

12 February 2020		ITEM: 11
Cabinet		
Procurement of Transport & Highway Contracts		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor Ben Maney, Portfolio Holder for Highway and Transport		
Accountable Assistant Director: Anna Eastgate, Assistant Director of Lower Thames Crossing and Transport Infrastructure; and Julie Nelder, Assistant Director of Highways, Fleet and Logistics		
Accountable Director: Andrew Millard, Director of Place and Julie Rogers, Director of Environment, Highways and Counter Fraud		
This report is Public		

Executive Summary

This report aims to gain delegated authority to procure and award a Works contract, a Professional Services contract and a Structures Consultancy contract necessary to deliver the Transport and Highways capital works programmes for the next five years, commencing 1 April 2021.

1. Recommendations:

That Cabinet:

- 1.1 Delegate authority to the Director of Place and the Director of Environment and Highways, in consultation with the Portfolio Holder for Highways and Transportation to decide the appropriate procurement route for the delivery of the Transport & Highways services and schemes for the next five years commencing 1 April 2021.**
- 1.2 Approve the process to commence procurement of Transport & Highways services and schemes for a five-year period commencing 1st April 2021, which will be compliant with relevant EU Public Procurement Regulations, the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.**
- 1.3 Delegate authority to the Director of Environment and Highways, in consultation with the Portfolio Holder for Place and Environment and Highways, to award any contracts necessary for the delivery of transportation and highways services for a five year period**

commencing 1 April 2021.

2. Introduction and Background

- 2.1 In June 2015 Cabinet gave delegated authority to the Director of Planning and Transportation, in conjunction with the Portfolio Holder for Highways and Transportation, to decide the appropriate procurement process and to award contracts necessary for the delivery of Transport and Highways services for the then next five years. That procurement route was through the Official Journal of the European Union (OJEU)
- 2.2 This allowed the procurement of contracts as follows: a £40 million term maintenance and highway improvements contract for works, a £2 million engineering professional services and a £1.35 million structures consultancy contract.
- 2.3 These contracts allowed transportation and highways teams to gain efficiencies through reduced administration and procurement costs. On previous occasions, a mini competition procurement process was necessary for each new project, many of which were of low value but still necessitated the undertaking of a procurement process to comply with the Council's Contract Procedure Rules.
- 2.4 This meant that the Transportation and Highway teams had an opportunity to concentrate on service delivery and were able to identify further service needs, which are processed through an internal capital bid process. Projects such as the full reconstruction of Stonehouse Lane and 'Kerb it' are funded this way.
- 2.5 In the first two years of the term contract, the works procured amounted to £17 million. This means that the estimated average spending used to procure £40 million contract (1 April 2017 – 31 March 2023) increased from £6.67 million to £8.5 million in the past two years and a further increase to £10.75 million is projected for 2019-20. If the spending through the term maintenance and highway improvements contract remains at the latter value, the total expenditure by year six would rise to around £60 million, 50% over the value of tendered contract.
- 2.6 Any further expenditure over 50% of the original contract sum is not permitted under Public Contract Regulations 2015 (Regulation 72) and there is therefore a requirement to undertake a new procurement process.
- 2.7 Following Cabinet approval and a decision on the most appropriate procurement route, the procurement timetable below is proposed for the Works contract. The Professional Services and Structures Consultancy procurement timetables are of a shorter period and will be procured within the timescales for the Works contract.

Works Contract – Procurement Timetable

KEY EVENT	DATE
Issue of ITT	1 st July 2020
Deadline for clarification requests re ITT	31 st July 2020
Closing date for tender submissions	30 th September 2020
Notification of result of evaluation	30 th November 2020
Standstill period	10 days
Expected date of award of contract	19 th December 2020
New contract start date	1 st April 2021

- 2.8 The proposed value of the new Works contract will be in the region of £30m. The Professional Services contract £2m and the Structures Consultancy £1.4m.

