

CHESHIRE EAST COUNCIL

REPORT TO: CABINET HIGHWAYS SUB COMMITTEE

Date of Meeting: 15 July 2010
Report of: Strategic Director - Places
Subject/Title: Transformation of Highways Services: Highways Maintenance Team
Portfolio Holder: Cllr Rod Menlove / Cllr Macrae

1.0 Report Summary

- 1.1 The procurement of the new " Highway Maintenance 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 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 details of an appraisal of different procurement models for highways services to enable the Council to identify its preferred option for Cheshire East. It details the work undertaken to ensure the option is worthwhile and presents officers' conclusions and recommendations.
- 1.5 The process undertaken so far has validated the need for change in service delivery, set objectives for that changes has now considered various delivery options, by analysing the benefits of each.

2.0 Decision Requested

- 2.1 To secure Member approval to the strategic direction of the procurement namely the choice of the managing agent contractor model.
- 2.2 To note the structures that has been/are being put in place to support the procurement and the significant resource implications of the procurement.
- 2.3 To note the advice concerning the appropriate procurement method, namely, competitive dialogue.
- 2.4 To agree to the timetable shown in Appendix 1.

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 2009/10 and beyond (Authorised by the Borough Treasurer)

7.1 Within the Policy and Performance/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 All planned expenditure is being met through existing Council budgets.

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. The section on the background and Options deals with the question of which model. The paragraphs below summarise the advice concerning the most appropriate procurement route.

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.

8.3 In summary, the reasons for choosing CD are:

- It will allow Cheshire East to enter into a dialogue with bidders with the aim of identifying the solution or solutions which best meet Cheshire East Council's needs and objectives and upon which final tenders can be sought. It will allow Cheshire East Council to enter into an early dialogue with bidders in relation to potential innovation, and to develop one or more solutions which are the "best fit" having regard to all potential variables and Cheshire East Council's short, medium and long term objectives. CD will provide the Council with the best opportunities to secure the outcomes that it seeks and this must be an overriding conversation.
- The early stage of the dialogue with long listed bidders can be used to test ideas and bidders reactions to these and take the place of a more structured approach to soft market testing.
- Subsequent more in depth dialogue of detailed solutions with those bidders short listed and taken through from the outline solutions stage will enable CEC to firm up its requirements and ensure it will be provided with the technical and financial solutions which meet its needs when final tenders are submitted on conclusion of the detailed dialogue stage.

8.4 A more detailed assessment of the advantages and disadvantages of the two potential procurement options appear in Appendix 4.

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 change 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 Selecting the correct contract model is an important decision because it establishes the risk limitation and management levels of the Authority.
- 9.4 A high level assessment of a longer list of potential models was undertaken to create a short list of two. These two options have been the subject of a more detailed appraisal, which adopted the current contract arrangements as a benchmark.
- 9.5 Issues that may have a material impact on the successful implementation of a new contract have been considered during the appraisal stage through the development of a new risk matrix, shown as appendix 2.
- 9.6 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.

- 9.7 This model in practise is only suitable if elected members are comfortable with passing so much control to a private sector partner and if the remaining officers are capable of dealing with the strategic issues and understand how to delegate.
- 9.8 The contract by definition stands or falls on the abilities of the single provider as there is no back up or ability for greater Client control. The provider must have a sufficient commitment and resources allocated to manage the contract.
- 9.9 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 on the 20th April and agreed the general approach and the setting up of this sub committee.

