

TITLE OF REPORT HIGHWAYS MAINTENANCE CONTRACT

Key Decision No. NH Q57

**CPC MEETING DATE
(2019/20)**

11th March 2020

CLASSIFICATION:

Open with exempt appendices A-C

By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 appendices A-C are exempt because they contain information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

WARD(S) AFFECTED

All Wards

CABINET MEMBER

Cllr Jon Burke

Cabinet Member for Energy, Waste, Transport, and Public Realm

KEY DECISION

Yes

REASON

Spending/All Wards

GROUP DIRECTOR

Ajman Ali – Neighbourhoods & Housing (Interim)

1. CABINET MEMBER'S INTRODUCTION

- 1.1. The Council has a statutory duty to maintain the roads, footways and associated infrastructure within Hackney for which it is the Highway Authority. This report seeks approval to support the contractual engagement of Supplier B for the Civil Engineering Lot, Supplier C for the Road Surfacing Lot, Supplier B for the Street Lighting Lot and Supplier A for the Road Marking Lot
- 1.2. These 4 separate lots cover the majority of the highway works undertaken by the Council. The Council needs to maintain our sustainable transport network for pedestrians, cycle users and public transport movements and to create a more sustainable highway environment. In addition to maintaining the highway network this contract is used to deliver a broad spectrum of initiatives such as LED lighting upgrades, Sustainable Urban Drainage Systems (SuDS), new cycle networks and are also used to plant more trees seeking our vision of a 40% tree canopy coverage across the borough. The combined predicted value of all lots is £40m over the initial 4 year period (£80m if extended for the full period).
- 1.3. Each Lot will run for a period of four years 2020 – 2024 with the option to extend for an additional 4 years (2 x 2-year extensions). The contract extension periods will be subject to the performance of the Contractor and any further discussions regarding insourcing or procurement strategy.
- 1.4. The award of the proposed Streetscene Highways Maintenance contract will support the continued delivery of high-quality services to maintain and improve our street scene. It is through a strong partnership approach between the Council and their service providers that works to the public realm improves the streets in Hackney for the benefit of all users.
- 1.5. Members should note that whilst the report seeks approval to continue to contract out the majority of the highway disciplines of civil engineering, road resurfacing, road markings and street lighting works, as part of a phased insourcing programme, the activities of winter service (roads)

and cyclical gully cleaning, that formed part of the previous contract arrangements, will be brought back in-house to Waste Operations from April 2020. Consideration is also being given to insourcing the responsive repairs activity for Highways. As agreed at the CPC meeting of 11th February 2019 the insourcing of the responsive repairs is likely to be in 18 – 24 months from the commencement of the new contract and will only proceed if it is considered viable.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1. Following a competitive procurement process, this report seeks approval to appoint a contractor to deliver the Streetscene Highways Maintenance Contract of Civil Engineering, Road Surfacing, Street Lighting and Road Markings.
- 2.2. The Streetscene Highway Maintenance contract was tendered in four separate lots. This contract will deliver the following:-
 - Provision of a cost-efficient, quality-driven highways related service, which delivers a safe, high-quality public realm environment for the people that live, work and travel through Hackney.
 - A contract that focuses on the Sustainable Procurement Policy, Strategy (PSG) and that provide local employment opportunities including at a minimum, the London Living Wage (LLW). There is also a requirement for one apprentice to be employed on the contract for every £1m of expenditure
 - A contract that reduces construction waste by re-use and recycling wherever possible.
 - A practicable solution in which to have a phased return to insourcing and enable the Council to grow the in-house service provision that will result in less reliance on external service providers.

3. RECOMMENDATION(S)

That Cabinet Procurement Committee approves:

- 3.1. **The award of the suite of Streetscene Highways Contract (4 Lots) 2020-2024;**
- 3.2. **The option to extend each lot for an additional 4 years (2 x 2-year extensions) and to enter into the relevant contract and any other ancillary legal documentation relating thereto with the Bidders in this paragraph for the performance of such works on such terms as shall be agreed by the Director of Legal and Governance Services. This contract will start on the 1st of July 2020 to;-**
 - **Civil Engineering Term Contract (LOT1) -Bidder B**

