

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Economy, Transport and Environment
Date:	26 November 2015
Title:	Hampshire Highways Service Contract: Variation of Start Date
Reference:	6993
Report From:	Director of Economy, Transport and Environment

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1. Executive Summary

1.1 The purpose of this paper is to seek approval for a revised publication date for the Contract Notice (OJEU) from November 2015 to early February 2016 to enable the procurement process for the new Hampshire Highways Service Contract (HHSC) to be undertaken in line with the Public Contract Regulations 2015. As a consequence of the delay in issuing the Contract Notice, approval is sought to revise the cessation date of the current Term Highways Contract (THC) with Amey LG from 30 April 2017 to 31 July 2017, and approval for a commencement date of 1st August 2017 for the HHSC.

1.2 This paper seeks to:

- Set out the background to the HHSC procurement process and timescales;
- Identify recent changes to the procurement regulations; and
- Identify alternative options that have been considered and rejected.

2. Contextual information

2.1 This report follows the Decision Day paper presented to the Executive Member for Economy, Transport and Environment on 9th July 2015 to seek approval to procure a new contract to provide Hampshire's highway maintenance services from 2017. The paper carried three recommendations that were approved at the meeting and these were:

- I. To seek approval for the procurement approach outlined in the appendix to the paper to use the newly established 'Competitive Procedure with Negotiation' (CPN).

- II. To seek approval to procure and spend in respect of the Hampshire Highways Service Contract to commence on 1st May 2017, with a duration of up to 12 years and with an estimated total value of up to £1.5 billion.
 - III. To seek approval for the current THC service provider (Amey LG) to be notified that the current contract will end on 30th April 2017.
- 2.2 Changes to the procurement rules were introduced within The Public Contracts Regulations 2015 (the regulations), which were laid before Parliament on 5 February 2015 with most of the provisions coming into force as of 26 February 2015. The regulations include many provisions that were previously identified as good practice or issued as guidance notes by the Office of Government Commerce or HM Treasury, and the regulations also include relevant case law from the European Courts.
- 2.3 Following a comprehensive review of the procurement routes available under the new regulations, the new Competitive Procedure with Negotiation (CPN) was considered the most appropriate procurement route to follow in order to achieve the County Council's objectives, and was duly recommended to Executive member for Economy, Transport and Environment on 9th July 2015.
- 2.4 The CPN process, whilst being a new procedure, provides an opportunity to engage with service providers through the negotiation stage that follows the initial submission of priced tenders before a final award of the contract is made. Early and continual engagement/dialogue with potential providers is supported by the market place and such engagement gives a strong message that Hampshire County Council wishes to work with its providers to ensure that the new contract delivers the best available deal for Hampshire in order to meet the future challenges facing the Authority.
- 2.5 In early July further guidance and advice was issued from government (via the Crown Commercial Service) regarding the use of the various procurement routes within the regulations, including the CPN route. These new areas of guidance provide further clarity on the use of the route and the approach that needs to be followed.
- 2.6 Following the release of the additional guidance in July, specialist legal support and advice was sought in early August which identified that some key additional areas of work need to be undertaken to complete the necessary documentation that must be fully available to potential bidders at contract notice (OJEU) stage. This is different from the process that was in place prior to the introduction of the new regulations in February whereby the level of information required at OJEU was much less.
- 2.7 The areas of additional information now required at OJEU are as follows:

- A full and comprehensive set of contract documents must be available including elements such as specifications, method of measurement, conditions of contract etc;
 - A clear definition of the minimum standards and/or requirements;
 - Identification of the areas for negotiation;
 - Scope of negotiation; and
 - A clearly defined evaluation criteria and assessment process.
- 2.8 In order to meet these enhanced requirements, and to protect the Authority from any risk of challenge regarding the procurement process, further time is required to complete the necessary documentation and it would be prudent to delay the publication of the contract notice by 3 months until early February 2016.
- 2.9 Furthermore, to accommodate the revised procurement timeline, associated processes and documentation, it is necessary to consider a revision of the start date of the new contract from 1 May 2017 to 1 August 2017. This would also necessitate revising the agreed cessation date for the current Term Highways Contract with Amey LG to 31 July 2017.
- 2.10 Other options that have been considered and rejected include continuing with the current procurement programme and having an incomplete set of contract documentation at the publication date of the OJEU notice. This approach would increase the risk of a challenge to the procurement process and outcome and has therefore been rejected.
- 2.11 A second option considered was to leave the existing cessation date of the current Term Highway Contract (THC) at 30 April 2017 (as agreed in the paper submitted in July 2015) and to constrict the procurement process to a tighter timeframe. This option has been rejected because it would constrain the process to such an extent that the potential benefit of the CPN process is likely to be reduced through a higher priority being placed on tight deadlines rather than considered negotiation with bidders.

3 Recommendations

- 3.1 That approval is given to revise the date for the release/publication of the Contract Notice (OJEU) for the Hampshire Highways Service Contract to early February 2016 to enable work to be completed on finalising the required contract documentation.
- 3.2 That approval is given to notify and make arrangements with the contractor Amey (LG) for the revised end date of the current Term Highways maintenance Contract (31 July 2017).
- 3.3 That approval is given for a revised commencement date for the Hampshire Highways Service Contract of 1 August 2017.

Rpt/6993/SS

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	Yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	Yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	Yes
Corporate Improvement plan link number (if appropriate):	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

Report to Executive Member for Economy, Transport and Environment 12.5.2015

http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemsummary.htm?sta=&pref=Y&item_ID=6584&tab=1&co=&confidential=

Report to Executive Member for Economy, Transport and Environment 9.7.2015

http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemsummary.htm?sta=&pref=Y&item_ID=6486&tab=1&co=&confidential=

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

The following measures that will follow approval of the recommendation will help to bring about positive outcomes for all Hampshire residents and to safeguard groups with protected characteristics:

- There will be an increased customer focus in the supply of real-time data on highway maintenance operations and other activities affecting the network;
- There will be standardisation and rationalising of processes and procedures across both parties to improve delivery of work on the ground;

It is proposed that within the tender assessment the following are included in the evaluation model:

- Deliverability and collaboration, which will include equalities;

- Requirements for the service provider to have to employ a number of graduates and apprentices year on year, thus improving outcomes for young people;
- Requirements for the Service Provider to support local employment and employ local SMEs as part of the contract.

2. Impact on Crime and Disorder:

2.1 None

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

Within the proposed new contract it is proposed to include a new material specification and a requirement to use recycled materials which come with a reduced carbon footprint and reduced energy consumption.

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

The County Council has been refining its ability to respond to weather emergencies over the duration of the previous contract, and the proposed approach set out in this report will entail further refinement and implementation of lessons learnt so that the Service can respond to emergencies as efficiently and effectively as possible.