

HAMPSHIRE COUNTY COUNCIL**Decision Report**

Decision Maker:	Executive Member for Economy, Transport and Environment
Date:	9 July 2015
Title:	Hampshire Highways Service Contract
Reference:	6486
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 to procure and spend for a contract to provide Hampshire's highway maintenance service from 1 May 2017. The proposed strategy for delivering the Hampshire Highways Service Contract takes the form of a Term Highways Maintenance "Plus" model, as set out below. The proposed contract would have a maximum duration of 12 years with an estimated contract value of up to £1.5billion.
- 1.2. Considerable work has been undertaken to assess the best available options for delivery of the services, including assessment of the current market and industry best practice and through the Highways Maintenance Efficiency Programme (HMEP), which is the Department for Transport's sector led transformation programme. To meet the needs of Hampshire County Council, this work has led to a recommended change to the current contract approach that Hampshire will adopt for its future highway maintenance service. Flexibility during the life of any future contract is essential for Hampshire County Council to provide a contract that is attractive to the market, whilst delivering the best service for the people of Hampshire at the most economic value.
- 1.3 This paper outlines the research that has been undertaken and the key influences that may affect the County Council throughout the duration of the contract. It outlines the range of contract options considered and the justification and reasons for pursuing the Term Maintenance Contract Plus model.
- 1.4 Further detail on each of these topics is available in the appendix to the report.

2. Contextual information

Current highways maintenance contract

- 2.1 The County Council delivers the majority of its highway maintenance activities via the Term Highways Contract. The Contract is a traditional Term Maintenance Contract with the County Council retaining a strong Client role where all work undertaken through the contract is designed, ordered, managed and paid for by the Client using a priced schedule of rates. The initial Contract duration was seven years (2008 – 2015) and included the option of three, one-year extensions. To date, two of the extensions have been awarded and the contract is currently due to end on 30 April 2017. Amey LG is the current Service Provider.
- 2.2 Annual expenditure through the Contract has increased considerably during its lifetime. During the first year the value of spend was £37.5million and this has gradually increased to £62million in 2013/14. The main reasons for the growth have been:
- Recognising the importance of highway maintenance to the economy and the wellbeing of Hampshire, the County Council's Members have invested an additional £10-12million per year for several years for planned maintenance schemes, namely carriageway resurfacing projects through the County Council's Operation Resilience programme.
 - Successful bids for Government grants in response to emergencies, for example flood recovery damage and pot hole repairs. In 2014/15 this equated to £17.5million additional funding spent through the Term Highways Contract.

The contract spend is made up of both revenue and capital budgets, in the ratio of approximately 35% revenue and 65% capital.

- 2.3 The current contract covers all aspects of highway maintenance including: routine (e.g. gully emptying), reactive (e.g. pot hole repairs), planned maintenance (e.g. resurfacing), winter maintenance and emergency response (e.g. snow or flooding). The contract excludes street lighting, which is covered by a separate private finance initiative contract, signal maintenance (e.g. traffic signals) and bridge maintenance.
- 2.4 Hampshire's contract has been developed to ensure a consistent minimum volume of work is available to retain a critical mass of contractor's personnel to deliver the core winter maintenance and emergency response service. This aspect is an essential requirement in the future contract strategy.

3. Research

- 3.1. The methodology for researching and evaluating the delivery of the highways service in Hampshire has largely followed the Highway Maintenance Efficiency Programme (HMEP) principles and guidance. The programme, which is commissioned and supported by the Department for Transport, is regarded as industry current best practice and encourages local authorities to seek efficiencies and savings through collaboration, standardisation and business engineering.