- **Road Surfacing Term Contract (LOT2)** -Bidder C
- **Street Lighting Term Contract (LOT3)** -Bidder B
- **Road Marking Term Contract (LOT4)** -Bidder A

3.3. **That Cabinet Procurement Committee notes that whilst the report seeks approval to contract out the highway disciplines of civil engineering, road resurfacing, road markings and street lighting works that, as part of a phased insourcing programme, the winter service (roads) and cyclical gully cleaning will, from April 2020, be brought back in-house to Waste Operations, an existing in-house service provider.**

4. RELATED DECISIONS

4.1. The strategy for the procurement of the existing Streetscene contract with a suite of four lots (Civil Engineering, Road resurfacing, Street lighting and Road marking) was reviewed at the Cabinet Procurement Committee on 16th March 2010 and approval to award the contract with an option to extend for a period of 2 + 2 years was taken by the Cabinet Procurement Committee on 18th January 2011.

4.2. The decision to take the option to extend the lots for a total of a four year period to March 2019 by a delegated powers report to the Corporate Director of Health & Community Services in March 2014.

4.3. The CPC meeting of 10th December 2018 requested officers to clarify and to comment further on the possible breakdown of a proposed large single contract into smaller lots and shorter contract duration periods. Officers were further requested to examine in further detail the options for possible insourcing of this service both wholly and partially in consideration of the recently adopted Sustainable Procurement Strategy.

4.4. The CPC meeting of 11th February 2019 approved the OJEU procurement strategy for the re-tender of the Streetscene Highways maintenance contract. Each of the four lots is to run for a period of four years 2019 – 2023 with the option to extend for an additional 4 years (2 x 2-year extensions).

5. REASONS FOR DECISION/OPTIONS APPRAISAL

5.1 The Council has a statutory duty to maintain the roads, footways and associated infrastructure within Hackney for which it is the Highway Authority.

5.1.1 Hackney Council annually delivers a vast range of highways related services to its local community of people who live, work and spend their leisure time in the borough. The public highway maintained at public expense is an important part of the integrated transport network that supports the local economy and sustainable growth. The public highway is one of the most expensive assets that the Council owns with the gross replacement cost of replacing this asset, not including land value, has been valued at £600 million. It is a high priority

of the Council to maintain and improve the highway network in order to enable safe and expeditious movement of its users throughout the Borough. This would not be possible without the support and assistance of specialist highway contractors.

- 5.1.2 In 2010, the Council awarded the Streetscene contract suite of four lots (Civil Engineering, Road Resurfacing, Street Lighting and Road Marking). Volker Highways Ltd was awarded three of the four lots (Civil Engineering, Road Resurfacing and Street Lighting) whilst Marlborough Surfacing Ltd. was awarded the remaining lot (Road Marking). These lots were all extended for a four year period that commenced on 1st April 2015. They were each extended again by a single tender action process to the end of June 2020 to facilitate the completion of this procurement process and to ensure business continuity.
- 5.1.3 The procurement model of delivering the works through four separate lots was to encourage small and medium-sized contractors and to encourage competitiveness. This did not occur as the three most high-value lots were awarded to one large contractor. This system of one contract provider worked extremely well by improving works and service delivery coordination. The benefits of giving small, medium enterprises (SME's) the ability to tender for the works are seen as equally important and the proposal to group all the works into one large contract was resisted.
- 5.1.4 Pre-tender meetings with three contractors, discussions, with other local authorities, the Head of Service (Streetscene) and Group Engineer (Highways) have agreed that the current method of 4 separate lots, with the exception of highway-related activities of Winter Service (roads) and cyclic gully cleaning that will be brought back in-house from April 2020, is a viable solution to deliver a highways service. Consideration is also being given to insourcing the responsive repairs activity although this is likely to be in 18 – 24 months from the commencement of the new contract if it is considered to be a suitable method to deliver part of the highways service.
- 5.1.5 The local authorities canvassed have a range of three to five-year contracts with the provision to extend for additional periods of between three and five years. The extensions to these contracts are subject to satisfactory performance. A contract with a longer-term is the preferred option as it provides both the Council and contractor with long term certainty and perhaps more beneficial terms. The contractor has the ability to incorporate leasing agreements and capital investments being spread over a longer period to reduce tendered prices, such as depots, plant and equipment.
- 5.1.6 The contract will utilise the existing capital and revenue budgets during the life of the contract. The recommended contract is a 'call off' schedule of rate Term Contract which provides no guarantee of work volumes. This gives the flexibility to ensure that programmes can be met from within existing and future budget allocations.