11.0 Delivery Model

- 11.1 A great deal of background work has been carried out, including visits to other Councils to see the various approaches, to help inform our thinking.
- 11.2 The core team considered the issue of collaboration in regards to both the procurement and delivery of Highways Services and a number of discussions were held at the core group meetings. In particular, the group explored the proposals that Cheshire West and Chester Council are considering in relation to the way they will deliver services going forward. It was clear during these discussions that Cheshire West and Chester Council were keen to follow their own agenda, which were both different in its timetable for change and did not fit with the key drivers identified for Cheshire East.
- 11.3 The group established a set of key drivers for service delivery, a set of outcomes and objectives for the project for the project and a range of delivery models that may be available. See appendix 3. This long list of possible options was evaluated to derive a short list of 2, for which a more detailed appraisal exercise was conducted. A summary of this evaluation is attached as Appendix 4. The detailed options appraisal considered two options alongside the existing arrangements. This provided a benchmark and created a level playing field against which they could be assessed.
- 11.4 The options have been assessed and scored against detailed decision criteria based on both the Key Drivers and a number of "judgement" questions in order to select the preferred delivery model. Some of the key items considered in the scoring matrix in reaching the recommended option appear in Appendix 4 and are summarised below;
- The balance between professional service (white collar) staff and actual investment in highway works and customer service, the nature and scale of the 'client' role.
 - Ability to deliver transformational / Cultural change.
 - The use of innovation for change and best practice from elsewhere.

- Required in house capability levels, numbers and experience
- Flexibility of arrangements
- Contract performance
- Timetable for delivery
- Decision Making (Client, provider, local)
- Local service delivery and customer service.
- Deliver Efficiency
- Delivery of Service

- 11.5 Following cabinets selection of a preferred delivery model the issue of collaboration will be re-visited to ensure that the option selected cannot be delivered on a wider basis or by working with others.
- 11.6 Whilst there are some differences between the two shortlisted options they both have the ability to meet the Drivers for change identified at the outset of the process. The options differ in their approach to staffing arrangements and thus the size of the organisation. The Council will need to consider this carefully as part of the detailed development of the chosen option.
- 11.7 After assessing the outcomes of the final appraisal it was clear that key high level drivers for the authority were scoring better under the MAC arrangement. It was determined from this assessment that there was a greater capacity to deliver on the ability to transform service delivery and culture, as well as the ability to access a wider pool of staff and recourses.
- 11.8 In conclusion the outcomes of the appraisal scored the MAC model moderately higher against a number of key drivers for CEC.

12.0 Timetable

If the CD route is pursued, a truncated process is envisaged (the process would normally take a minimum of about 18 months)

- 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 delivery 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 though 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:

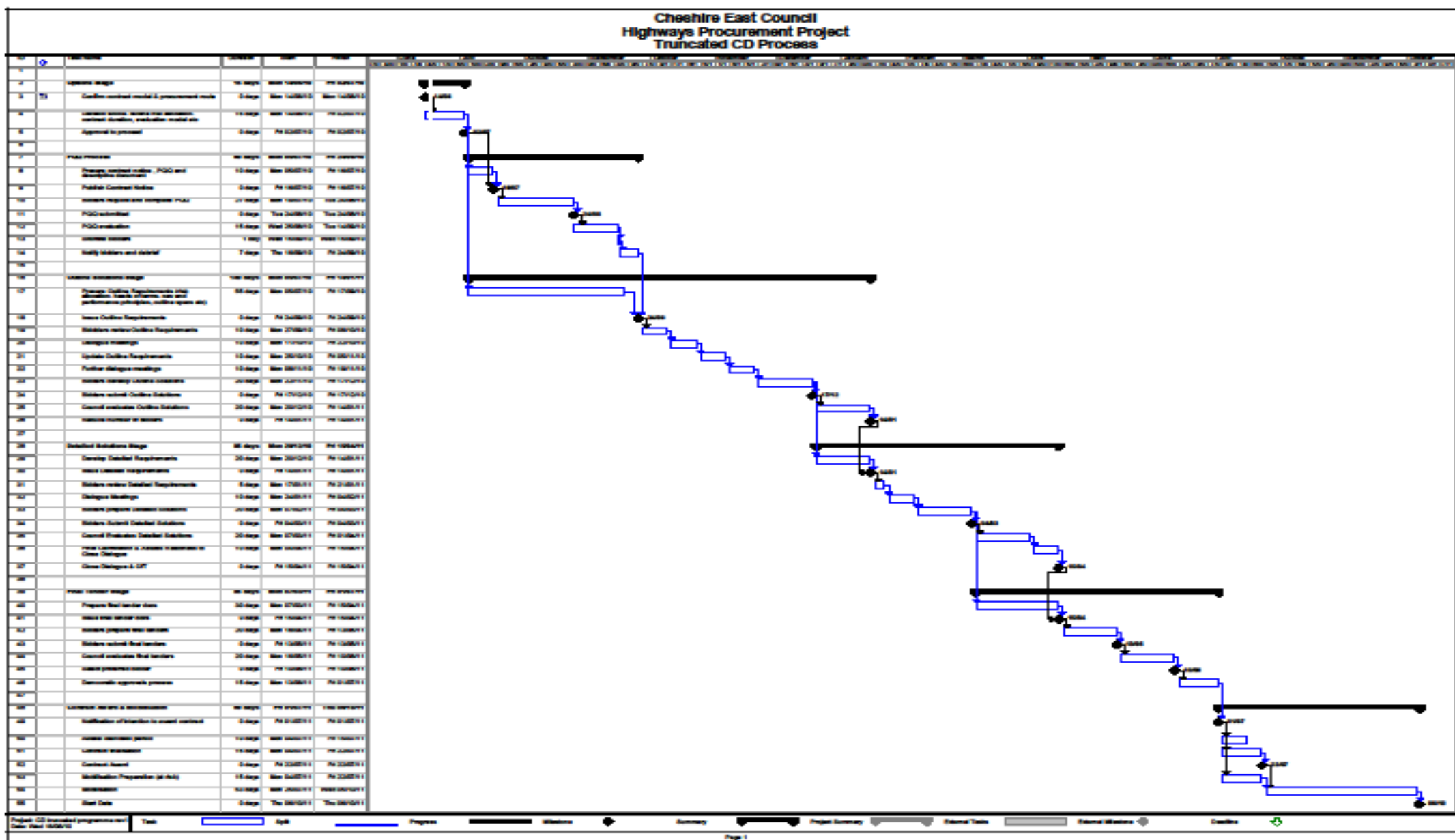
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Appendix 1



