

Divisions Affected – ALL

CABINET 21st March 2023

Future Highway Maintenance Contract Model

Report by Corporate Director for Environment and Place

RECOMMENDATION

1. The Cabinet is RECOMMENDED to

- a) Approve the preferred model (single provider with greater level of in-house responsibilities and use of frameworks for some activities) for the future highway maintenance contract for Oxfordshire.
- b) Support progression to the next stage of developing and drafting the specification, contract, and other tender documents required for procurement.

Executive Summary

2. Following Cabinet approval in October 2022, highway maintenance contract specialists, DMSqd, were appointed to independently lead on a piece of work to determine the most appropriate model for Oxfordshire.
3. The outcome of this work has identified the appointment of a single provider was found to be the most appropriate model for Oxfordshire County Council, however, it was also found that both the 'in house and top up' and 'framework' models also presented significant opportunity for the council. As a result, the final recommended model is the appointment of a single provider combined with the increased insourcing of certain functions (like prioritisation and programming of works, customer and stakeholder management and scheme design) and the use of existing frameworks (such as Midlands Highways Alliance framework) to procure higher value schemes and programmes (such as large-scale surface dressing and inlay schemes).
4. It is recommended this model is endorsed by Cabinet and for them to give permission for officers to develop the finer details and relevant documentation (specification, contract terms and pricing schedules) required for procurement of this model. Cabinet will be asked to approve the specification and detail of procurement in September 2023 prior to the actual procurement commencing.

Context

5. The existing highway 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 decide on a model for highway maintenance delivery from that date and have undertaken any procurement or recruitment prior to the expiry of the existing contract.
6. Oxfordshire County Council are currently in a 'single provider' 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.
7. The current Milestone contract allows for the delivery of the following services across Oxfordshire:
 - Routine maintenance i.e. defects repairs, drainage, highway grass cutting, signs and lines
 - Winter maintenance including gritting
 - Delivery of the capital maintenance/renewal schemes
 - Structures – maintenance and improvement works
 - Small new infrastructure and improvement works > £500k
 - Arboricultural service and support
 - Countryside and PROW maintenance
 - Traffic Management
8. Whilst the 'single provider' model was traditionally a preferred choice for many authorities, given the changing nature of the industry and new Oxfordshire County Council priorities, it is recognised that alternative approaches to highway maintenance delivery should be explored to assess if it continues to be the right approach for Oxfordshire.
9. An initial list of 7 models which may be potentially appropriate for Oxfordshire was developed. These models are detailed below. A list of model type definitions can be found in annex 1.
 - **Private funding** (Private sector finances, builds and maintains infrastructure. Local Authority pays via long-term repayments).
 - **Single provider** (Local Authority contracts a single organisation to carry out activity on their behalf).
 - **Framework** (Local Authority uses a procurement framework to commission maintenance services).
 - **Joint Venture** (Separate legal entity set up by Local Authority and a provider to deliver maintenance services).

- **Multiple Providers** (Use of several specialist providers to carry out specific activities rather than a single provider).
 - **In house + top up** (Maintenance is carried out by in house teams with additional external resources commissioned for specialist activities).
 - **Use of Teckal organisation** (Use of local authority owned provider for activity).
10. To support the delivery of work to date an officer led working group and a joint member / officer steering group has been established. Each group meets on a monthly basis.
 11. An initial high-level review of the options was carried out to measure the performance of each model type against a series of 'critical success factors' (strategic aims of the council). It identified that private funding, joint venture and teckal models did not sufficiently meet these strategic aims and were subsequently discounted from future consideration.
 12. Taking the remaining models a detailed assessment was then completed to measure the performance of the remaining models (which were felt to satisfy the councils strategic aims) against a series of 'operational success factors' to understand their feasibility and deliverability by the council. This assessment identified that the model that individually delivered the most merit was the **appointment of a single provider** to deliver highway maintenance in Oxfordshire.
 13. However, it was also identified that there was significant merit in the greater internal control and resourcing of key areas and the use of frameworks for larger, higher value schemes and programmes to ensure value for money is delivered.
 14. The final recommended model is a hybrid model consisting of the procurement of a single provider to act as the primary partner for the council, but that some key functions, that are currently outsourced such as prioritisation and programming of works, customer and stakeholder management and scheme design and inspection of works (through a Clerk of Works style role), should be subject to increased council control, ownership, and resource.
 15. It is also recommended the Council makes greater use of existing frameworks (such as Midlands Highways Alliance framework) to procure these higher value and complex schemes and programmes (such as large-scale surface dressing and inlay schemes) to help ensure value for money.
 16. It should be noted for some areas like design, whilst it is proposed to insource additional resource and capability, it is also important to ensure an effective design function is allowed for within the contract to be able to respond to demand peaks and to use for highly specialised areas when required. Similarly, it is important that the contract enables the Council to insource additional functions if deemed appropriate during the life of the contract.
 17. An executive summary of the approach and process undertaken including recommendations can be found in annex 2.