5.1.7 The Schedule of Rates have been prepared in accordance with the Method of Measurement for Highway Works published by The Stationery Office as Section 1 of Volume 4 of the Manual of Contract Documents for Highway Works.

5.1.8 The priced contract schedule of rates that are priced by the contractor shall be used in delivering all traffic-related schemes such as cycle lanes, traffic calming, major and minor footway reconstruction schemes, major and minor carriageway resurfacing projects, street lighting upgrades and repairs, road marking renewal. The type of project will determine which items are used from the schedule of rates.

5.1.9 The total value of the 4 lots will ultimately be determined by the available capital and revenue budgets during the life of the contract. The estimated value of all four lots is £80m over the full eight-year term. The annual spend in recent years has been 2014/15 £7.9m. 2015/16 £12.0m. 2016/17 £10.8m and 2017/18 £10.2m.

5.1.10 The predicted annual value of each of the 4 lots is:

- Civil Engineering £6.0m pa
- Road Surfacing £2.0m pa
- Street Lighting £1.5m pa
- Road Marking £0.5m pa

5.1.11 This contract would not prevent Streetscene or other service areas from seeking 'spot' tenders for works outside the core scope of these lots. Each of the 4 lots is for highway-related works anywhere within the Borough boundary. This includes all areas on the public highway and those off the public highway, such as council-owned roads and footways in housing estates should work be required to these areas. There is the option for other service areas within the Council to use the Streetscene Highways Maintenance Contract where there is an urgent requirement for works to be undertaken or to benchmark prices that they have received for similar projects.

5.1.12 This procurement has been carried out in accordance with the process approved by the Cabinet Procurement Committee in the Streetscene Highway Maintenance Contract detailed Business case (approved 11th February 2019).

5.1.13 The Business Case approved the OJEU procurement strategy for the re-tender of 4 separate highway maintenance lots for a period of 4 years 2020-2024 with the option to extend for an additional four years (2 x 2-year extensions).

5.1.14 The decision to undertake a Restricted (two-stage) tender was selected as the preferred procurement route as it provided the pre-qualification of bidders so reducing the number of bidders invited to tender to those suitably qualified and to make the tender more attractive.

5.1.15 In line with the Public Contract Regulations (PCR) 2015 and Council's Contract Standing Orders (CSOs), the contract was advertised on Contracts Finder and London Tenders Portal to ensure that we achieved the procurement principles of transparency, fairness and competition by offering the opportunity to the largest number of bidders as possible.

5.1.16 The contract lots have each been evaluated on 30% quality and 70% price.

5.2 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

5.2.1 Hackney Council faces significant budgetary pressures across the next few years due to ongoing Central Government funding reductions and as a result needs to continue reviewing their service provision options as they look to make efficiencies, reduce budgets and improve performance. The Highways Maintenance Efficiency Programme (HMEP) produced useful information when seeking different models of service delivery to compare and evaluate. While some authorities believe the best way of achieving these measures is through handing as much as possible over to external contractors (outsourcing), others believe bringing services back in-house (insourcing) is the more cost-effective long term option.

5.2.2 Option 1 - Bring all the works associated with the contract back in house. There is a current lack of operational and supervisory experience, together with a lack of specialist plant and equipment to bring the service in-house in the short term. Because of the lack of resources, the Council would (dependent on the outcome of any TUPE transfer) need to invest in new staff with the relevant skills and experience, establish an operational base and procure the specialist equipment and vehicles required to provide a highways service.

5.2.3 The insourcing process will also impact upon Council Corporate services such as finance and human resources to deal with the increased number of staff. The amount of operational staff required to undertake all works in the contract would be in excess of 100 staff and it has been estimated that very few of the required operatives would transfer under TUPE as 95% of the existing operatives are employed by supply chain partners to Volker Highways Ltd. In addition to the staff requirements, it has been estimated that 30 – 50 medium-sized lorries and 20 HGV's would need to be either purchased or leased. There is a major risk to the Council that at the point of transfer there would not be any contingency arrangements in place to guarantee service delivery.

