

Wards Affected:

All Wards

Highways and Transportation- Outline Business Case

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Executive Summary:

This report summarises the Outline Business Case (OBC) for Highways and Transportation (which is attached). The OBC itself provides a clear evidenced based rationale to allow Members to make an informed decision on modernising the Highways contracting arrangements.

After considering various options and the use of an Industry Questionnaire and Open Day this OBC recommends that the majority of all Highway revenue and capital works, which includes Street lighting, Bridges and Highways Maintenance are procured under a single contract with one provider, bringing together the current arrangements where works are currently provided by an in house delivery team and a variety of external contractors

This will move the Council from the current complex structure with two departments having around 50 contractual arrangements and some internal trading to a clear single internal Client structure and a single external Contractor with annual budgets circa £3.4m revenue and £5.6m LTP capital.

As the overall value of this contract likely to be in excess of £80 Million over the term of this contract this report is presented to Cabinet rather than Cabinet Procurement Committee.

1. Recommendation(s)

- 1.1 That the Outline Business Case for the future provision of Highways and Transport Services be approved.
- 1.2 That approval be given to the commencement of the tendering process for a Term Maintenance Contract for Highways and Street Lighting (in line with Option B in the Outline Business Case), the Term to be determined by the Project Board but to be of the order of 7 years with extensions up to 3 years, giving a total contract length of no more than 10 years.
- 1.3 That approval be given to the use of the Midland Highways Alliance documents, wherever appropriate, for OJEU, PQQ and ITT stages, rather than the standard Milton Keynes ones, subject to agreement by the appropriate officers that these are adequate to protect the Authority.
- 1.4 That the evaluation of the received tenders use a 50:50 price:quality ratio to give the Most Economically Advantageous Tender.

- 1.6 That such elements of the Highways depot as considered appropriate be made available for a peppercorn rent to the successful contractor under a full maintenance lease agreement, or similar, as determined by the Project Board.
- 1.7 That £0.3M be allocated from invest to save funds for the Procurement Project to back-fill where necessary and enable the use of external expertise as required.
- 1.8 That, due to the tight timescales and the need for clear delegated authority, the Chief Executive in consultation with the Cabinet Member for Highways and Transport, be authorised to take all necessary decisions during the procurement process up to, but not including, the decision to award the Contract.

2. Issues

- 2.1 A Delegated Decision was taken on 21st December 2011 to proceed with the issue of a Prior Information Notice in the Official Journal of the European Union in order to test industry appetite; and to develop an Outline Business Case based on the industry response, for Cabinet consideration.
- 2.2 The current way of operating highways services has changed little since the Unitary Authority was formed in 1997. The split of work between Highways and Transportation as the “Client” and Neighbourhood Services as the “Contractor”, with a number of Contractors working as if they were sub-contractors to them, reflects the Compulsory Competitive Tendering of the 1980s. This artificial split has led to significant complication of what should be a very simple internal structure, and has undoubtedly added artificial costs into the service, hidden by artificial trading surpluses.
- 2.3 The Outline Business Case (OBC) has reviewed various models, and then consulted with Industry on a number of ideas, leading in turn to the detailed consideration and analysis of the 4 options given below. These are detailed in the report.

3. Options

- 3.1 The four options considered in detail in the OBC are:

Option A Business as usual. This is what is currently done and includes changes that are already planned.

Option B A single Partnership Contract for a set period (known as a **Term Contract** in the industry). All consultancy work (including design and other technical services support) using current framework agreements (no need for additional procurement)

Option C Partnership with **Term Contract including Consultancy top-up** covering design and other technical services support.

Option D Strategic Partnership with Term Contract and full outsourcing of Consultancy.

