

AUDIT & GOVERNANCE COMMITTEE

15th March 2023

Future Highway Maintenance Contract

Report by Corporate Director for Environment and Place

RECOMMENDATION

The Audit & Governance is RECOMMENDED to

- a) Note the governance in place and associated process being followed for the procurement of the future highway maintenance contract.

Executive Summary

1. The existing highways maintenance contract with M-Group Infrastructure (Milestone) is set to expire on 31st March 2025 with no options to extend remaining. Oxfordshire County Council therefore needs to undertake a procurement of a new contract prior to the expiry of the existing.
2. To manage the project an officer working group has been established for decisions, escalations, and oversight of the delivery; with Portfolio Holders and Corporate Director Steering Group established to provide steer and challenge the working group.
3. In October 2022 it was agreed that Cabinet would take formal decisions at three key stages within the project.
 - Presentation and approval of proposed approach (October '22)
 - Confirmation and approval of the preferred model to develop (March '23)
 - Approval to procure the preferred model (Sept '23)

Project background

4. Oxfordshire County Council are currently in contract with Milestone to provide highway maintenance services. The contract was for 10 years from 1st April 2010, with up to a further 10 years' worth of potential extension linked to performance. Due to extensions either awarded or revoked the contract is currently due to end on 31st March 2025 with no further opportunity for extension. The contract was originally held by Atkins, transferred to Skanska, and finally transferred to Milestone in 2021 as part of a divestment by Skanska.
5. The project is split into 4 key stages as detailed below. For a summary of overall project timelines please see annex 1.
 - Model optioneering (October '22 – March '23)
 - Contract and specification preparation (April '23 - September '23)
 - Contract procurement and award (October '23 – March '24)

- Contract mobilisation (April '24 – March '25).
6. Due to the scale and complexity of the project external specialist consultancy services will be required for elements of the project. It is estimated that consultations support will cost in the order of £400k (including specific specialist legal advice).
 7. Funding of £400k for the project was approved by Council in February 2023, as set out below:

Reference	Description (2022/23 Budget)	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
24EP3	Additional temporary resources and expertise to support the exploration and delivery of a new highways maintenance contract from the end of March 2025	150	100	-250	0

8. Depending on the levels of support required there is a risk a cost pressure may be recorded on existing budgets. To fund this pressure any additional cost will need to be absorbed by the services baseline budgets meaning a reduction in 'revenue' maintenance work on the ground taking place or recovered through any overachievement in income targets.
9. Due to cost pressures and uncertainty of future grants and budgets, the contract will not offer guaranteed levels of spend. As part of the procurement exercise previous years spends and volumes of works will be presented for indication but will not be committed to, either in the tender documentation or in the contract itself.

Governance Structure

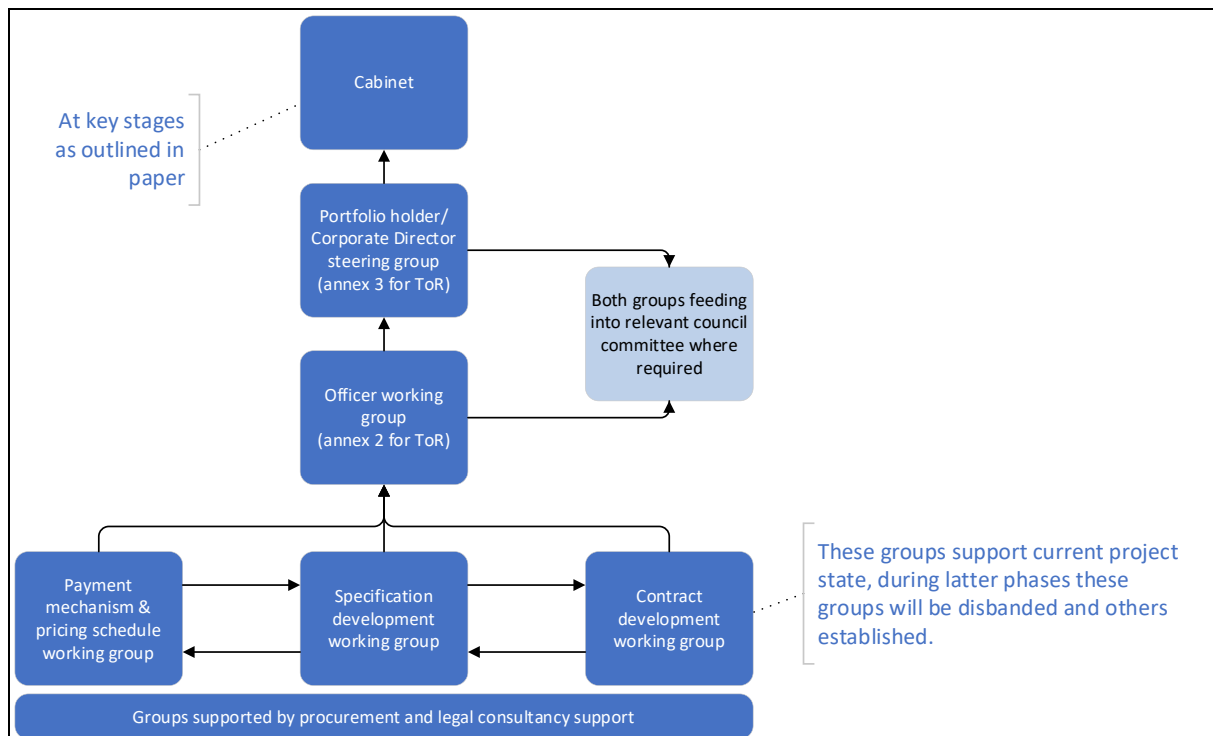
10. The procurement of a new highway maintenance contract is significant as such a formal governance structure has been put in place. There is a Corporate Director / Portfolio Holders Steering Group, Senior Officer working group, and officer delivery groups for specific pieces of work. The relevant Terms of Reference is at Annex 2 and 3.
11. Three working groups are planned during the next stage of procurement documents' preparation to manage and develop the relevant specification, contract, payment mechanisms and pricing schedules. Whilst groups will be independent it will be important to ensure good cross communication and working due to the interconnected nature of each of these documents. To ensure this happens officers and consultants will each work across more than one working group but with each group having its own accountable 'head'.
12. Oversight of the delivery groups will be managed by the Senior Officer working group which consists of key officers from across a variety of functions including finance, legal, procurement, property, HR, ICT, pensions, communications and the highways services themselves. This group is chaired by Paul Fermer,