5.2.4 There are peaks and troughs in the works programme that affect the amount of specialist labour required at different times throughout the financial year. There are a number of activities that are completed on a daily basis (gully cleansing, responsive and planned repairs etc.) this ensures that operatives have a steady stream of work. There are however many other areas (traffic schemes, major footway & carriageway schemes etc.) that are implemented at different stages over the financial year. Whilst an outsourced contractor has

the ability to move the surplus skilled operatives and specialist equipment to another contract an insourced service provider has more limited scope to transfer specialist staff on to other workstreams.

5.2.5 The lack of staff, equipment and operational accommodation associated with insourcing all the highway maintenance activities included in the Streetscene highways maintenance contract en masse at the end of the current contract does not make this option viable and was therefore rejected.

5.2.6 In summary, Officers consider that this model has a limited likelihood of providing the savings and efficiencies needed. A resource shortage would be a likely outcome of selecting this delivery model as potentially only a very limited amount of employees are likely to TUPE to a completely new in-house direct labour organisation (DLO). This would leave a major gap in resources and expertise in key skilled roles and a major risk to this council in maintaining the public highway.

5.2.7 Option 2 - Award a single contract for all the works consisting of the civil engineering works, road resurfacing, road marking contract and street lighting contract

5.2.8 The general trend across London boroughs has been to award a large single highway contract, however, a number of authorities continue to award separate highways contracts. The procurement strategy promotes and encourages smaller businesses and therefore the size of this large contract could unnecessarily exclude these businesses from bidding. It should, however, be recognised that the approach of a single large contract would have encouraged SME's, albeit at the upper echelons of turnover. The National and European definition of an SME is as follows:-

- has fewer than 250 employees; and has either (a) annual turnover not exceeding £40 million or (b) an annual balance-sheet total not exceeding £34 million.

5.2.9 The model for a single contractor to bid for all the works in one contract was rejected as it did not encourage SME.

5.2.10 Option 3 – Extend the existing contract

5.2.11 The current arrangement was let as four separate lots and the Council has no legal basis under Regulation 72 of the Public Contracts Regulations 2015 to extend them beyond their current termination dates. However, as a result of slippage and in order to facilitate the procurement of the new contract the existing lots have been extended to ensure essential maintenance continues to be provided.

5.2.12 Option 4 - Share another Authority's contract.

5.2.13 The option for Hackney Council to work across Borough boundaries to collaborate and partner with neighbouring councils where their objectives and local services complement each other was considered. In practice for this to work, it was realised that any partner would need to be on a similar contract procurement time frame as Hackney and that any proposed contract would permit such arrangements.

5.2.14 A review was undertaken of neighbouring authorities to identify suitable authorities and informal discussions were held with a number of these authorities. For many, the timescale precluded any immediate interest. When considering sharing a contract, each authority would need to be satisfied that there would be mutual benefits, similar requirements, a reduction in tendering costs and savings in tendered rates.

5.2.15 A neighbouring Council was identified as one of the few authorities that met these mutual requirements. This Council had similar Highways maintenance requirements to Hackney Council and is considering other options to their current arrangement with London Highways Alliance contract (LOHAC).

5.2.16 Senior Streetscene officers met with their counterparts in a neighbouring borough during October 2017 to explore any benefits of sharing a highways maintenance contract that they were at the early stages of procuring.

5.2.17 The neighbouring borough would have taken the lead in managing the contract. A number of lessons were learnt as part of the review such as coordination issues between the boroughs in terms of ordering and planning of works programmes, different contract specifications & response times. A potential risk to the success of this type of arrangement surrounded which borough had priority when ordering works and projects. There was a concern that this could have led to Hackney receiving a secondary service during peak work periods.

5.2.18 The procurement timetable of the neighbouring borough did not align with Hackney and for this and the reasons above, this option was rejected.

5.2.19 Option 5 - Sign up to use the London Highways Alliance contract (LOHAC) that was promoted by TfL.

5.2.20 LoHAC is a framework of collaborative highways services contracts. It was developed jointly by Transport for London (TfL) and London Boroughs for the provision of highway maintenance works throughout London. It is accessible to all London Boroughs and used by (TfL) to maintain their own highway network.

