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**Report of the Civil Engineering Manager**

**Report to the Chief Officer (Highway and Transportation)**

**Date: 23 October 2018**

**Subject: Approval to Tender the Highways & Transportation Consultancy Contracts**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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**Summary of main issues**

1. The purpose of this report is to seek the Board's authorisation to develop and subsequently procure new contracts for the provision of Highway and Transportation professional services from external providers.
2. The arrangements with the Council's current provider, WSP, expired at the end of August 2018. Prior to the expiry of the contract, orders were placed with WSP to enable the ongoing provision of services in the medium term. A target date of April 2019 for the implementation of the new arrangements has therefore been established.
3. An options appraisal has been carried out and identified a model comprising a Core Contract plus supporting Frameworks as best supporting the Council's objectives for the service.

**Recommendations**

The Chief Office (Highways and Transportation) is requested to:

- i) Note the content of this report

- ii) Authorise the development of a procurement model and strategy based on the content of this report and prepare the associated tender documentation
- iii) Endorse any necessary market engagement prior to formal tender; and
- iv) Authorise the procurement of the recommended contracts through the OJEU procedure.

## **1.0 Purpose of this report**

- 1.1 The purpose of this report is to seek approval to develop the preferred model for the provision of highways and transportation professional services and subsequent procurement of contract(s) to replace the recently expired contract with WSP.

## **2 Background information**

- 2.1 The Council has procured a range of professional services to support its Highways and Transportation Service via a term contract with WSP for more than a decade. That contract expired at the end of August 2018 and cannot be extended further. Orders for work were placed with WSP under the term contract before the expiry date that will ensure ongoing delivery of services in the medium term. However, there is a need to put in place alternative arrangements as soon as possible. A target date of April 2019 for the new arrangements to be in place has been established.

- 2.2 The services required to be procured are professional services to:

- support the ongoing operation, maintenance and improvement of the Council's highway network; and
- develop the capital schemes and programmes of work to upgrade the Council's transportation systems and associated infrastructure.

The investment in the highway and transport network and other infrastructure is forecast to be approximately £1BN over the next 10 years.

## **3 Main issues**

### **3.1 Service Objectives**

The future arrangements for delivery of the highways and transportation professional services must provide the Council with high quality and value for money services to ensure the successful operation and development of the city's transportation systems. The objectives for the service are to:

- Ensure sufficient capability within the supply side to provide a range of high quality technical services including Smart City and other emerging technologies
- Ensure sufficient capacity within the supply side to support the anticipated levels of investment in the city's infrastructure
- Enable benchmarking of suppliers and ensure value for money

- Provide opportunities for local based businesses to provide services to the Council
- Be straightforward to administer and manage
- Be market acceptable

### 3.2 Long List of Model Options

A long list of potential Model Options for the delivery of the services has been identified. These are summarised in the tables below.

<b>Model Option 1: Single Provider Term Contract</b>	
<p>In this model, a contract is awarded to a single service provider capable of delivering all (or the majority of) the highway and transportation services required over a period of time (e.g. 5 or 7 years). Typically, the provider has the right to deliver the services within the scope of the contract (although the volume of the work is not guaranteed). This model is particularly suited to the delivery of ongoing services over a required period of time and is the model that has been used for the WSP services over the past 10 years.</p>	
<b>Advantages</b>	<b>Disadvantages</b>
<p>A single point of contact for the procurement of services. Relatively simple for the commissioning and co-ordination of services.</p> <p>Relatively simple to procure.</p> <p>Likely to generate significant market interest amongst major suppliers due to the high volumes and relative predictability of workload.</p> <p>Potential for efficiencies through economies of scale.</p> <p>Retention of knowledge and learning within a single organisation leading to potential productivity increases.</p> <p>Ability to develop strategic relationships with supplier.</p>	<p>Reliant on single provider which can increase risk in the event of supplier failure.</p> <p>No ongoing competition between suppliers.</p> <p>Risk of being “stuck” with the supplier with limited access to other suppliers and new technologies / alternative approaches and innovations.</p> <p>Limited access to other suppliers in the event of peaks in demand / reduction in capacity of supplier.</p>