RISK MANAGEMENT

Issues that may have a material impact on the successful implementation of the project and any preferred option have been considered during the appraisal stage through the development of a high level risk matrix. Through a process of risk management and control this will help ensure the outcome envisaged in the appraisal is as close as possible to what eventually happens.

The process has identified, evaluated and set out control measures for the risks. Here “risk” is the threat that an event or action will adversely affect this projects ability to achieve its objectives and strategies. It is not a process limited to insurance arrangements; nor is it a peripheral process to health and safety.

There are a broad range of risks facing this project which can be summarised as follows:

Political	For example, failure to deliver local or central government policy, or to meet commitments;
Economic	Those affecting the ability of the Council to meet its financial commitments. These include internal budgetary pressures, failure to insure adequately, or the consequences of proposed investment decisions;
Technological	Those associated with the capacity of the Council to deal with the pace/scale of technological change, or its ability to use technology to address changing demands. They may also include the consequences of internal technological failures on the council's ability to deliver its objectives;
Legislative	Those associated with current or potential changes in national or European law (for example, TUPE regulations);
Environmental	Those relating to the environmental consequences of progressing the project (for example, in terms of energy efficiency, pollution, recycling, landfill requirements, emissions, etc);
Competitive	Those affecting the competitiveness of the service (in terms of cost or quality) and/or its ability to delivery best value
Customer/ Citizen	Those associated with the failure to meet the current and changing needs and expectations of customers and citizens. Includes confidence that people have in the Council.
Information	The absence, corruption and misuse of information.

Detailed operational Risks will be considered as part of the development of the preferred option.

Identifying Risks

In identifying the risks in the risk register a number of things have been considered:

- Critical success factors in the context of the objectives;
- The Service level the Council provides
- Business process risk;
- People's potential behaviours
- Changing internal and external environment
- Reactions of the public service users or local communities.

Prioritising Risks

The number of risks in any project may be very large. In truth many things raised as risks are in fact either issues or concerns. These can usually be linked back to one of the identified key risks. There is a danger that identifying too many risks can make the process unwieldy and impractical. The number of risks must be kept to a manageable level. Evidence suggests that there are unlikely to be more than 30 significant risks in the context of any project as a whole. "Any more than 30 may cause risk overload".

