



Environment Committee

11 September 2019

Title	Procurement of Highways Term Maintenance Contractor
Report of	Chairman of the Environment Committee
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	None
Officer Contact Details	Jamie Cooke, Assistant Director Transport and Highways Jamie.Cooke@Barnet.gov.uk 0208 359 2275 Mario Lecordier, Interim Strategic Client Lead for Highways Mario.Lecordier@Barnet.gov.uk 020 8359 5258

Summary

The current arrangement with ConwayAecom is through the London Highways Alliance Contract (LoHAC) which expires on the 31st March 2021 with no extensions available. Therefore, Barnet will need to procure a replacement Highways Maintenance Contract (HMC). The procurement will be managed through Re and include arrangements to service the obligations of Re Highways and the broader Barnet responsibilities such as emergency works on the network.

Consideration of best practice in the sector suggests that a procurement of this type should be conducted over a 2-3-year period to allow all relevant Barnet issues to be properly considered before starting the procurement. In addition, there are a number of specific external issues which also need to be considered in advance of progressing the procurement.

Officer Recommendations

Officer Recommendations

- 1. That the Environment Committee notes the risks identified in the report and the conclusion that it will be very difficult to complete a successful procurement before the existing contract ends.**
- 2. That the Environment Committee requests Officers to investigate and report on options to mitigate and/or remove these risks.**
- 3. That the Environment Committee requests Officers to investigate and report back to Committee on options to engage a Highways Maintenance Contractor on a short-term basis to deliver service requirements post LoHAC expiry pending completion of a longer-term arrangement.**

1. PURPOSE OF REPORT

- 1.1 The Environment Committee has responsibility for all policy and budgetary matters related to Highway Services in Barnet, with significant resources allocated annually to both footway and carriageway works.
- 1.2 Officers must inform and recommend decisions to be taken by the Environment Committee to ensure the safety, condition and value of the Highways estate.
- 1.3 To propose a best value solution to the conflicting timescales and considerations in the procurement of a Highways Maintenance contractor and other contractors (as required) to deliver all Highways services delivered under the current LoHAC contract.

2. REASONS FOR RECOMMENDATION

- 2.1 The current provider (ConwayAecom) was procured via the LoHAC framework arrangement that provides a significant volume of work to the major players in the Highways Term Maintenance Contact sector (averaging c.£35 - £40m of revenue for TfL works in each of the LoHAC areas). This provides a “footprint” for these suppliers in the London area for a relatively long period of time which allows them to invest in depot, fleet and personnel to service the LoHAC requirements.
- 2.2 Since the LoHAC arrangement is currently being re-procured, the major market players and their suppliers, are actively engaged in this procurement and would be waiting on the outcome of this procurement to inform their decisions on approaching London Boroughs for their work. The principal reason for this is that success in LoHAC provides a base of operations including vehicle and plant, fleet, personnel, depots and the systems required to deliver other Highways Maintenance Contract (HMC) arrangements within the London area. Until the contractors know the result of the LoHAC procurement they are unlikely to bid competitively to any London Borough.
- 2.3 This is particularly the case in Barnet as Barnet does not have any depots to pass over to a new contractor. If there is a change of contractor(s) when the new LoHAC framework agreement is awarded the costs associated with the investment in new base of operations would be borne by the new LoHAC contractor(s). When Barnet awards its contract, it should be able to leverage this investment to encourage both more competitive interest and better value tender returns if it has waited until after the award of the LoHAC arrangement to approach the market.

- 2.4 Any change in procurement regulations following Brexit will also have to be considered.
- 2.5 Officers believe that a short-term procurement followed by a longer-term procurement following the award of the LoHAC framework contract and the end of the current Re contract could provide the opportunity for a better procurement with a different allocation of responsibilities between the various parties. Officers are looking to develop a bespoke Barnet contract and may recommend not to use the new LoHAC contract.

3. Recommended Option

Officers believe the best way forward is the investigation and reporting on the options that Barnet has in the procurement of an interim highways delivery route that would allow for the LoHAC arrangement to be awarded prior to approaching the market for a longer-term HMC. Thus, providing several critical factors in a tendering exercise, these being:

- **Interest and improved competition**, no other large Highways Maintenance tendering happening within London and an opportunity to access additional revenue through maintenance, highway projects and large capital regeneration and development packages. This would lead to improved competition and better value tenders
- **Removal of risk**, Employees and Depots would be part of the LoHAC tendering, thereby, successful Contractors would have calculated these costs in the LoHAC bid
- **Improved arrangement** and performance alignment with Re Highways and Barnet outcomes and objectives for the longer term
- **Completion of a full data validation** and reconciliation exercise to ensure we go the market with clear and accurate data, including the replacement of the current asset management system. This will provide a state of the art system to successfully take Barnet into the new arrangement and the future.

- 3.1 The alternative option is to progress to a re-procurement in the current environment with a view to having a new HMC in place for the termination date of the existing Barnet LoHAC contract. For the reasons described above, this option is not recommended.