5.2.21 London is split into four regions for the purposes of the LoHAC. These regions were chosen to maintain a manageable and sustainable contract size in the event that there was a take-up by London Boroughs. Hackney is included within the Central area.

- 5.2.22 Each framework commenced in April 2013 for a period of eight years until the end of March 2021. The successful contractor for the Central area was CVU which is a Joint Venture (JV) between Colas, Volker Highways and URS. In the Central area, the London boroughs of Camden, Tower Hamlets and Islington joined LoHAC under framework agreements as Tier 1 authorities. Hackney did not sign up as we were operating a highways maintenance contract (4 LOTS 2011 -2019).
- 5.2.23 Currently, a number of London Boroughs are actively looking to leave the contract or are considering other arrangements when their LoHAC contract ends. A West London borough previously decided not to use the framework after finding that they were more expensive than a rival bid from a contractor after going through a procurement exercise. Similarly, officers within Streetscene have undertaken extensive cost comparisons with the LoHAC rates that also demonstrated that our current contract rates were more competitive whilst providing the same level of quality.
- 5.2.24 Hackney Council will monitor the new LoHAC that is due to commence from 2021 with a view to joining the framework agreement if it proved advantageous to do so. The LoHAC would be considered as a contingency in the unlikely event the contract failed

6. PROJECT PROGRESS

6.1. Developments since the Business Case approval

6.2. None

6.3. Whole Life Costing/Budgets:

Streetscene budgets include both revenue and capital funding. These budgets include Transport for London (TfL) allocations received by Hackney and the S106 sums received through the planning process.

These are term schedule of rates contracts and provide no guarantee of any specific volumes of work to the contractor(s). The Council could considerably reduce or cease using the contract should there be a funding reduction.

The anticipated spend over the 8-year life of the 4 lots is £80m. This estimate is based on an annual revenue budget of £2m and a capital budget of £8m. The capital budget includes the sum of £1.5m that is received from TfL for scheme works. The revenue budget also includes the sum of between £240k and £910K (depending on the level of service) that may be insourced to an internal service provider to undertake a responsive repairs activity. The estimate of the total spend does not include any potential-housing works that may arise from the cross-cutting public realm programme or works ordered through this contract via other service areas.

The recent year's expenditure on the existing highways contract has been:-

- 2014/15 - £7,973,800
- 2015/16 - £12,069,500
- 2016/17 - £10,828,700
- 2017/18 - £10,226,900

6.4. SAVINGS

The amount of cashable savings generated by the new contract has been calculated on the new priced schedules of rates commencing in 2020/2021 and the existing contract rates:-

- Civil Engineering + 5% (Increased)
- Road Surfacing - 5% (Decreased)
- Street lighting - 4% (Decreased)
- Road Marking - 12% (Decreased)

However, over the term of the current contract, the inflation indexation which commenced at the beginning of the second year (2012/13) to date (2019/2020)-has been:-

- Civil Engineering 15.7%%
- Road Surfacing 10.4%
- Street lighting 10.03%
- Road Marking 14.89%

As Streetscene capital and revenue budgets have not been increased over this period, the purchasing power has been considerably reduced. Over the last 9 years of the current contract the purchasing power of Streetscene for highway maintenance works such as potholes (that are included in the Civil Engineering Contract) has decreased by over 15%. Not only has purchasing power decreased by over 15% over the previous 9 years, but it is also now subject to a further 5% decrease as the Civil Engineering Contract is subject to a 5% increase. The budget for the service will therefore need to remain the same to mitigate the inflationary impact and remain compliant.

Whilst any savings realised during the first year of the new Streetscene Highways contract (where the infrastructure indexation applicable is not applied) is welcomed the indexation during subsequent years will further negate any cashable savings.

There may be scope for savings during the period that the contract is extended. This will be subject to the performance of the contractor(s) during the initial 4 year period of the contract and reaching the point where Hackney considers extending the contract. Savings were delivered in the negotiations in early 2014 where Streetscene officers achieved a 3% reduction to all contract rates when extending the existing contract. Again without any increase in budgets, any savings will need to be retained within the service to mitigate the inflationary impact of the indexation associated with the contract.

