

17 July 2024		ITEM: 17 Decision: 110730
Cabinet		
Highways & Transportation Professional Services Contract		
Wards and communities affected: All	Key Decision: Key	
Report of: Cabinet Member for Place and the Environment		
Accountable Director: Claire Demmel – Interim Executive Director - Place		
This report is Public		
Version: Final / Cabinet		

Executive Summary

There is a history of under-delivery of the Council’s highways and transportation capital programme, largely due to a gap in available staff resources and specialist technical support. This gap represents ongoing risks to both the delivery of the annual capital programme and the ability to create a forward programme to enable successful funding bids to be made to the Department for Transport.

This report sets out the proposal to commence the tender process for a new Professional Services Contract (PSC) to support with the technical design and delivery of Highways & Transportation works. The provision will complement the limited in-house design resource and provide resilience to ensure the timely delivery of capital works under the Department for Transport Maintenance Block allocation, Integrated Transport allocation and other succession awards as detailed in the capital programme. The PSC will utilise these existing capital funding sources and therefore there will be no additional cost to the Council. By commencing the procurement of a PSC now, it will enable the successful contractor to start design work on the 25/26 capital programme during the autumn of this year to enable successful programme delivery.

Commissioner Comment:

Commissioner comments have been addressed and the report has been amended to reflect this.

1. Recommendation(s)

- 1.1 **That Cabinet approve the commencement of the procurement of a Professional Services Contract for the delivery of Highways and Transportation schemes, for a three year period with an option to extend for a further two, commencing 1 October 2024.**
- 1.2 **That delegated authority be given to the Interim Executive Director - Place, in consultation with the Portfolio Holder for Place and the Environment to decide the appropriate procurement route for the delivery of the Transport & Highways design for the next three**

years, with an option to extend for a further two, subject to performance, commencing October 2024.

- 1.3 That delegated authority be given to the Interim Executive Director - Place, in consultation with the Portfolio Holder for Place and the Environment and Chief Finance Officer / S151 Officer, to award the contract REFERRED TO ABOVE.**

2. Introduction and Background

- 2.1 A new Professional Services Contract (PSC) is required to support with the technical design and delivery of Highways & Transportation works. The provision will complement the limited in-house design resource and provide resilience to ensure the timely delivery of capital works under the Department for Transport Maintenance Block allocation, Integrated Transport allocation and other succession awards as detailed in the capital programme.
- 2.2 A professional services contract was previously held with Mott MacDonald which enabled a call-off arrangement for Professional Services (PS/2017/550). This contract ended on 28th February 2023 and no provision was made to replace it.
- 2.3 There are gaps in specialism and resource to undertake this type of work. The professional services contract ensures consistency and quality in scheme delivery and backfills the areas where in-house expertise is short.
- 2.4 The efficient delivery of the Council's work programmes ensures focus on the authority's statutory requirements to reduce accidents, tackle congestion, deliver improved accessibility, and improved air quality through transportation measures. These programmes are funded externally, principally by the Department for Transport, and therefore there is no financial burden on the Council. The PSC is a flexible technical design resource and the amount of work undertaken can expand and contract commensurate with the level of external funding secured in any given year.
- 2.5 The current in-house team's focus is predominately on the delivery of the Integrated Transport Allocation, but in addition, funding has been secured for the delivery of additional works such as the A126 Safer Roads Fund programme (approx. £2.5m) and A1013 Treetops Capital Bid scheme (£2m). In addition to this there is an opportunity for the Highways and Transport service to support the broader Place Directorate with design assistance on the Tilbury Town fund and other such initiatives. A delivery risk to these programmes has been identified if the additional support that a PSC achieves is not secured.
- 2.6 Securing the delivery of an external design resource, the proposed PSC will provide resilience and ensure consistent capacity which can be scaled up or down to meet the requirements of the externally funded capital programme, without impacting upon the Council's finances.
- 2.7 This contract award will enable the Council's capital programme to be delivered. Key Performance Indicators and robust contract management processes will be implemented to provide assurance of efficient delivery and value for money.

3. Issues, Options and Analysis of Options

- 3.1 As a set and consistent throughput on the PSC cannot be guaranteed it is considered that a call-off type arrangement would work better for both parties, maximising efficiency for the Council. This route allows for a fallback for the in-house team when there is high demand for delivery. Additional capacity would also be created to bring schemes back on track should there be any unavoidable delays within the programme. This also safeguards the programme and enables project managers to manage expectation with stakeholders and Members.
- 3.2 Whilst it is not proposed that a guaranteed expenditure level is included within the contract, a level of support should be included for the existing and aspirational work programme and the growth agenda should additional funding be sought. It is therefore considered that for a potential 3 years plus 2 years (subject to performance) award there should be provision for up to £500k capital per annum, making the total award up to a maximum of £2.5m.
- 3.3 As referenced in section 2.3 there are implications for the Authority in relation to the statutory requirement to reduce accidents, tackle congestion, deliver improved accessibility and improve air quality through transportation measures. This award provides mitigation for those risks.
- 3.4 There is a requirement for the procurement of a new PSC to deliver best value. Any new procurement routes will have to comply with the Public Contracts Regulations 2015 and the Councils Contract Procedure Rules.
- 3.5 The Council's Social Value Framework will be set out in the tender documents and bidders will be asked to propose added value initiatives that will enhance their bid, and which will be subsequently incorporated into the contractual requirements. Typically, with this type of service provision, apprenticeships and using local suppliers would feature in the evaluation criteria, as would green initiatives and evidence to show a commitment for the reduction in the carbon footprint.
- 3.6 In order to deliver various Council projects within the timescales, it is recommended that the Interim Executive Director - Place be given delegated authority, in consultation with the Portfolio Holder for Regeneration and Highways, to determine and develop the procurement route for the award, followed by a tender process and subsequent award. The options are listed in the table below:

Procurement Route	Description	Advantages	Disadvantages
1.Restricted tender process	Advertised two-stage competitive tender exercise, whereby applicants submit a Selection Questionnaire which is scored and then short-listed	Pre-determined number of suppliers are invited to bid.	Large amount of internal resource required. Statutory minimum timescales apply for SQ and tender submission

	applicants are invited to tender.		
2. Open tender process	Advertised single-stage competitive tender exercise.	Any supplier may submit a tender.	Unknown number of bids to evaluate. Large amount of internal resource required. Statutory minimum timescales apply for tender submission.
3. Further-competition under framework	A competitive tender exercise is carried out under a suitable pre-existing framework agreement that is compliant with national legislation.	Fast process. Suppliers under the framework are already approved so no need for SQ. Known maximum number of bidders. Less internal resource required than Open or Restricted process. No statutory minimum timescale for tender submission. Complies with LEVI Heads of Terms	Can only invite suppliers that are on the framework.

4. Reasons for Recommendation

- 4.1 To enable the Place Directorate to continue to deliver highways schemes and planned works as set out in the capital programme and to minimise the risks of non-delivery, it is essential that there is sufficient provision in place via a Professional Services Contract.

5. Consultation

5.1 Consultation has taken place with colleagues from the Procurement team in the writing of this report and options on the most practical procurement route.

5.2 This report will be presented to Cabinet on 10th July 2024 for consideration and approval.

6. Impact on corporate policies, priorities, performance and community impact

6.1 This report and recommendations are in accordance with Thurrock Council's policies, priorities and community impact and the emerging Forward Plan. In particular it complies with the Thurrock Constitution and Procurement governance. The delivery of highways and transport schemes aims to improve road safety, support the climate and net zero agenda and encourage and promote cleaner travel.

7. Implications

7.1 Financial

Implications verified by: **Mark Terry**
Senior Financial Accountant

The report recommends the procurement of a Professional Service Contract to support technical design and delivery of the Highways and Transportation capital works. The contract would be a 3 year period plus 2 year extension, subject to performance. This procurement will maximise cost efficiencies in the delivering of Transportation Development and Highway Infrastructure schemes within the borough. It is proposed that the Contract will be awarded on 50:50 basis (quality and price) to quality to ensure a right first-time approach with the support and design delivery. The teams will be working alongside the Procurement Team to this ensure the right approach to achieving best value.

The Department for Transport provides annual capital grants (Maintenance Block allocation, Integrated Transport allocation and Potholes allocation) and estimated future years allocations from 2025/26 are £3.78m per annum. The Professional Service Contract will award up to £0.500m per annum (13% of estimated capital funding).

The total award up to a maximum of £2.5m would be for the potential 5-year period.

If the annual capital grant from the Department for Transport falls below the estimated £3.78m per annum, the spend on professional services will be reduced the 13% of the lower sum to prevent compromising the funding available for individual projects.

7.2 Legal

Implications verified by: **Kevin Molloy**
Principal Solicitor Contracts Team 18/04/2024

Following issue by the Council of a s114 notice, the Council must ensure that its resources are not used for non-essential spending. The contract at issue here is essential and the provision

of it a statutory duty under legislation. The Council is under a duty under section 41 of the Highways Act 1980 to maintain and repair the public highway. The Council may also in any circumstance not covered by the Highways Act rely on its power in s.1 of the Localism Act 2011 to do anything an individual may do (the general power of competence) to commission this service. It is advised that none of the limitations on this power in s.2 to 4 apply to prevent the use of the power. It is advised that the use of the power, as set out in the report, is a rational exercise of the power. The value of the proposed contract will be above the threshold at which the relevant provisions of the Public Contracts Regulations 2015 apply. Therefore this contract award will need to be conducted in accordance with the relevant provisions of the Public Contracts Regulations 2015, and in accordance with its own internal procurement rules. The proposed method outlined above will be a compliant route to market if the Council selects one of the established options under statute and would comply with the rules referred to above. Officers should therefore ensure Legal Services are kept informed as they progress through the procurement and make their selection to ensure the rules are properly observed.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Team Manager Community Development

A Community Equality Impact Assessment will be carried out to assess any impact this contract would have on the community. While there are no specific diversity and equality implications arising from the procurement process, the provider is expected to set out their plans to deliver social value benefits that are relevant and proportionate to the contract. This may include through the creation of apprenticeships and jobs for residents, using suppliers that are based in Thurrock and supporting green initiatives that have a positive impact for the borough.

7.4 Risks

As referenced in section 2.3 there are implications for the Authority due to the statutory requirement to reduce accidents, tackle congestion, deliver improved accessibility, and improve air quality through the delivery of highways and transportation measures. This contract award will enable the Council's capital programme to be delivered and therefore provides mitigation for those risks. Key Performance Indicators and robust contract management processes will be implemented to provide assurance of efficient delivery and value for money.

7.5 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

Not Applicable

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Not Applicable

9. Appendices to the report

None

Report Author:

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