

## **Transformation of Highways Services Sub Committee Agenda**

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**Date:** **Wednesday, 17th November, 2010**  
**Time:** **9.30 am**  
**Venue:** **Mayors Reception Room - Municipal Buildings Crewe**

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The agenda is divided into two parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

**1. Apologies for Absence**

To note any apologies for absence.

**2. Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

**3. Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

In order for an informed answer to be given, where a member of the public wishes to ask a question of a Cabinet Member three clear working days notice must be given and the question must be submitted in writing. It is not required to give notice of the intention to make use of public speaking provision, however, as a matter of courtesy, a period of 24 hours notice is encouraged.

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For requests for further information

**Contact:** Cherry Foreman

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**E-Mail:** [cherry.foreman@cheshireeast.gov.uk](mailto:cherry.foreman@cheshireeast.gov.uk) with any apologies or requests for further information or to give notice of a question to be asked by a member of the public.

4. **Minutes of Previous meeting** (Pages 1 - 4)

To approve the minutes of the meeting held on 7 September 2010.

5. **Progress Report** (Pages 5 - 10)

To consider progress to date on the highways procurement project.

6. **Future Meeting Dates**

Members are asked to note the following meeting dates which have now been set in order to fit in with the procurement project timetable. Other meetings will be arranged as and when required.

- Tuesday 4 January 2011, 2.30 pm - Committee Suite, Westfields, Sandbach
- Wednesday 30 March 2011, 10.00 am - West Committee Room, Municipal Buildings, Crewe
- Monday 6 June 2011, at the Rising of the Cabinet meeting, Committee Suite, Westfields, Sandbach

**CHESHIRE EAST COUNCIL****Minutes of a meeting of the Transformation of Highways Services Sub Committee**

held on Tuesday, 7th September, 2010 in the Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillors P Mason and R Menlove

Councillors in attendance:

T Beard, R Cartlidge, R Narraway, D Stockton, A Thwaite and J Weatherill.

Officers in attendance:

Head Of Regeneration, Interim Project Manager, Senior Lawyer Corporate and Commercial Team, Strategic Director Places and Highways Transportation Manager.

**6 APPOINTMENT OF CHAIRMAN**

RESOLVED

That Councillor Peter Mason be appointed Chairman for the meeting.

**7 APOLOGIES FOR ABSENCE**

Apologies for absence, due to Council business, were received from Councillor J Macrae.

**8 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**9 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no questions from members of the public.

**10 MINUTES OF PREVIOUS MEETING**

The minutes of the meeting held on 15 July 2010 were approved as a correct record.

**11 TRANSFORMATION OF HIGHWAYS SERVICES: HIGHWAYS MAINTENANCE TEAM - CALL IN OF DECISION**

The decision made by the Sub Committee at its meeting on 15 July (minute 5 refers) had been called in and considered by the Corporate Scrutiny Committee on 26 August 2010. The reasons for the call in of the decision, the report

considered by the Corporate Scrutiny Committee, and its recommendations had all been circulated to the Sub Committee.

The Sub Committee was advised that whilst it could consider and comment upon the recommendations made by the Scrutiny Committee it was not its role to make recommendations on them; it was advised that this was for Cabinet to do and that the Sub Committee should therefore refer its comments on the Corporate Scrutiny recommendations to Cabinet.

In considering the recommendations of the Corporate Scrutiny Committee Members were informed that Officers were in the process of drawing up a schedule of decisions that would need to be made over the coming months so as to accommodate, wherever possible, meetings and time for dialogue with the relevant Scrutiny Committees. In addition it was reported that it was proposed to invite Scrutiny Committee Members to be part of the competitive dialogue process although it was noted that the timetable for the procurement would be very demanding.

In the light of the advice received the Sub Committee considered the specific recommendations of the Corporate Scrutiny Committee, and commented as follows: -

**Reason for call in Ground 1** *'That because of the value of this Contract, it should be subject to Scrutiny'*

Recommendation of the Corporate Scrutiny Committee

The Transformation of Highways Sub-Committee be informed that the Committee offers no advice in respect of this matter, on the grounds that the criteria used to determine whether a matter should be subject to Overview and Scrutiny does not specify a monetary value.

Comment of the Sub Committee

That this be noted

**Reason for call in Ground 2** *'That Members have not been given the opportunity to scrutinise other options for the delivery of highway services, for example alliances with other authorities.'*

Recommendation of the Corporate Scrutiny Committee

(1) The Portfolio Holders serving on the Transformation of Highways Sub-Committee be requested to open dialogue with immediate effect with this Committee and the Environment and Prosperity Committee, with a view to consulting fully with both committees in relation to their respective interests in this matter, and the sub-committee be advised that the two Overview and Scrutiny committees may wish to be given an opportunity to scrutinise other options for the delivery of highway services, including alliances with other authorities.

(2) Additionally, Cabinet be informed that this Committee believes there are lessons to be learned from inadequacies identified in the consultation arrangements in respect of the transformation of Highway Services and would therefore urge Cabinet to put in place measures to ensure that in future, Overview and Scrutiny committees are given an opportunity to be consulted on all matters that appear within the Forward plan in a timely fashion.