- 3.2 The four options are steps towards traditional total outsourcing and although Option D gives marginally greater financial savings than Option B or C the risks are much greater with the possibility of loss of financial control and of public perception.
- 3.3 The Industry is clearly willing to engage regardless of type of contract. However, the larger contracts required in Options C and D generally involve Consortia bids or very large companies. Option B will help retain the small and medium sized companies within the mix of interested companies.
- 3.4 Option A has been discounted as it is not going to provide the level of savings necessary for the potential increased level of Capital works and because it does not provide a step change to the current performance.
- 3.5 In line with a report that went to Audit Committee in June this Contract will be part of the new Contract Management arrangements that will bring together and strengthen (building on areas of existing good practice) Contract Management capacity across the whole spectrum of 'environmental' type services. In parallel, recruitment is in hand to a new post in the Partnership Delivery Team (which supervises the Mouchel contract), which will play a role equivalent to that of the Portfolio office in respect of project management and be responsible for championing and promoting best practice in contract management across the Council as a whole.
- 3.6 Detailed consideration will need to be given to the exact structure of the proposed new 'highways/environmental' contracts management team and the role of individual members of staff within it (and appropriate HR processes – e.g. for appointments and for restructuring – may need to be applied) but the aim would be to develop a powerful and effective team with a blend of high level 'generic' contract management skills and experience, working alongside colleagues with greater 'service specific' awareness of the particular requirements of individual contracts.

4. Implications

4.1 Policy

There are no implications as a result of this Decision; Cabinet will be required to approve the outcomes as part of the contract award in early 2013.

4.2 Resources and Risk

Risk:

A new Improvement and Service Development Board, with oversight of the Highways contracting arrangements has been established. This will help

control the next phase of the programme and mitigate against risks common to this large procurement process.

There is a major risk of delay to this process. Highways Contracts that include Winter Gritting need to start outside of the winter period. Currently the OBC expects to be able to mobilise by 1st October 2013. However, that is dependent on an early decision to proceed. The next start date possible would be 1st May 2014. Financial implications have been based on the assumed October 2013 start therefore any delay will remove any savings for 2013/14 and reduce those for 2014/15.

Financial Impact:

There will be one off costs in terms of procuring the contract. This is currently estimated as being of the order of £0.3m.

The table below demonstrates the full year net impact of revenue savings anticipated through the recommended option.

Anticipated benefits of contractual changes	£
Savings in the cost of delivery of maintenance anticipated through the take up of the recommended option	(693k)
Other revenue impacts resulting from the recommendation	
Impact on budgeted revenue surplus generated on capital schemes through current working arrangements	699k
Smarter use of capital funding will reduce the cost of revenue maintenance	(900k)
Reduction in MKC client team to reflect a leaner function	(185k)
Total Revenue Saving	(1079k)

The recommended option is anticipated to generate savings of 11.08% on all works and running costs that transfer into the term contract. This equates to a revenue saving of £693k per annum. (ref: OBC paragraph 7.2)

The current internal trading arrangements are budgeted to achieve a revenue surplus on all works delivered. This surplus effectively is an additional cost for the delivery of Highways revenue and capital works. Whilst the surplus from revenue works can be netted off within the revenue account without any impact on service delivery or overall cost to MKC, the surplus that is attributable to capital works will no longer be possible. This will therefore result in a budget pressure of £699k that will need to be removed from the revenue budget.

By procuring the capital works at a reduced cost through the term contract, and removing the surplus that is currently charged to capital projects, there will be improved value for money within the capital programme. This added value will release capital funding which will enable works that previously have been completed in revenue to be charged to capital, reducing revenue costs by (£900k).

The change in working practices through the new contract will enable a review of the Highways and Transport establishment. It is anticipated that this

restructure will generate savings of (£185k) and a reduction of 7.08 FTE's. (ref OBC paragraph 6.12.5)

In addition to the above savings, other revenue savings are being considered as part of the Medium Term Planning process. These include the review of the parking contract, savings through investment in infrastructure and the introduction of the Traffic Management Act permit scheme. In total these savings proposals will achieve the target set in the MTFP.