3.2 Issues for consideration

- Identification of procurement options available to us outside of an OJEU process.
- Frameworks that Barnet is currently engaged in and a cost/benefit analysis of these versus the LoHAC Contract.
- Options assessment to be provided and brought back to Committee to inform the Committee of the most economically advantageous tender option.

4. POST DECISION IMPLEMENTATION

- 4.1 Once approved by Committee the recommended short-term option will be progressed by Officers, under delegated responsibility of the Executive Director of Environment and will bring options back to Committee.
- 4.2 The procurement of a new long term bespoke HMC focussed on the outcomes of the corporate plan and flexing to Barnet's changing requirements will also be brought back to the committee for approval.

5. CORPORATE PRIORITIES

- 5.1 Barnet 2024, the Council's Corporate Plan 2019 – 2024 states that one of the Council's

corporate outcomes is to provide a pleasant, well maintained borough that we protect and invest in with the objective of keeping the borough moving, including improvements to roads and pavements.

- 5.2 The Council's current Network Recovery Programme will continue to maintain and improve the highway network, footpaths and carriageways, for use by residents, local users and those people travelling in and through Barnet. It will improve the highway network, which in turn will contribute to improving the local environment and the quality of life for the residents and help create conditions for a vibrant economy.
- 5.3 The proposed planned maintenance programme will also contribute to the Council's Health and Wellbeing Strategy by making Barnet a great place to live and enable the residents to keep well and independent.
- 5.4 The Highway network is the Council's most important asset and is vital to the economic, social and environmental wellbeing of the borough, together with its general image.

6. SOCIAL VALUE

- 6.1 The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Social value will be considered when looking at the options. Our current contracts have considered social value.

7. LEGAL AND CONSTITUTIONAL REFERENCES

- 7.1 As a highway authority Barnet has a duty under section 41(1) of the Highways Act 1980 to maintain the public highway.
- 7.2 The Traffic Management Act 2004 places obligations on highways authorities to ensure the expeditious movement of traffic on their road network. Authorities are required to make arrangements as they consider appropriate for planning and carrying out the action to be taken in performing the duty.
- 7.3 In addition, Section 30 of the Greater London Authority Act 1999 confirms that the highways authority has the general power to, amongst other things, promote the improvement of the environment.
- 7.4 The Environment Committee has responsibility for all borough-wide or cross-constituency matters relating to the street scene including, parking, road safety, lighting, street cleaning, and can receive reports on relevant performance information and risk on the services under the remit of the Committee.
- 7.5 The procurement of highways services, including related supplies and works, must be done in compliance with public procurement rules, including the Public Contracts Regulations 2015

8.0 RISK MANAGEMENT

- 8.1 The council, as Highway Authority, has various responsibilities and duties. To address these responsibilities and duties the council has established policies, systems and processes that are regularly audited, reviewed and amended where necessary to reflect

current policy and guidance and provide the council with a robust defence against insurance claims on the public highway.

8.2 The preparation of annual programmes of work for both footways and carriageways in the borough demonstrates the necessary use of asset planning and risk management principles for the distribution of available funding and resources on an agreed, clear and auditable basis utilising a prioritisation process and governance arrangements overseen by members and approved by the Environment Committee.

8.5 There are no risks identified as a result of this report. It is considered that the proposed recommendations will lead to an improved HMC arrangement focused on improving the environment, improving the condition of the asset and increase the value received by residents through our maintenance funding.

9.0 EQUALITIES AND DIVERSITY

9.1 The Equality Act 2010 requires organisations exercising public functions to demonstrate that due regard has been paid to equalities in:

- Elimination of unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advancement of equality of opportunity between people from different groups.
- Fostering of good relations between people from different groups.

9.2 The Equality Act 2010 identifies the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership, pregnancy and maternity; race; religion or belief; sex and sexual orientation.

9.3 To assist in meeting the duty the council will:

- Try to understand the diversity of our customers to improve our services.
- Consider the impact of our decisions on different groups to ensure they are fair.
- Mainstream equalities into business and financial planning and integrating equalities into everything we do.
- Learn more about Barnet's diverse communities by engaging with them.

9.4 The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and delivery of services.

9.4 Good roads and pavements benefit all sectors of the community by removing impediments and assisting quick, efficient and safe movement to access school, work and leisure facilities. This is particularly important for the elderly, people caring for children and those with mobility difficulties and sight impairments. The condition of roads and pavements is regularly at the top of concerns expressed by residents and the Council is listening and responding to those concerns by committing funding and resources to its planned highway maintenance programmes across the borough on a prioritised basis.

9.5 The physical appearance and the condition of the roads and pavements also have a significant impact on the quality of life of residents and visitors to the borough. A poor-quality street environment will give a negative impression of an area, impact on people's perceptions and attitudes as well as increasing feelings of insecurity.

10. CORPORATE PARENTING

10.1 In line with the Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in decision-making across the council. There are no implications for Corporate Parenting in relation to this report.

11. CONSULATATION AND ENGAGEMENT

11.1 This section does not apply to this report.

12.0 INSIGHT12.1

11.1 This section does not apply to this report.

13.0 BACKGROUND PAPERS

13.1 This section does not apply to this report.