<b>Model Option 2: Multiple Provider Term Contracts</b>	
<p>In this model, a number of contracts are awarded to provide services over a period of time. The number of contracts depends on the range of services to be procured but may typically be broken down by specialism e.g. transport studies and planning; engineering design; contract and commercial services. Typically, the appointed provider has the right to provide the services within the scope of their contract.</p>	
<b>Advantages</b>	<b>Disadvantages</b>

<p>Ability to procure “best in class” providers for each discipline required.</p> <p>May attract smaller specialist firms to submit tenders. Less reliance on a single provider.</p> <p>Some ability to benchmark or compare providers but not necessarily to procure services from the other contract.</p>	<p>More complex to procure compared to a single provider.</p> <p>More complex to administer and to co-ordinate the delivery of services due to larger number of interfaces.</p> <p>May be less attractive to the major suppliers.</p>
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**Model Option 3: Frameworks**

In this model, a framework is established with a number of suppliers to provide services on a contract “call off basis” under the framework when required. The contracts under the framework can be awarded either via a secondary competition or by selecting which supplier to appoint using pre-determined objective criteria. The frameworks cannot last for more than 4 years.

This model is typically suitable for appointing suppliers to carry out discrete pieces of work or services related to specific projects.

<b>Advantages</b>	<b>Disadvantages</b>
<p>Provides access to a large number of suppliers.</p> <p>Ability to appoint “best in class” provider for each contract.</p> <p>Opportunities for ongoing benchmarking and competition between suppliers.</p>	<p>Can be complex to procure initially.</p> <p>Can be complex to administer the frameworks and award contracts under the framework.</p> <p>Can be more complex to co-ordinate service delivery of multiple providers.</p> <p>May not be attractive to the market.</p> <p>Short term commissions may result in disruption to service delivery and potential loss of knowledge between providers</p> <p>Duration is limited to 4 years and can limit the development of strategic relationships.</p>

**Model Option 4: Term Contract plus Frameworks (Hybrid Model)**

In this model, a Term Contract is established to provide “core services” over a period of time and a Framework arrangement is established alongside the Term Contract to provide services on a “call off basis” when required. The Term Contract “core services” would comprise the ongoing routine and more predictable services required to support the client team. The frameworks

<p>would be used to deliver services for discrete projects and/or to provide more specialist services outside of the “core services” in the Term Contract. The scope of the services covered by Frameworks would need to be distinct from those in the Term Contract in order to avoid conflicts and for the Term Contract being deemed to be another framework.</p>	
<b>Advantages</b>	<b>Disadvantages</b>
<p>Provides access to a large number of suppliers and increased capacity.</p> <p>Use of Term Contract to provide continuity of workload for the delivery of the Council’s core services.</p> <p>Ability to appoint “best in class” providers for discrete projects / specialist services.</p> <p>Opportunities for ongoing benchmarking and competition between suppliers.</p>	<p>More complex to procure.</p> <p>More complex to administer the framework and to award contracts under the framework agreements.</p> <p>More providers and therefore more interfaces to co-ordinate.</p> <p>May not be attractive to the market.</p> <p>Duration of the frameworks is limited to 4 years which prevents development of strategic relationships and may be inconsistent with the optimum length of the Term Contract.</p>

### 3.3 Assessment of the Model Options

Each of the Model Options is assessed against the service objectives on the basis of a High, Medium or Low rating. This is shown in the table below. The assessment is based on simple qualitative and relative comparison basis in order to identify Options for further consideration and to discount any Options that are unlikely to warrant further analysis.