Comment of the Sub Committee

That in respect of (1) the request of the Corporate Scrutiny Committee be noted, and that Officers proceed with preparing a schedule of decisions to be made, to include time for consideration by the Scrutiny Committees.

That in respect of (2) Cabinet be asked to note the request and to comment further as appropriate.

**Reason for call in Ground 3** *'The impact on the employment of highways staff by the proposed outsourcing.'*

Recommendation of the Corporate Scrutiny Committee

The impact upon existing staff, both Cheshire East Council and Bam Nuttall, be considered as a very important aspect of any dialogue entered into and accordingly, should the transfer of highways services proceed, this Council should apply TUPE regulations in an exemplary manner.

Comment of the Sub Committee

That this be noted.

**RESOLVED**

1. That the comments of the Sub Committee be taken into account by Cabinet in considering a response to the recommendations of the Corporate Scrutiny Committee.
2. That Cabinet consider a response to the Corporate Scrutiny Committee regarding consultation on matters that appear on the Forward Plan.

**12 PROGRESS REPORT**

Consideration was given to a report on progress to date on the procurement project for a new highway maintenance contract. The report included information on the appointment of Bevan Brittan as external legal advisors, and of Happold Consulting, to provide additional support and advice throughout the transition process.

The next steps in the process were outlined including the assessment of pre qualification questionnaires in order to prepare a shortlist for the next stage. An estimate of the timescales involved were given and it was reported that this was currently on schedule. Members were informed that a series of communications with stakeholders and staff was due to be rolled out in the near future.

**RESOLVED**

That the report be noted.

The meeting commenced at 2.00 pm and concluded at 2.30 pm

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# **CHESHIRE EAST COUNCIL**

## **REPORT TO: TRANSFORMATION OF HIGHWAYS SERVICES SUB COMMITTEE**

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**Date of Meeting:** 19 November 2010  
**Report of:** Strategic Director - Places  
**Subject/Title:** Transformation of Highways Services  
**Portfolio Holder:** Cllr Rod Menlove / Cllr Macrae

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### **1.0 Report Summary**

- 1.1 The procurement of the new " Highway Services Contract" is a key work stream within the Total Transport Transformation Programme which is one of six major transformations projects supported by the Council.
- 1.2 Our roads are a corporate priority and their condition has been deteriorating for several years, consultation has also confirmed that most stakeholders recognise that they should be a priority for the Council.
- 1.3 As a customer-focused Council, the Council aims to transform the delivery of future highways services, including replacement of the current team maintenance contract, as appropriate to driving improvement in highway condition perception across Cheshire East.
- 1.4 This report provides Cabinet Sub Committee with an update on progress made on the Highways procurement project.

### **2.0 Decision Requested**

- 2.1 Note progress.

### **3.0 Reasons for Recommendations**

- 3.1 The Authority needs to have a new service provider in place by October 2011 to undertake the delivery of the Highways Services.
- 3.2 To provide strategic input to the procurement process.

### **4.0 Wards Affected**

- 4.1 All Wards are potentially affected by the proposal.

### **5.0 Local Ward Members**

- 5.1 All Ward Members are potentially affected by the proposal.

**6.0 Policy Implications including - Climate change  
- Health**

- 6.1 The Total Transport Transformation programme is providing the framework for this project and will address major policy issues including climate change. One of the drivers for the new highways service will be to deliver cost efficiencies and to limit our carbon emissions.
- 6.2 Policy implications are one of the drivers within the identified Key Drivers for service.

**7.0 Financial Implications 2010/2011 and beyond (Authorised by the Borough Treasurer)**

- 7.1 Within the Places Directorate, there are significant resource requirements attached to moving towards the delivery of the preferred option for delivering Highway Services. It should be noted that this procurement exercise will require the use of staff input from the Places Directorate and other key services which will be supported by external professional advisors to ensure successful delivery project.
- 7.2 An Invest to Save bid is being prepared in respect of delivering the Total transformation programme and this will incorporate resources for consultancy support for the Highways procurement.

**8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 A procurement of this importance and size requires a significant investment of time and resource if it is to be a success. It is also important that the service delivery model and procurement route are the 'best fit' for the required outcomes.
- 8.2 External legal advisers (Bevan Brittan) have been engaged and have provided clear advice to procure using the competitive dialogue (CD) procedure. However, the timescale for doing this has had to be reduced by some months in order to deliver a new service to be mobilised in time for the cessation of the existing arrangements.

**9.0 Risk Management**

- 9.1 There are always risks, financial, safety and reputational in the procurement and delivery of Highways Services, particularly in relation to the level of customer focus, winter maintenance and managing road works. One of the benefits of exploring the options appraisal and selection process is to be transparent and to ensure there is a Member understanding of the different options.
- 9.2 Due to complexity of the proposed Highway procurement it is not best dealt with under the restricted procedure and there would be a very real risk that the Authority would end up with written Tenders that did not fully meet its requirements. The authority would have a much better chance of getting a highways contract that's meets its needs from conducting a competitive dialogue process, albeit a very tightly timetabled competitive dialogue.
- 9.3 One significant issue to consider going forward will be the transfer of risk and determining where best a risk should lie under the proposed new arrangements; this

will contribute significantly to the shape and nature of the client organisation as well as cost allocation.