7. SUSTAINABILITY ISSUES

7.1. Procuring Green

There is an obligation on the contractor to comply at all times with the Environmental Protection Act 1990 and other relevant legislation but also with the environmental policies of the Council.

As part of the tender process, the contractors' awareness of environmental issues in relation to the delivery of service were assessed in their Quality submission. The contractor's performance will also be performance managed through the KPI's (**Appendix D**) and contract management arrangements in order to ensure that environmental issues are being actively addressed.

Robust efforts will be made to minimise miles travelled through the delivery of the contract by staff planning and programming the responsive repair works on a geographical area basis. This will reduce the travelling time of vehicles. The recommended contractor has offices and a compound on the Borough boundary which again will also reduce the travelling time between sites. The vehicles used by the contractor are all Euro 5 or above with the majority incorporating start/stop technologies. All new vehicles purchased by the contractor will be Euro 6 compliant. Waste will be minimised through the reuse of materials where practical. Where appropriate, permeable materials will be specified within the contract to minimise the impact of surface water flooding.

The contract will deliver 100% of the new LED street lighting upgrade programme in-line with the forthcoming Green Infrastructure plans. The use of new LED street lighting, cycle routes, walking enhancement projects, implementing sustainable drainage systems (SuDS), bus projects and tree planting will all have a positive environmental impact and these works are all completed using this contract.

The award of this contract in a timely fashion will allow the effective delivery of the 5000 Street Trees pledged by the Council and their aftercare. The contract will enable meaningful progress of the "Largest Urban Street tree programme" this country has ever seen.

7.2. Procuring for a Better Society

The new Streetscene Highways maintenance contract promotes local employment and training. The contractor is required in three of the four lots to employ a number of apprentices (1 apprentice per £1m. spend). In addition to employing apprentices, each contractor was required in their submission process to demonstrate how they will recruit and retain local staff during the life of the contract.

The preferred bidder has also confirmed that they will pay as a minimum the London Living Wage, as well as applying this to all firms within their supply

chain for each of the four lots. They also intend to work with local businesses and listed them in their submission.

The Streetscene Highway Maintenance contract was separated into four separate Lots to encourage SME's to tender for them. The Road Marking contract was the smallest value contract and attracted a number of smaller SMEs to bid for the works. Although the Council achieved their target of encouraging smaller SME's to tender for the work in this procurement process none were successful. Whilst the smaller suppliers were not successful nonetheless an SME (as defined by the National and European definition) has been recommended for award of the four lots.

7.3. **Procuring Fair Delivery**

As part of the selection process, the contractor was asked to provide evidence that they comply with the Equality Act 2010 and the Council's standards. Contractors were required to demonstrate as part of their quality submission that they operate an active equal opportunities policy that achieves targets that encourages an ethnically diverse workforce; also that they demonstrate their consideration for local employment.

A well-maintained highway asset/street scene benefits all groups and in particular assists older people, visually impaired people, those with mobility problems and their carers that have particular requirements in navigating the public realm. These groups are considered at the design stage of planned maintenance schemes and during routine maintenance operations that are implemented using the highways contract.

Increasing accessibility is a key component of all major planned maintenance work schemes. This includes the improvement of dropped kerbs, crossovers and raised level carriageway surfaces at junctions. Again these works are undertaken using the Streetscene Highways contract.

Improvements and good maintenance of the public realm will benefit all sections of the community. A high-quality environment increases the sense of well-being. An effective highway maintenance contract supports the Council's disability and gender equality outcomes by making the public realm barrier-free and more accessible.

Maintenance of the public highway is a universal service that affects / benefits, all residents and visitors in the borough. There is not thought to be any particular adverse impacts on those with protected equality characteristics.

8. **ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)**

The list of options that were considered and rejected when preparing the business case are detailed earlier in this report (**section 5.2**).

Whilst Officers came to the conclusion that insourcing en masse was not a viable option, a phased return of service delivery may be achievable. The

activities of winter service (roads) and cyclical gully cleaning that formed part of the previous contract arrangements were removed from the new contract will be brought back in-house to Waste Operations an existing in-house service provider from April 2020. Consideration will also be given to insourcing the responsive repairs activity for Highways. The insourcing of the responsive repairs is likely to be in 18 – 24 months from the commencement of the new contract and will only proceed if it is considered viable. Depending on the success of the insourcing of these activities future highway activities will be considered during the life of the contract.