3. Issues, Options and Analysis of Options

- 3.1 The current Term Maintenance contract is due to expire on 31 March 2023. Before that time the value of the contract may well exceed its original contract value by a figure of 50%. That level of increased spend is the maximum permitted under the Public Contract Regulations 2015 (Regulation 72). Any additional spend can lead to a procurement challenge which would likely be successful.
- 3.2 There is therefore a requirement for the procurement of a new Works contract to avoid the risk of any challenge. It is considered that to procure a Professional Services contract and a Structures Consultancy contract at the same time is the best way forward. Any new procurement routes will have to comply with EU Public Procurement Regulations, the Public Contracts Regulations 2015 and the Councils Contract Procedure Rules.
- 3.3 The Public Contracts Regulations 2015 thresholds for Works and Services are as follows:
- For works contracts £4,733,252
 - For services contracts £189,330
- 3.4 Any new Transport and Highways Professional Services and Structures Consultancy contracts will incorporate significant core and additional work for delivery over the next five years. This includes:

Core annual capital expenditure

- £971,000 Integrated Transport Capital Programme;
- £1,938,000 Highway Maintenance Works Capital Programme.

Additional capital funding approved

- £5.6 million from Developer Funded schemes.
- Overall over £4 million from capital investment in highway assets.

Funding subject to final approval

- £50 million for A13 East Facing Slips

- 3.5 Thurrock is continuing to seek further funding from sources such as the South East Local Enterprise Partnership, Highways England and the internal capital bid process.
- 3.6 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 the use of local suppliers would feature in the evaluation criteria.
- 3.7 In order to deliver various Council projects within the timescales, it is recommended that the Director of Place and Director of Environment and Highways be given delegated authority, in consultation with the Portfolio Holder, to determine and develop the appropriate procurement route for the transportation and highway capital works programme, followed by a tender process and delegated award.
- 3.8 Any procurement process will be undertaken in accordance with the European Union Procurement Rules, the Public Contract Regulations 2015 and the Council's Contract Procedure Rules.

4. Reasons for Recommendation

- 4.1 The current Term Maintenance contract is likely, at its current spending levels, to exceed its contract value by around 50%. Any additional spend over 50% is not permitted under procurement regulations. There is therefore a need to undertake a new Works procurement process to avoid the risk of any procurement challenge. It is considered that to procure a Professional Services contract and a Structures Consultancy contract at the same time is the most efficient way forward.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 Consultation has taken place with colleagues from the Procurement and Transportation Teams and in the writing of this report.

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

6.1 This report and recommendations comply with Thurrock Council's policies, priorities and community impact. In particular it complies with the Thurrock Constitution and Procurement governance.

7. Implications

7.1 Financial

Implications verified by: **Rosie Hurst**
Interim Senior Management Accountant

This report recommends procurement of a Works contract, a Professional Services contract and a Structures Consultancy contract. These procurements should maximise cost efficiencies of delivering transportation and highway schemes within the borough.

7.2 Legal

Implications verified by: **Courage Emovon**
Acting Strategic Lead / Deputy Head of Legal Services / Deputy Monitoring Officer

This report makes recommendation for delegated authority and seeks approval from Cabinet to tender for contracts as noted in the report and subsequently award contracts as necessary for the delivery of transport and highways services for a five years period. The value of the proposed procurement is estimated to be above the EU threshold for Works contract. This means that there is a legal requirement to competitively tender the contracts. Subject to Cabinet approval, an appropriate procurement route for the delivery of transport and highways services will be determined and any procurement process will need to comply with the Public Contracts Regulations 2015 and the Councils Contract Procedure Rules.

The Public Service Social Value Act 2012 imposes a duty upon Local Authorities to take into consideration the promotion of economic, social and environmental well-being when procuring services.

Social value must therefore be considered when the Council procures public services contracts and Legal Services will be on hand to advise on any legal implications arising from the tender.

7.3 Diversity and Equality

Implications verified by: **Becky Lee**

Team Manager - Community Development and Equalities

This report and recommendations deals with the procurement of a Works contract, a Professional Services contract and a Structures Consultancy contract. Social value benefits must be considered when the Council procures public services contracts in line with the Council's Social Values Framework. Given the projected spend on these procurement it is seen that robust social value benefits can be achieved.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and 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):

- Cabinet 10 June 2015 Item 18 Transportation and Highways Supply Chain Efficiencies
- Budget Council 27 February 2019 General Fund Budget Proposals Appendix 5
- Planning, Transport and Regeneration Overview and Scrutiny Committee 9 July 2019 Integrated Transport Block Capital Programme 2019-20 Appendix 1 and 5

9. Appendices to the report

None

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Environment and Highways