Director of Highways and Operations. This group is responsible for the quality and timely delivery of the project, risk and issue management and key decision making. The group meets monthly.

13. Above the officer working group is the Portfolio Holder and Corporate Director Steering Group. This group consists of key portfolio holders (Highways Management and Finance) and Bill Cotton, Corporate Director for Environment & Place. Supporting this group is Paul Fermer, chair of the working group and Sean Rooney, Head of Highway Maintenance). This group is responsible for providing strategic steer, management of key risks and issues and to ensure challenging but ambitious outcomes are achieved by the project.

14. Throughout the life span of the project, where required, updates, requests and reviews will be sought by council committees external to the project to ensure due process and procedure is being followed.

Governance structure for highway maintenance procurement project



Procurement Approach

15. The procurement exercises to appoint professional services to support the project and the new highway maintenance contractor/s will be completed in line with all relevant procurement policy and guidelines. Due to the scale and value of the contract/s being procured a member of the procurement team will be appointed to the project team and will own the procurement elements of the project.

16. In respect of the main procurement for highway maintenance contract a detailed procurement strategy has been developed (as at annex 4). A restricted procedure is considered to be the most appropriate, as well as being the timeliest and cost

effective. However, the potential use of alternative procedures, such as competitive dialogue with negotiation, will be continually checked considered and discussed with external advisors during the development of the legal and technical requirements to ensure the restricted procedure remains the most appropriate.

17. It should be noted that whilst legislative changes to the procurement regulations have been announced, specifics of the changes and their date of implementation are still to be confirmed, though this is expected to be spring 2024. To mitigate the risk of changes coming into effect prior to this procurement commencing the specific timings of the tender will need to be taken into consideration with regards the project programme and risks.
18. Social value is at the heart of all Oxfordshire County Council procurement exercises. For procurements associated with this project, significant weighting will be placed on ensuring contracts deliver the Council's social values.

High level timeline

19. The main activity steps are shown below:

Activity	Indicative Timeframe
Approval of approach by Cabinet	Oct 2022
Investigation and development of preferred model	Oct 2022 – Feb 2023
Approval of preferred model by Cabinet	March 2023
Development of specification/s to support model	April 2023
Approval to procure preferred model by Cabinet	Sept 2023
Launch of procurement	Sept 2023
Closure and bid evaluation	Jan 2024 – March 2024
Appointment of contractor/s	March 2024
Mobilisation of new contract	April 2024 – March 2025
Launch of new contract	April 2025

Financial Implications

20. The costs for delivering the project have been included in the 2023/24 Budget and Medium-Term Financial Strategy to 2025/26 approved by Council in February 2023. Any impact on the budget arising from the new contract will need to be considered once the procurement closure and bid evaluation is undertaken in January 2024.

Legal Implications

21. Any procurement exercise to appoint professional services to support the project, and to procure the new highway maintenance contractor, including any associated contracts, will be completed in line with all relevant legislation and

guidelines. Due to the scale and value of the contract/s being procured a member of the legal team has been appointed to the project team and will work alongside any externally appointed legal advisers.

22. Due to the complex and very specific nature of a long-term highway maintenance contract, specialist external lawyers are likely to be required to support the inhouse lawyer in the development of the contract and to work in conjunction with the appointed delivery consultants.
23. As the 'Highway Authority' for Oxfordshire, the procurement of a new highway maintenance contract/s is essential to ensure Oxfordshire County Council meets its obligations under section 41 of the Highways Act 1980 to maintain highways which are deemed 'maintainable at public expense'.

Risk Management

24. Failure to award a new contract/s holds significant risk for this project, failure to do so by 31st March 2025 will potentially leave Oxfordshire County Council without a highway maintenance contractor to fulfil our maintenance obligations. To minimise this risk the project has been established well in advance of this date to enable a robust assessment and procurement process to take place.
25. It is a high value contract and therefore the risk of challenge from unsuccessful bidders, particularly if the incumbent tenderer is not successful, is potentially likely. The ability to successfully defend any challenge is to ensure a robust process is undertaken, with all suppliers treated fairly, equally, and transparently. In full awareness of this risk, OCC Procurement will be using standardised tools and templates, as described in the Procurement Handbook, to ensure a robust process is followed and each stage documented, so that in the event of a challenge full information is available to refute it.
26. A detailed risk and issue log has been developed and is being actively managed by the officer led working group. Key risks will be escalated to the steering group and added to the corporate register where required.

BILL COTTON
CORPORATE DIRECTOR FOR ENVIRONMENT AND PLACE

Annex:

- Annex 1 – Project summary (Plan on a page)
- Annex 2 – Working group terms of reference
- Annex 3 – Steering group terms of reference
- Annex 4 – Procurement Strategy

Background papers: None

Other Documents: None

Contact Officer:

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March 2023