Streetscene Officers have commenced meetings with other London Boroughs to review their existing in-house highway services and also with London Boroughs that are intending to insource highway work activities. As part of the review, they are gathering information regarding set up costs, operational costs along with staffing numbers and ancillary support activities. In addition to this information scoping exercises have been carried out to identify plant, equipment and depot requirements.

Officers will be outlining a programme for this second phase of the insourcing programme in a report that will be presented to Cabinet within twelve months of the contract commencing.

9. TENDER EVALUATION

9.1. Evaluation:

In compliance with the Public Contracts Regulations 2015², a Contract Notice of the proposed tender was published on 8th October 2019 in the Official Journal of the European Union (OJEU), via the online London Tenders Portal using the Restricted Procedure.

The Selection Questionnaire (SQ) and the Invitation to Tender (ITT) including a Bill of Quantities, specifications, drawings and associated appendices for each of the 4 lots was published on Contracts Finder and London Tenders Portal via Pro-Contract, the Council's e-procurement system on the 7th October 2019 with a submission deadline for the SQ of 7th November 2019.

In addition to the standard SQ questions, the potential bidders were required to respond to project-specific questions as part of the pre-qualifying process to be shortlisted. The project-specific questions with their weightings were:

- Relevant experience 20%
- Management team 20%
- Case Studies 20%
- Added Value 20%
- Social Value 20%

The responses were assessed individually by the Evaluation Panel comprising three Streetscene Officer's followed by a moderation meeting with the Procurement Category Manager.

(Lot 1) Civil Engineering Contract

Two compliant bidders out of three who expressed an interest were shortlisted and invited to bid

(Lot 2) Road Surfacing Contract

Three compliant bidders out of six who expressed an interest were shortlisted and invited to bid

(Lot 3) Street Lighting Contract

Two compliant bidders out of four who expressed an interest were shortlisted and invited to bid

(Lot 4) Road Marking Contract

Three compliant bidders out of three who expressed an interest were shortlisted and invited to bid

The long list of the shortlisted bidders for each Lot and their scores following the SQ assessment can be found in **Exempt Appendix A** and the shortlist of the bidders can be found in **Exempt Appendix B**.

The shortlisted bidders were then invited to bid with a submission deadline of 7th January 2020.

The evaluation was based on the Most Economically Advantageous Tender (MEAT). The evaluation criteria were split between Quality (30%) and Price (70%).

Bidders were required to submit a completed pricing schedule against an indicative package of annual works for each Lot that were specifically designed for the evaluation process as well as a qualitative response. The qualitative evaluation criteria headings and the weightings are listed below for each contract:-

(Lot 1) Civil Engineering Contract

- Contract People, Structure, Organisation and Management 30%
- Supply Chain, H&S, Customer and Process 30%
- Contract Delivery 20%
- Social Value 10%
- Collaboration and Performance 10%

(Lot 2) Road Surfacing Contract

- Contract People, Structure, Organisation and Management 30%
- Supply Chain, H&S, Customer and Process 30%
- Contract Delivery 20%
- Social Value 10%
- Collaboration and Performance 10%

(Lot 3) Street Lighting Contract

- Contract People, Structure, Organisation and Management 30%
- Supply Chain, H&S, Customer and Process 30%
- Contract Delivery 20%
- Social Value 10%
- Collaboration and Performance 10%

(Lot 4) Road Marking Contract

- Contract People, Structure, Organisation and Management 50%
- Supply Chain, H&S, Customer and Process 20%
- Contract Delivery 10%
- Social Value 10%
- Collaboration and Performance 10%

The qualitative elements of the bids were individually evaluated by members of the Evaluation Panel. The scores were then moderated with the support of the Procurement Category Manager.