- 3.2. With the current contract due to finish in April 2017 research into the state of current and future markets, contract options, and best practice has been ongoing since September 2013. The work has covered a number of key areas including: market engagement with a number of service providers, engagement with staff at all levels responsible for using and managing the current contract, consultation with other local authorities, and engagement with private consultants.
- 3.3. The research has highlighted that the market has changed considerably for both highway authorities and service providers since Hampshire procured its current contract in 2008. The key findings are:
- Capital investment in infrastructure has increased significantly over recent years and is forecast to continue in the short term.
 - The Service Providers' market is very competitive.
 - Individual highways contracts are targeted well in advance of formal procurement notification.
 - Bidding is an expensive process and providers are selective about the contracts they bid for.
 - The culture of the Client's organisation, work volume certainty and good asset management data are key elements Service Providers use to decide whether they wish to bid for a particular contract.
- 3.4 Therefore in order for Hampshire to gain best value for highway maintenance services it is imperative that the future contract is attractive to potential service providers.
- 3.5 As part of the research, the County Council invited a HMEP Strategic Review to be undertaken to assess the work the County Council has undertaken to date, to confirm if it was heading in the right direction and whether anything had been missed or not considered as part of the research. The review took 2.5 days during January and March 2015 and involved three senior officers from other County Councils, a County Councillor from another county and a representative from the Local Government Association. Feedback has been very positive and demonstrates that Hampshire has considered the main factors associated with procuring a new highways service in the current market, has good timescales, and is on the right track regarding decisions and direction. The final report forms part of the appendix to this document.

4. Key Influences

Funding

- 4.1. The future contract must ensure the County Council has a sustainable approach to delivery that is flexible and able to meet fluctuating budget pressures whilst maintaining a consistent volume of work. Other factors influencing the timing and choice of future contract strategy are the requirements to achieve revenue budget savings, strong customer focus, and in order to support effective management of continued services, retention of in-house capacity, technical knowledge and skills.

- 4.2. Revenue funding accounts for approximately 35% of the current contract value and include activities such as: pothole repairs, grass cutting, road markings and winter maintenance. Work is on-going through market research to review ways to deliver these services more efficiently in the next contract. From work undertaken it is clear that in order to achieve savings a change in delivery strategy is required as the current contract approach does not provide the necessary mechanisms and flexibility to realise savings, whilst maintaining a strong highways maintenance service. The proposed future contract will reduce the Client revenue overhead and help to protect the operational spend.
- 4.3. In recent years the Local Transport Plan Capital Structural Maintenance Budget has been enhanced by additional funding streams for highway maintenance e.g. Operation Resilience and Government grants. The additional funding is a significant proportion of the total capital structural budget for highway maintenance (approx. 27%). The current Operation Resilience funding arrangements run through to the end of the current administration; the opportunity for future Governments grants are unknown.
- 4.4. Although the revenue budget is under extreme pressure, the wider transport capital budget has been increasing and Hampshire has its largest capital infrastructure investment programme for 30 years through Local Enterprise Partnership, Local Transport Plan, and other third party contributions. The new contract must be part of a coordinated solution for delivering this work and ensure there is sufficient work to retain resources for winter maintenance and emergency service.

Customers

- 4.5. Over the last few winters with snow and flooding events, the volume of enquiries for the highways service has reached unprecedented levels and overwhelmed the service. For example in 2013/14 approximately 80,000 enquiries were received. The new contract must be designed around the customer, to manage public perceptions and expectations. The highway maintenance service is rated by residents as the top County Council as measured by the 2014 IPSOS Mori National Highways and Transport Public Satisfaction Survey, and it will be important to build on this during the life of the new contract.
- 4.6. The new contract must ensure that customer service levels remain high, maintaining Hampshire at the forefront of service delivery nationally, and that the service is able to operate with a reduced Client overhead. To achieve this it will require the following:
 - An integrated Highways Operation Centre with the service provider contributing real-time data on highway maintenance operations and other activities affecting the highway network.
 - Consistency and standardised highway functions across the service, utilising the web and social media.
 - To help manage customer contact proactively and in a timely manner that frees up engineering resource to focus on technical delivery.

- The development of a digital solution that helps drive a channel shift in customer contact. This should enable customers to self-serve or provide data for Hantsdirect to answer enquiries and therefore reduce the overall cost of the service.

Technical

- 4.7. The retention of capacity, skills and technical knowledge is important for Hampshire to ensure it remains an intelligent client and can adapt to the changing environment. Many local authorities have outsourced their technical resources to the private sector, leaving the authority with commissioning and auditing capacity and responsibility only. This can leave very little flexibility and opportunity to adapt to the changing environment. A number of these authorities are now looking to bring the technical expertise back in-house, but this is a much harder task once the skills have already left the authority. The long-term aim for Hampshire is to develop a highway maintenance service that evolves over its duration and allows integration of the management and teams whilst retaining the strategic capacity and technical capabilities of Hampshire County Council.