Factor	Model Option			
	1 (Single Provider)	2 (Multiple Providers)	3 (Framework)	4 (Core + Framework)
Capability	Medium	Medium	High	High
Capacity	Medium	Medium	Low	High
Value for Money	Medium	Medium	Medium	High
Local Economy	Low	Medium	High	High
Simple to Adminster	High	Medium	Low	Low
Market Acceptable	High	Medium	Low	Low

### 3.4 Shortlisting of Model Options

The simple analysis above indicates that Model Option 4 (Core plus Framework) scores highly against 4 of the Council’s 6 key objectives for the service. This is higher than any of the three other Options.

However, Model Option 4 also scores low against the objectives of:

- (i) being simple to administer; and
- (ii) market acceptable.

Additionally, as Model Option 4 includes the use of a Framework alongside a Term Contract, and Frameworks are limited to 4 years duration, there is a potential mismatch with the optimal duration of the Term Contract element.

### 3.5 Issues with Model Option 4

The issues with Model Option 4 identified in paragraph 3.4 above are addressed below:

#### *Simplicity of Administration*

Under a framework, there are three ways in which contracts can be awarded to a supplier on the framework:

1. with a secondary competition
2. without a secondary competition
3. partly with a secondary competition and partly without a secondary competition.

If option 3 is used, the framework contract must state the objective criteria that will be used to determine whether a secondary competition will be used or not for any particular contract.

If a secondary competition is not to be used (either under option 2 or option 3), the framework contract must state the objective criteria that will be used to select which provider is to perform the contract.

Therefore, it is recommended that the Framework element of Model Option 4 should allow for contracts to be awarded without the need for secondary competition and for the simple, objective criteria to be included that will enable the Council to select the most appropriately placed supplier to deliver a commission.

#### *Market Acceptability*

The opportunity to provide highway and transportation services to the Council is likely to be of interest to the market due to the potential significant volume of workload over the next 10 years.

However, the introduction of a framework alongside a term contract may reduce the market's appetite due to:

- reduced volume of workload in the Core Contract
- lack of certainty in workload through the Frameworks
- the potential costs of secondary competitions under the Frameworks

These risks can be mitigated by:

- (i) setting out a realistic and deliverable programme of future workload to provide confidence and visibility to the market; and
- (ii) by making the criteria for awarding contracts under the Framework simple and transparent.

Nevertheless, it is recommended that market consultation is undertaken to determine the market's interest in the opportunities and gain feedback before proceeding with formal procurement.

#### *Contract Duration*

Under the Public Procurement Regulations 2015, a framework can have a maximum duration of 4 years. This would mean that the framework duration would be different to the optimum Core Services Contract (currently being proposed as 6 years extendable to 10 years).

Contracts under the framework which will run on beyond the end of the framework can be awarded prior to the end of the framework period. Factors to be considered when awarding contracts that run on after the end date include the time taken to carry out the work and where extensive training of staff to perform the contract is needed. However, the award of the contract must not distort competition or otherwise be improperly used and would normally be expected to be of a duration consistent with the contracts previously awarded under the framework.

### 3.6 Implementing Model Option 4

In order to implement new arrangements, due to the values of the contracts, an EU-compliant procurement processes would be required. Separate procurement processes would be required for the Core Contract and the Framework contract. In order to achieve this by the April 2019 target date, there are two procurement procedures<sup>1</sup>:

1. The Open Procedure
2. The Restricted Procedure

Indicative programmes showing principal activities and timescales for both procedures are appended. The Restricted Procedure involves a first stage of pre-qualifying a shortlist of suitably experienced and qualified organisations to submit tenders whereas the Open Procedure enables any organisation to submit a tender. Consequently, the Restricted Procedure typically takes longer than the Open Procedure. Both programmes indicate that the new arrangements would not be in place much before the April 2019 target date. However, with the Open Procedure there is a risk that a large number of unsuitable qualified organisations may submit a tender requiring significant additional Council Officer time in tender evaluation. On balance, it would be most appropriate to use the Restricted route.

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<sup>1</sup> The Competitive with Negotiation Procedure is also available but the longer timescales required for a negotiation phase would put the April 2019 date at risk.