- A "Risk" is something that may happen and has the potential of an adverse impact on the project.
- An "Issue" is something that "has happened" and needs dealing with/managing.
- A "Concern" is something that someone is worried about and needs an answer to but that can be associated with one of the higher level risks.

In prioritising the risk issues the table uses the level of Impact and the Likelihood of something happening to set a risk score which is Red, Amber or Green. The mitigating actions are designed to reduce either the Likelihood or the Impact and thus the score.

Red = immediate action needed or consider action and have contingency plan

Amber = consider action

Green = periodic review

The risk register will be monitored regularly throughout the procurement process to ensure that risk is managed effectively and any new risks identified and dealt with as they occur.

Appendix2
Appendix 3

Option		Key Drivers											Overall	score
		The optimum nature and scale of the 'client' role including retained experience	Ability to deliver transformational / cultural change	Delivers best practice from elsewhere.	Flexibility of arrangements.	Better than current contract performance	Timetable for delivery	Decision Making (Client, provider, local)	Ability to deliver a wide scope of services – Vehicles, Grounds, ITS, UTC	Efficiency of £1m is required	The ability of the model to deliver Quality and Innovation	Existing model in the established market.		
1	Highways Term Contract (ie replace like for like with our without CWAC). Professional services all in-house.													-3
2	Highways Term Contract (ie replace like for like with or without CWAC). Professional Services in-house - partnership with a consultant to take the peaks in design demand.													0
3	Direct service delivery of Term Maintenance and Professional Services in-house.													-4

[illegible]

Appendix 4

				Option 1			Option 2			Option 3		
				Alliance Model			Managing Agent Contractor (MAC)			Existing Arrangements		
Driver (from "Blue Print" organisation work)	Main Weighting	Sub-driver	Sub-driver weighting	Marks awarded	Sub-weighted mark	Weighted mark	Marks awarded	Sub-weighted mark	Weighted mark	Marks awarded	Sub-weighted mark	Weighted mark
Ability of the model to deliver against key Council Policies	3	Climate change and carbon emissions	2	4	8	24	4	8	24	4	8	24
		Maintaining the network in a safe condition	3	3	9	27	3	9	27	3	9	27
		Wider corporate policies/performance	3	3	9	27	3	9	27	3	9	27
		Provider buy-in to corporate goals	2	4	8	24	3	6	18	4	8	24
		Sub-driver total	10	14	34	102	13	32	96	14	34	102
Consistency and equality of service delivery	4	Ability to transform service delivery	3	3	9	36	4	12	48	2	6	24
		Size of client organisation	3	3	9	36	4	12	48	3	9	36

		Consistency of approach and continuous improvement	2
		Staff integration and team approach	2
Sub-driver total			10

4	8	32
3	6	24
13	32	128

4	8	32
4	8	32
16	40	160

3	6	24
2	4	16
10	25	100

Improve customer satisfaction	5	Raise customer satisfaction and perception of service, strong brand	3
		Manage expectations	2
		Delivery of high quality standards	2
		Strong customer service culture	3
Sub-driver total			10

4	12	60
4	8	40
4	8	40
4	12	60
16	40	200

4	12	60
4	8	40
4	8	40
4	12	60
16	40	200

3	9	45
3	6	30
3	6	30
3	9	45
12	30	150

Effective Business Management	4	Deliver of efficiency through innovation and modern practices	3
		Payment mechanism and performance management	3
		Risk transfer and management	2
		Supply chain management	2
Sub-driver total			10

4	12	48
3	9	36
3	6	24
4	8	32
14	35	140

4	12	48
3	9	36
4	8	32
4	8	32
15	37	148

3	9	36
2	6	24
3	6	24
3	6	24
11	27	108

Network condition improvement	2	Whole life costing approach	5
		Utility co-ordination	2
		Potential for investment	3

Sub-driver total 10

Simplicity of procurement	2	Proven model and standard terms	4
		Staffing issues and transfer costs	4
		Level of external expert advice required	2

Sub-driver total 10

Weighting Total 20

Total Driver Score

706

738

598

Option 1
Alliance Model

Option 2
Managing Agent Contractor (MAC)