5. Contract Options

- 5.1. Work has been on-going since September 2013 to review various contract options. The work has involved working with an all-party Members Task & Finish Group (made up of Economy, Transport and Environment, and Policy and Resources Scrutiny Committee Members) to review the variety of contract options and recommend an approach for Hampshire's future contract. The contract models explored included:

- Direct Service Organisation (DSO)
- Multiple providers
- Term Maintenance Contract (Limited)
- Term Maintenance Contract (Standard)
- Term Maintenance Contract (Plus)
- Integrated Contract (strong client)
- Integrated Contract (thin client)
- Joint Venture/Teckal
- Private Finance Initiative (PFI)

- 5.2. Each of the models was explored in detail and their relative advantages and disadvantages were discussed with officers. The recommendation of the officers was that the Term Maintenance Contract Plus model was the most appropriate and this was endorsed by the Task and Finish Group. The recommendation was presented by the Task and Finish Group to the Economy, Transport and Environment Select Committee on 20 January 2015. The Select Committee fully endorsed the findings of the Task and Finish Group and supported the approach for Hampshire's future Term

Highways Contract. The Select Committee's recommendation to the Executive Member for Economy, Transport and Environment is that a Term Maintenance Contract Plus approach should be pursued for the next contract. It also recommended that the Task & Finish Group continues to meet with officers at key milestones during the development of the contract specification.

- 5.3. Hampshire's current contract is a standard Term Maintenance Contract where the majority of the responsibility and control lies with the Client. This type of contract has been used for all of Hampshire's previous highway maintenance contracts since the early 1990s. The contract has served Hampshire well, is tried and tested and is familiar to its users. Work is ordered through the contract via individual works orders and it is typical for Hampshire to raise approximately 40,000 orders per year.
- 5.4. As detailed below, the proposed new approach develops the old Term Highway Contract arrangement into one which can adapt and respond to the modern financial pressures in the public sector. It allows elements of responsibility and control of the service to be passed to the provider, offering options for them to create efficiencies through owning end to end responsibility for the service. This will reduce the considerable number of work orders, saving costs to both parties. Using a range of payment options enables much greater flexibility for both parties to work collaboratively to deliver best practice, work more efficiently, and produce savings.

6. Recommended Approach

- 6.1. The recommended approach for the future highways maintenance contract will involve use of the Term Maintenance Contract Plus model. This approach is seen as a progression from the traditional standard Term Highway Contract approach, but short of a fully integrated outsourced contract. With this approach, the Client retains a reasonable proportion of the control and responsibility for the service, and elements of the service are outsourced to the provider to manage and deliver. This provides a more integrated service and gives the opportunity for the service provider to bring innovation to gain efficiencies and offer savings. The individual services to be managed and controlled by the service provider have yet to be agreed but it is essential to keep the contract as flexible as possible to meet future challenges and demands throughout the contract period.
- 6.2. The intention is to include a proportion of Capital Improvement Schemes within the contract. This will provide a consistent annual turnover to ensure the contract has sufficient work to provide resources for winter maintenance and emergency service. This is viewed as a positive and proactive step by the market and reduces the risk of a fluctuating contract value for potential future Service Providers. The inclusion of Capital Improvement Schemes will also provide Hampshire with an alternative option to deliver projects. The size, number and type of schemes are yet to be agreed but it is imperative the contract is flexible to accommodate a wide range of options.
- 6.3. The proposed maximum duration for the next contract is up to 12 years based on a core duration (e.g. seven or eight years) and the option of a number of extensions to be awarded on performance.

- 6.4 With the possibility of the contract lasting up to 12 years it is difficult to predict future budget allocations with any certainty. To manage this uncertainty, considerable work has been undertaken to produce commercial and financial models to determine future expenditure through the contract. An essential requirement of the contract is that it is flexible and can adapt and respond to changing national and local conditions. With future collaboration opportunities the contract may need to accommodate work from a wider range of sources including: other departments within Hampshire County Council, neighbouring counties' highway services, and district councils. In this respect, to help retain Hampshire's skills, capacity and experience, an OJEU upper limit of £1.5billion is recommended.