- 9.4 The CD process would not normally be delivered in the timescale that is available. There is a risk associated with the timetable and that can only be mitigated by ensuring that the procurement is appropriately resourced. There is undoubtedly a mature market for this work, but it needs to be properly managed within a relatively slick process so that the outcome can be delivered on time.

### 10.0 Background and Options

- 10.1 A report was presented to Cabinet Sub Committee on the 7<sup>th</sup> September which updated the members on the current progress.

### 11.0 Progress and Next Steps

- 11.1 The Procurement process is currently entering the stage where bidders will be invited to participate in dialogue which will lead to the development of outline solutions for the service. In the last 3 weeks the following has been completed as per the programme:
- 9 Pre Qualification Questionnaires (PQQs) were received.
  - The PQQs were evaluated via a process of individual assessment by CEC officers and advising consultants followed by a process to agree consensus scores and comments.
  - 2 bidders failed on the financial performance (their annual turnover was less than £100m p.a.)
  - The top 5 bidders were shortlisted – all 5 are well known large organisations or joint ventures.
  - Feedback was given to the five successful bidders and one of the unsuccessful bidders on 20<sup>th</sup> September.
- 11.2 The next key date is the 6<sup>th</sup> October when the shortlisted bidders will formally be invited to participate in dialogue. At the same time they will receive the following:
- Draft heads of terms (the contract)
  - The Service Information
  - The proposed method statements – to which they will respond by the 3<sup>rd</sup> December
  - Details of the Competitive Dialogue dates.

### Payment and performance framework

- 11.3 The proposed payment mechanism to be used is target cost. This approach allows changing budgets to be managed without having to pay compensation to the contractor.
- 11.4 The contractor's performance will be influenced by the performance indicators that are being developed. The strategy will be to have:
- Key Strategic Indicators (KSIs) – these are strategic performance measures will be used for determining accrual of Contract Extension Increments that may be deployed to earn contract extensions, and
  - **Key Performance Indicators (KPIs)** – these are **service** performance measures that will be linked to **payment (deductions or %profit)**.
- 11.5 A set of indicators will be developed which link to the objectives of the Highways Procurement to ensure that those issues of most concern to the Council are monitored.

## **Evaluation criteria**

- 11.6 Work is on-going to develop the evaluation criteria. We aim to have an approach that allows quality to be ranked higher in the early stages and we envisage that price will become the dominant influence later in the process.

## **Staff Communications**

- 11.7 Nominations have been received from staff to be part of the staff stakeholder group. This group will act as a sounding board and bring forward concerns from the staff. An element of the terms of reference of this group will be to develop the ways in which staff are engaged in this process. Union representation will also form part of this group.

## **Communicating with Members**

- 11.8 The Procurement team have taken the advice of the Scrutiny panel with respect to increased member involvement in the process. This has been 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 planned with the two groups and the programme has been amended to ensure the Overview group and Sub-Committee's timely involvement.

## **Programme**

- 11.9 The programme has been changed to allow a longer mobilisation period and member involvement. It remains very challenging. The key dates are as follows:

- Issue requirements: 6th October 2010
- First Dialogue Session: 18-20th October 2010
- Second dialogue session: 8-12th November 2010
- Bidders return outline solutions: 3rd December 2010
- Evaluation of solutions: 3rd-17th December 2010
- Shortlist of bidders: 17th December 2010
- Project Board approval: 20th December 2010
- Invitation to Submit Detailed Solutions stage: 6th December 2010 – 30th March 2011
- Call for final Tender: 23rd February – 6th June 2011
- Notification of intent to award: 6th June 2011
- Contract start 6<sup>th</sup> October 2011.

## **12.0 Timetable**

- 12.1 The timetable is challenging and a truncated process is not something that is normally undertaken and should not be taken on lightly. Therefore there must be some risk associated with this and it is very important to provide sufficient resources to deliver the procurement on time.

## **13.0 Resources**

- 13.1 So far, external solicitors, Bevan Brittan, have been secured using a government Framework with competitive rates available and providing us with advisers that have considerable experience in this field. They will provide both legal and procurement expertise to supplement the in-house input.

13.2 The council has also secured the assistance of Happold Consulting – The council require support and advice throughout this transition process from the identification of contract scope and duration through to contract signature. It is the intention of Cheshire East Council to use the EU competitive dialogue procedure to select an appropriate service delivery contractor. Happold have been secured using a government framework and will support the Council in the development and delivery of a procurement and change programme for its highways services including:

- Development of procurement strategy
- Support during PQQ stages
- Support during competitive dialogue procurement stages
- Development of contract conditions
- Development of service level specifications
- Development of payment mechanism and performance management
- Tender evaluation and contract award
- Mobilisation and implementation of new arrangements
- Support in staff structure development and training

### **14.0 Overview of Year One and Term One Issues**

None

### **15.0 Access to information.**

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

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