In any event, it is recommended that a Market Engagement Exercise be undertaken in order to verify whether or not the proposed model Option will be acceptable to the market and is likely to result in a genuine competition and successful procurement. This activity is shown on both programmes.

### 3.7 Supporting the Best Council Plan

The proposed Option will support the best Council Plan by providing services that:

- Help deliver a 21st Century Infrastructure for the city
- Support inclusive growth by supporting opportunities for local business and people

## 4 **Corporate Considerations**

### 4.1 **Consultation and Engagement**

- Initial market testing amongst some of the main Consultants with offices in Leeds has already taken place and there is a real appetite to provide consultancy services to Leeds City Council. A number of work packages have already been successfully procured outside the old partnership contract through mini-tender exercises demonstrating the type and nature of potential future work.

### 4.2 **Equality and Diversity / Cohesion and Integration**

- This report deals with an administrative decision regarding procurement options for the replacement partnership contract within Highways and Transportation. There are no immediate implications regarding Equality and Diversity / Cohesion and Integration but these will be considered as part of the tender documentation.

### 4.3 **Council Policies and the Best Council Plan**

The proposed Option will support the best Council Plan by providing services that:

- Help deliver a 21st Century Infrastructure for the city
- Support inclusive growth by supporting opportunities for local business and people

### 4.4 **Resources and value for money**

In order to implement the Option, the following resources will be required:

- H&T Officer time in order to develop the model option, prepare tender documents and evaluate submitted tenders
- Legal and Procurement Officer time to support the procurement process, review tender documentation and support tender evaluation
- External support to assist the H&T Officers to develop the model, prepare tender documents and evaluated tenders.



## **4.5 Legal Implications, Access to Information and Call In**

- This is a key decision and the notice has been published on the Forward Plan.

## **4.6 Risk Management**

The current arrangements with the supplier (WSP) have expired. Failure to implement replacement arrangements during the first half of 2019 will result in delays to delivery of the Council's highways and transportation priorities. It is therefore imperative that procurement of the new arrangements proceeds without delay.

The key risk with the proposed model is the acceptability of the model to the market. In order to mitigate that risk it is considered important to develop the Model and then engage with the market to understand their views and appetite. Any modifications (if required) can then be made to the model prior to the start of the formal procurement process to ensure a genuine competition.

## **5 Conclusions**

5.1 New arrangements for the delivery of Highway and Transportation services need to be implemented without delay. There a number of model options that are capable of delivering the services. The Model Option 4 (Core Contract plus supporting frameworks) supports the Council's key objectives but does contain several key risks, namely:

- The market's appetite for the model
- The potential administrative burden
- The limiting factor of 4 year durations for Frameworks.

## **6 Recommendations**

6.1 The Chief Office (Highways and Transportation) is requested to :

- i) Note the content of this report
- ii) Authorise the development of a procurement model and strategy based on the content of this report and prepare the associated tender documentation
- iii) Endorse any necessary market engagement prior to formal tender; and
- iv) Authorise the procurement of the recommended contracts through the OJEU procedure.

## **7 Background documents<sup>2</sup>**

7.1 None.

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<sup>2</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## Indicative Procurement Programme (Restricted and Open Procedures)

Activity	September				October				November				December				January				February				March			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
<b>RESTRICTED PROCEDURE</b>																												
Prepare draft Tender Docs																												
Market Engagement																												
Issue OJEU and SQ																					◊							
SQ Period																												
Fine Tune Tender Docs																												
Evaluate SQs																												
Issue Tender Documents																					◊							
Tender Period																												
Evaluate Tenders																												
Standstill Period																												
Contract Award																					◊							
<b>OPEN PROCEDURE</b>																												
Prepare Tender Docs																												
Market Engagement																												
Issue OJEU and Tender Docs																					◊							
Tender Period																												
Evaluate Tenders																												
Standstill Period																												
Contract Award																					◊							