18. This preferred approach was also critiqued against the outputs of the member survey which was issued in November 2022 to understand members views around what they would like to see any future contract address and their thoughts on what elements of the existing arrangements they feel are working well and what elements they would like to see changed as part of any new contract. Discussion on how the proposed model addresses Councillor comments raised as part of the survey can be found in annex 3.
19. Engagement with other local authorities and industry delivery partners have also been taking place. The purpose of these engagements are to understand lessons learned (both positive and negative) from both client and delivery partner perspectives and to understand what future industry and governmental trends and assumptions should be considered. It confirmed the recommendation is not out of kilter with what other councils are doing which is:
- Buckinghamshire Council have opted for a hybrid based single provider and council framework model
 - Gloucestershire County Council have opted for a multiple provider model
 - West and North Northants have retained a single provider model
 - Surrey County Council have retained a single provider model
 - Rutland County Council have gone out to procure a single provider model

Proposed next steps

20. Following the approval of the preferred model, the next stage is to appoint specialist delivery and legal resource to support the project.
21. Officers, in partnership with a delivery consultant and specialist legal support will develop a specification and a contract for services to be procured against with the intention of commencing the procurement and issuing invitations to tender in September 2023. Throughout this process industry and local authority engagement will continue to help refine the specification to recognise the latest sector position, ensuring an ambitious, deliverable, and cutting-edge contract can be procured.

Key dates

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

22. Due to the scale and complexity of the project it is expected external specialist delivery consultancy services will be required for elements of the project. It is estimated general consultancy support will cost around £250k. In addition to this, specialist legal advice will be required which is estimated will cost between £50k and £160k depending on the specifics of the contract type and procurement undertaken.
23. In October 2022, Cabinet approved funding to address the need for additional consultancy support. An extract from the budget agreed by the Council in February 2023 demonstrating this below. A total of £400k over the 2-year project duration (2023/24, 2024/25) has been approved, with additional funding removed from 2025/26.

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

24. There is a small risk of a potential cost pressure against this budget as levels and cost of support is confirmed. If this does occur, then it is expected that 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 through any overachievement in income targets.
25. 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.

Comments checked by: Filipp Skiffins, Assistant Finance Business Partner

Legal Implications

26. 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.
27. 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.

28. 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'.

Comments checked by: Jayne Pringle, Interim Principal Solicitor – Contracts & Conveyancing

Procurement Implications

29. Any procurement exercise to appoint professional services to support the project and 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.

30. To support the recommended approach a detailed procurement strategy to deliver has been developed (at annex 4). Whilst a restricted procedure is considered to be the most appropriate, as well as being the timeliest and cost effective, the use of alternative procedures, such as competitive dialogue with negotiation, will be considered and discussed with external advisors when developing the legal and technical requirements.

31. It should be noted that legislative changes to the procurement regulations will come into effect Sept 2023, and the specific timings of the tender will need to be taken into consideration with regard to the project programme and risks.

32. 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 Councils social values.

Comments checked by:

Melissa Sage, Head of Procurement & Contract Management

Staff Implications

33. Due to the scale and complexity of the project is a need to appoint an additional and dedicated subject matter expertise on a fixed term / consultancy basis to advise on the type, scale and scope of the model / contract/s we may wish to procure. This is across Highways, Procurement and Legal.

34. Should the preferred model be approved it is likely there will be some potential TUPE of staff relating to additional activity or functions undertaken by the county council, the bulk of staff transfer will be from Milestone to the new single provider.

35. The wider project team will be internally resourced from both within the directorate and corporate centre.

Equality & Inclusion Implications

36. It is not anticipated the procurement of a new highway maintenance contract/s will impact negatively on any 'protected characteristics' groups, nor on the armed forces, carers, staff, other Council services or providers. There is an opportunity through any procurement to positively impact rural communities and areas of deprivation.

Sustainability Implications

37. A climate impact assessment has been completed prior to this papers submission with the following results produced. Any future contract will look to ensure adoption of the latest technologies, innovations, and practices to reduce carbon where possible. A Climate Impact Assessment has been completed for the proposal which shows a net benefit of +13.

Risk Management

38. The procurement of a new highway maintenance contract/s offers many opportunities for Oxfordshire County Council by ensuring any selected model is appropriate for the current and perceived future challenges for the council.

39. 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.

40. 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 – Model type definitions
- Annex 2 – Service Delivery Models Executive Summary
- Annex 3 – Response to Cllr Survey
- Annex 4 – Procurement Strategy

Background papers: None

Other Documents: None

Contact Officer

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March 2023