Accommodation:

The current Highways Depot and Salt Barn are a significant asset and will enable a new Supplier to provide services without huge Capital costs and is seen by the Industry as being of benefit to be offered. As a result of consolidating contracts there may be a need to offer more than the area currently used for the Highways Service, especially if it were seen sensible to co-locate the Client at the depot rather than at the Civic Centre. As any rental charged would simply be re-charged with profit margin added it is proposed that the depot be offered for a Peppercorn rent on a lease or license basis.

Information technology

The new contract will need integrated software solutions with the new Supplier and although most of this will be provided by the Supplier under the contract there may be a need for an investment in new hardware or software by the Council. It is proposed that on award some of the first year savings are used for purchase of such equipment if necessary.

Y	Capital	Y	Revenue	Y	Accommodation
Y	IT	Y	Medium Term Plan	Y	Asset Management

4.3 Carbon and Energy Management

The new contract provides opportunity to include new technology in many aspects of the contract including fuel saving measures in vehicles, use of sustainable materials and energy saving street lighting.

4.4 Legal

With regards to the single contract, the Authority is a member of the Midlands Highways Alliance (MHA) which was formed in 2007 and comprises 18 local highway authorities (including Milton Keynes) with £12m worth of tracked savings to date. The MHA is seen to be a national exemplar and the Council already uses the MHA Frameworks. The MHA has created a suite of documents for this type of single contract and therefore it is recommended that this is used for the basis of the documents.

The Procurement will be carried out fully in accordance with EU Legislation on procurement. This contract offers opportunity for the development of some of the Localism Act - specifically the Public Services (Social Value) Act 2012

principles within the Contract. However, this has not overturned EU Procurement law and the Council will have to continue to comply with OJEU Tendering Rules.

Examples of what could be done include specifying that the Contractor shall actively participate in the potential for economic and social regeneration which results from a contract and shall deliver a number of outcomes, such as:

- a minimum of 52 Person-weeks of employment to be provided for a Trainee recruited from a source agreed by the Council (ensuring that these are local trainees), for each £500,000 or £1m in contract value provided.
- Requiring recruitment of every vacancy on site, including those with subcontractors, be notified to local recruitment agencies identified by the Council and candidates identified by those agencies are to have an equality of opportunity in the selection process.
- When requested by the Council, the Contractor shall participate in initiatives to identify and nurture organisations based in or around the local area where the Services/Supplies are to be provided or development is taking place that could contribute to the supply chain. Thus giving local suppliers the chance to be on the supply chain.

As well as others like unwaged work experience to local unemployed young persons.

4.5 Other Implications

Staffing

This report and the accompanying OBC identifies about 25 potential staff Transfers under TUPE to the new supplier of the Single Contract, mainly from Neighbourhood Services, and approximately 7 posts that may be reduced due to removing duplication and inefficiencies by merging the two current department structures into a Single Client. Appropriate communication, consultation and support to staff potentially affected by proposals for change will be provided in line with current policy.

There is also the potential that a number of current Contractors' staff would have TUPE rights and the process will ensure that all existing Contractors have the opportunity to identify any such staff in time for the information to be presented to bidders for them to assess the implications before submitting their tenders.

Equalities Impact Assessment

An Equality Impact Assessment was completed on the decision and recommends we continue with the decision despite having identified some potential for adverse impact or missed opportunities. Details of equality issues can be found at: <http://bit.ly/EqIA-5> . Transport and mobility are major issues for older people and people with disabilities. A service that is sensitive to their needs is vital. The main considerations are:

- Deepening engagement with service-users and communities– so that people get the information they need in manner they require.
- Increasing sensitivity to the needs of our service-users, and communities – so that due regard to the impact of service provision and barriers in service provision are properly considered.
- Removing the barriers to accessibility for service-users and communities – so that services are easy to use.
- Improving the quality of services for service-users and communities – so that services are considered excellent and outcomes improve.

Y	Equalities/Diversity		Sustainability		Human Rights
	E-Government		Stakeholders		Crime and Disorder

ANNEX - The Outline Business Case is attached