

AUDIT & GOVERNANCE COMMITTEE
15 JANUARY 2024

Highways Contract Arrangements

Report by Director of Environment and Highways

RECOMMENDATION

1. **The Audit & Governance Committee is RECOMMENDED to**
 - a) Note the governance in place and associated activities to enable the successful transition from the existing to new highways maintenance contract due to commence on 1st April 2025.

Executive Summary

2. The existing highway maintenance contract with M-Group Infrastructure (Milestone) is set to expire on 31 March 2025 with no options to extend. Following Cabinet approval in October 2023, officers were instructed to prepare and commence the procurement of a new highway maintenance contract to start on 1st April 2025 (following a mobilisation period) for 8 years with options for two 3-year extensions (14-year potential contract length).
3. Following an open procurement exercise a preferred bidder has been selected and contract awarded. Comprehensive demobilisation and mobilisation programmes have commenced to manage the transition from the new contract to the old.

Exempt Information

4. None

Background

5. Oxfordshire is a thriving county which is home to over 650,000 residents. The county has over 3,000 miles of highway and 2,600 miles of public rights of way to manage and maintain.
6. The services to be covered under this contract are the maintenance and improvement of the Council's highway network and include:
 - Routine maintenance (reactive and planned) of highway assets including carriageways, footways, cycleways, drainage systems, structures,

- fences and barriers, signs and road markings, street furniture, verges and trees, public rights of way.
 - Emergency response to incidents on the highway network.
 - Winter maintenance, including precautionary treatments and snow clearance.
 - Capital maintenance, including surfacing, surface dressing and surface treatments.
 - The construction of highway improvement works up to an estimated construction value of £750,000 per scheme (excluding VAT).
 - Design services for the maintenance and improvement works.
7. The agreed procurement process for this contract was a two stage 'competitive procedure with negotiation' (CPN) to ensure a meaningful dialogue is maintained with suppliers throughout the lifecycle of the process but still allowing the Council the flexibility to award the contract based on the initial tenders without any negotiation.
8. Following receipt of the Initial Tenders the Council took the decision to proceed with the award of this Contract based on the evaluation of Initial Tenders, not progressing to negotiation or submission of Final Tenders. The CPN procedure permits the Council to award the contract based on an evaluation of the Initial Tenders and the Council reserves the right to do so at its absolute discretion.

Implementation & Contract Management

9. Once a preferred bidder was selected, comprehensive demobilisation and mobilisation programmes commenced to manage the transition from the old contract to the new.
10. A governance structure as set out in Annex 1 has been established to monitor the progress of these programmes and delivery of activities with the two key governance groups (Demobilisation and Mobilisation Steering Groups) meeting on a bi-weekly basis. Existing contract operational governance structures are being used for escalation and decision-making purposes as appropriate.
11. As part of the procurement exercise bidders were required to provide a clear, comprehensive, and robust mobilisation plan that provided details of the key activities, processes, and services to be undertaken to deliver a successful and seamless mobilisation in accordance with the requirements of the Scope. The response also required the bidders to demonstrate how they would ensure sufficient and appropriate staffing and resourcing of activities and services. The purpose of the mobilisation plan was to allow the Council to evaluate whether the bidder would be capable of successfully providing the Service from the operational commencement date of 01 April 2025.
12. Through the evaluation of the tenders, the Mobilisation Plan was considered as Good by the service - they have confidence in the plan and the transition to commence the new contract.

13. A recent internal audit report highlighted that there was 'a good system of internal control in place' and the fact that the transition plans are 'robust and clearly outline and define the Council's approach to contract closure of the existing contract and the formal acceptance of project deliverables, objectives and commitments under the new contract.'
14. Once the contract has commenced, the council will measure and manage performance in accordance with S825 of the scope, Performance Management, which sets out the performance requirements for all aspects of the contract. A copy of this is included as Annex 2.
15. This will be a platinum rated contract for the Council, therefore the Procurement and Contract Management Hub will have strategic oversight of the contract. The operational team will contract manage on a day-to-day operational basis including social value commitments.

Financial Implications

16. The new contract will be based on a NEC4 Term Service contract, which will include a comprehensive contractual pricing schedule. This defined price list will give more immediate visibility over the costing of works and will provide higher levels of confidence and clarity over the costs over the lifecycle of our schemes resulting in more predictable pricing at an earlier stage helping to avoid inflated costs on schemes/works. The price list will be subject to an annual inflation adjustment on the starting date and each anniversary of the starting date thereafter.
17. Due to the uncertainty of future government grants and the council budget pressures and priorities, the contract does not offer guaranteed levels of spend. All costs associated with the contract will be managed through the existing highways maintenance budget. Contractual pricing will be monitored and aligned within the existing set budget and will not reach over and above the current budget.
18. Any costs associated with mobilisation of this contract will be funded through the 24/25 budget and no additional funds will be required.

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Legal Implications

19. Due to the complex and specific nature of a long-term highway maintenance contract, specialist external lawyers have been resourced to support the inhouse lawyer in the development of the contract. The new contract is based on the NEC4 term service contract, which is a recognised contract within the

industry, but with amendments and additions to the standard NEC4 standard provisions to address a series of specific requirements as to how this particular contract will operate.

20. 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'.

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Equality & Inclusion Implications

21. As part of the highways maintenance contract, Equalities Impact Assessments (EIAs) will be undertaken for specific schemes or programmes of work. EIAs help evaluate the policy and service changes on certain groups within our community. The responsible officer will be required to conduct an EIA at the beginning of each scheme / programme conducted under the highways maintenance contract. Each EIA will be reviewed and signed off by the appropriate Operational Manager on an individual basis, ensuring that all projects and programmes comply with equality standards and regulations. Finally, EIA's will also be sent to the Policy team to undertake an assessment of the findings of impacts on communities.
22. It is not anticipated that 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.
23. Social Value was assessed formally as part of this tender process and is a key component of the new contract. Social Value commitments will be monitored in accordance with our performance management framework.
24. A copy of the equalities impact assessment can be found at Annex 3.

Sustainability Implications

25. 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 +25. A copy of the Climate Impact Assessment can be found at Annex 4.
26. A Climate Impact Assessment will also be undertaken for specific schemes or programmes of work ensuring that climate and carbon impacts are understood, mitigated and opportunities for new ways of working and materials are maximised.

Risk Management

27. A detailed risk and issue log has been jointly developed for Mobilisation and Demobilisation activities and is being actively managed by the governance workstream and respective steering groups. Key risks will be escalated to the steering group and added to the corporate register where required.

PAUL FERMER

Director of Environment and Highways

Annex: Governance Structure
Performance Management
Equalities Impact Assessment
Climate Impact Assessment

Background papers: Nil

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