011. Being aimed at transferring employees. It covers areas such as project timeline, update on progress and events, and frequently asked questions. It is a monthly newsletter; the second issue was released in April 2011. It will continue into the mobilisation process to keep staff informed of key issues.
- 10.24 Team talk is a weekly newsletter issued to all staff at Cheshire East Council. It gives staff an update regarding the different directorates of the council. We have submitted information to this newsletter on a regular basis to update all employees on the progress of the procurement process.

Final Tender Evaluation

10.25 Final Tender evaluation was completed in May 2011. The evaluation was conducted by a number of Cheshire East Council officers, each evaluating specific quality method statements and financial submissions received from the bidders. At the end of the evaluation process, consensus meetings were held to finalise the outcome.

10.26 The proportion of marks allocated for each area of the submission is as follows;

Final Tender Stage	Score
Approach to service delivery	50%
Financial	35%
Legal and Commercial	10%
Integrity and deliverability of proposals	5%

Mobilisation & Contract Commencement

10.27 The Preferred Bidder will start work on mobilisation at their own risk, in early June in order to maximise the mobilisation period. It can be expected that work done at risk will not include any capital investment and this is likely to commence in July when contracts have been finalised.

10.28 The Preferred Bidder has proposed a mobilisation team populated with staff dedicated to mobilisation activities combined with staff who will remain dedicated to the contract in key roles.

10.29 There are a number of key work streams that will be commenced during mobilisation, they include:

- Staff Engagement - Dealing with people issues, including one to one meetings, group presentations, defining roles in the new organisation, culture change management;
- Operational issues, plan and action the accommodation strategies including physical works, relocation of stock and equipment, installation of ICT lines and equipment;
- Prepare for winter service;
- Establish and engage supply chain partners; and
- Implement ICT strategy.

10.30 All mobilisation activities are programmed to achieve Contract commencement on the 6th October 2011, when all services will be fully operational.

11.0 Access to information.

11.1 The background papers relating to this report can be inspected by contacting the report writer:

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Appendix 1 - Scope of Works – Core Activities

Cheshire East Borough Council is seeking a contractor to assist it in the delivery of its Highway Services which include the following core activities.

Highways Services:

1. General Management including control centre, emergency and out of hours response, statutory notices, legal claims investigation and support etc.
2. Asset management including safety inspections, surveys and planning;
3. Civil and structural Engineering - routine and reactive maintenance (including carriageway, footway, structural repairs and surfacing); capital schemes.
4. Traffic signals, street lighting and signs - routine and reactive maintenance; capital schemes.
5. Winter service including fleet management and contract management of rock salt provision and related monitoring services contracts.
6. Professional services (traffic engineering, bridge management and design, road safety engineering, design and project management and contract management services).

The Preferred Bidder will be expected to work with the Council to improve and integrate the highways information management systems and other related ICT systems.

Items excluded from Scope

1. Verge Maintenance.
2. Highway Development Management