Option 3
Existing Arrangements

Summary Questions

Will the option deliver either the same level of service provision to the public using less resources; or an improved service in terms of quality or quantity using existing resourcing levels; or a completely different way of working that provides better outcomes for service users? 20 = High level of change - 0 = no change

15

15

10

3	15	30
3	6	12
3	9	18
9	30	60

4	16	32
4	16	32
3	6	12
11	38	76

4	20	40
3	6	12
3	9	18
10	35	70

4	16	32
3	12	24
2	4	8
9	32	64

3	15	30
3	6	12
2	6	12
8	27	54

4	16	32
4	16	32
5	10	20
13	42	84

Will the option enable the service to build on its expertise, to enable the function to become even more efficient, cost effective and competitive? 20 = High level - 0 = Low level

18

18

10

Will the option deliver a sustainable future for the service? 20 = Highly sustainable - 0 = Low sustainability

17

17

10

Will the option be flexible enough to adapt to changing circumstances? 20 = Highly flexible - 0 = Low flexibility

15

15

10

Will the option be able to take account of workforce issues? 20 = Flexible in terms of workforce issues - 0 = In-flexible interims of workforce issues

15

15

10

Will the option generate culture change? 20 = Strong change - 0 = Low change

15

18

10

Level of impact on other business units and partner organisations of the option? 20 = Low impact - 0 = High Impact

10

10

20

**Overall
Score**

811

846

678

Scoring definitions

5

Exceptional – Strong evidence that the options will directly impact on the sub-driver.

4

Very Good - Evidence that that the option will impact on the sub-driver.

3

Good - Some evidence that the option will impact on the sub-driver.

- 2 Poor - Minimum evidence that the option will impact on the sub driver.
- 1 Low - No or little evidence that the option will impact on the sub-driver.

1 The Restricted procedure

Essentially, the Council would prepare a written Invitation to Tender document and would receive back written tenders from interested bidders. There might be the opportunity for a generic "Bidders' Day" in advance of the tender to give a general indication of the Council's requirements but there will be no opportunity to speak to bidders to provide any further guidance during the procurement process.

Advantages:

The main advantage of the Restricted procedure in the context of the present procurement is that it would simplify the procurement process – the Council would simply need to draw up a very detailed tender document setting out its proposals and request tenders in response (having gone through an initial pre-qualification process).

Disadvantages:

For a relatively complex project such as the present one, the Council would not get the opportunity to speak with bidders during the procurement process. There would therefore be no opportunity to develop solutions with bidders, identifying elements of bidders' proposals that find favour and elements that are less important to the Council and perhaps elements that are of no interest whatsoever.

From the point of view of bidders, they do not get the opportunity to fully understand from the Council what it requires (a written explanation of requirements is unlikely to provide the detailed information needed to steer a detailed solution) and, as a result, bidders are likely to put forward relatively generic proposals rather than being able to fine tune solutions to meet the Council's needs. An example that we have mentioned previously is in relation to the method by which bidders are expected to respond to local needs. This is likely to be a Council requirement. However, the Council would almost certainly benefit from a discussion of the cost for the requisite level of service. One bidder may put forward proposals based on a team of local representatives responsible for interfacing with local communities. This may represent the Council's ideal solution save that the cost is unaffordable. It would be helpful for both sides to discuss what level of service would be appropriate that is affordable rather than leaving bidders to guess.

Given the Council's acknowledged lack of resource in the present Highways team, the risk of the Council being able to fully articulate its needs in written form is exacerbated.

2. Competitive Dialogue

This process, introduced in 2006, allows for a formal dialogue process between bidders and the Council following the pre-qualification exercise.

Advantages:

The Council can discuss fully and frankly with bidders their proposed solutions and give direct feedback on bidders' proposals so that final bids should be pretty much guaranteed to meet the Council's requirements and be affordable.

Disadvantages:

The Competitive Dialogue procedure usually takes much longer than the Restricted procedure because of the need to factor in dialogue meetings with shortlisted bidders. A typical timescale for a Competitive Dialogue for a highways services contract would be in order of 18 months.