7. Procurement Route Option

- 7.1 Following analysis of various potential options, Competitive Procedure with Negotiation has been favoured as the preferred procurement route. Using this newly available route allows bidders to submit tenders to deliver the service but provides the opportunity for Hampshire County Council to negotiate with bidders before final tenders are received.
- 7.2 All of Hampshire's previous highway maintenance contracts have used the "Restricted Procedure" and although this has served Hampshire County Council well it means the authority is bound by the tendered prices with no scope for negotiation.
- 7.3 Consideration was also given to the potentially more intensive Competitive Dialogue approach, but this was deemed unnecessary as Hampshire County Council is satisfied with the specifications for the majority of its highway service and would only want to negotiate in a relatively small number of areas in comparison with the overall size of the contract.

8. Commercial and Financial Modelling

- 8.1 Hampshire County Council has been working on the development of the contract with its private sector partner Deloitte. The work has involved reviewing the individual elements of the contract that will have the greatest impact on commercial incentivisation to drive efficiency and the best financial outcome for Hampshire. This work has included the review of a number of areas including: the choice of payment options for individual services, anticipated expenditure through the contract, incentives, contract duration, performance measures and shared efficiencies.

9. OJEU Limit

- 9.1 Procurement of the Hampshire Highways Service Contract will comply with The Public Contracts Regulations 2015 and EU Directive 2014/24, which require the contract to be advertised in accordance with the Open Journal of the European Union (OJEU).
- 9.2 As part of the OJEU process Hampshire County Council must submit a Contract Notice, which is a standard form to inform bidders of the detail of the

individual contract. The Contract Notice must be in the form prescribed in the Public Sector Directive and must contain certain basic information including an estimated value of the contract. Estimating the value of long-term contracts such as the Hampshire Highways Service Contract can be difficult to define. If the estimate is too low and the value of work undertaken through the contract exceeds the stated value, Hampshire County Council could be subject to a legal challenge due to the scope of the contract changing.

- 9.3 The OJEU valuation has been discussed with a number of Service Providers through the market engagement sessions and other local authorities. All are in agreement and recommend that the Contract Notice valuation should be high to avoid the County Council's restricting itself from future opportunities.
- 9.4 Current spend through the contract is approximately £60m per year, which equates to £720m over a maximum duration of 12 years. A similar inflation rate (28%) would add a further £201m to the total, pushing the value towards £1bn. However, this value is based on current spend values. Spend through the current contract has almost doubled over its duration. The evaluation of inflation is purely an estimate and with market demand increasing across the country due to large capital investment the inflation levels could increase further.
- 9.5 Therefore it is recommended that a maximum Contract Notice valuation of £1.5billion is applied. This should ensure the County Council doesn't exceed the OJEU limit early and thereby prejudice its future options by having to terminate the contract early. The estimate allows for:
- The value of works put through the contract;
 - Inflation over a 12 year period;
 - The provision of a high ceiling to allow for growth or business development/changes through the lifetime of the contract;

10. Recommendations

- 10.1 That approval is given for the approach to the delivery and procurement of the future Hampshire Highways Service Contract as set out in this report and appendix.
- 10.2 That approval to procure and spend is given in respect of the Hampshire Highways Service Contract, to commence on 1 May 2017, with a duration of up to 12 years and with an estimated total value of up to £1.5billion.
- 10.3 That approval is given for the current Term Highway Maintenance Contract Service Provider (Amey LG) to be notified that the current contract will end on 30 April 2017.

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.)

<u>Document</u>	<u>Location</u>
Report of Task and Finish Group to Economy, Transport and Environment Select Committee, 20.1.2015	http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemsummary.htm?sta=0&tab=1&item_ID=6371&currentpage=1&cancel=n
Report to Executive Member for Economy, Transport, and Environment 12.5.2015	http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemdocuments.htm?sta=0&pref=Y&item_ID=6584&tab=2&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;
- A clause will be added to the Conditions of Contract entitled "Social Responsibility", which will require the Service Provider to consider impacts of service provision upon groups with protected characteristics;
- 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 a 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.