The final weighted scores together with the ranking of the bidders for each of the Lots are summarised in **the table below**:

ITT SCORE SUMMARY - Lot 1 - Civil Engineering				
SUPPLIER	QUALITY SCORE	PRICE SCORE	TOTAL SCORE	RANK
B	30.0%	70.0%	100.0%	1
A	26.4%	61.9%	88.3%	2
ITT SCORE SUMMARY - Lot 2 - Road Surfacing				
SUPPLIER	QUALITY SCORE	PRICE SCORE	TOTAL SCORE	RANK
C	28.7%	70.0%	98.7%	1
B	27.2%	55.90%	83.2%	2
A	26.6%	51.0%	77.7%	3

ITT SCORE SUMMARY - Lot 3 - Street Lighting				
SUPPLIER	QUALITY SCORE	PRICE SCORE	TOTAL SCORE	RANK
B	29.0%	70.0%	99.0%	1
A	28.4%	54.6%	83.0%	2
ITT SCORE SUMMARY - Lot 4 - Road Marking				
SUPPLIER	QUALITY SCORE	PRICE SCORE	TOTAL SCORE	RANK
A	30.0%	70.0%	100.0%	1
B	20.7%	38.9%	59.7%	2
C	24.0%	24.6%	48.6%	3

The above table inclusive of the Supplier names is provided in **Exempt Appendix C** attached to this report.

9.2. Recommendation:

The evaluation panel recommended the bidder that was the lowest in price and highest in quality for each of the four Lots. The panel clarified the tender rates to ensure that the bidder had made a full and complete submission for all elements. In addition to evaluating the bidders priced schedule of rates against an indicative package of annual works the panel also used pre-set sample rates. This exercise reduces the possibility of any bidder submitting a 'rogue' price for any schedule of rates item.

It is recommended that the Cabinet Procurement Committee approve the award of each of the four Lots of the Streetscene Highways Contract as follows:

Civil Engineering Term Contract (LOT1)	-Bidder B
Road Surfacing Term Contract (LOT2)	-Bidder C
Street Lighting Term Contract (LOT3)	-Bidder B
Road Marking Term Contract (LOT4)	-Bidder A

The contract is four years with the option to extend each lot for an additional 4 years (2 x 2 year extensions). The contract will start on the 1st July 2020.

It should be noted the successful contractor for each Lot will be required to provide either a performance bond or a parent company guarantee (PC).

10. CONTRACT MANAGEMENT ARRANGEMENTS

10.1. Resources and Project Management (Roles and Responsibilities):

The contract will be managed and monitored by Streetscene. The Head of Streetscene is the designated 'Engineer' to the contract as defined in the Infrastructure Conditions of Contract (ICC) Term Version 2011.

The recommended contract is a 'call off' schedule of rates Measured Term Contract and provide no guarantee of work volumes. The Schedule of Rates have been prepared in accordance with the Method of Measurement for Highway Works published by The Stationery Office as Section 1 of Volume 4 of the Manual of Contract Documents for Highway Works.

The contract will be managed internally via a Project Board led by Senior Streetscene Management Team members. Strategic project client side management will be carried out by Head of Streetscene, Streetscene Group managers and the dedicated Streetscene Contracts Manager every three months with senior management representatives from the contractor. Business level meetings will be held on a monthly basis that include the client side Contracts Manager, Principal Engineers, their respective team's individual project engineers together with the contractor's managers and supervisors. The business level meeting will deal with the day to day operational management of the contract and will escalate any issues to the board that cannot be resolved. They will also be responsible for ensuring that the Board is serviced with information relating to progress against agreed targets and key risks and issues. All major strategic decisions will be referred to the Project Board for approval **(see table below)**

Meeting	Frequency	LBH	Contractor
Strategic level board Meetings Demonstrating commitment; Initiatives; management; Promoting the relationship; Performance review	Quarterly, (Performance reviews every six months)	Head of Streetscene, Group Manager-Highways, Group Manager- Design and Contracts Manager	Contractor Director and/ or Senior Contract Manager, Contract Manager
Business Level Meetings Contract administration; Relationship Service	Monthly	Principal Engineers, Senior Engineers and Contracts Manager	Contract Manager, Site Agent

planning and monitoring; Change management; Performance monitoring			
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The contract sets out the management expectations and mechanism for the collaborative relationship between the Council and the appointed contractor.

The contract specification and conditions will set out the frequencies of operational tasks, strategic meetings and the route for problem resolution. Performance will be measured against KPIs as part of the contract terms and conditions and will incorporate users' satisfaction with service provision, measured through regular performance meetings.

10.2. **Key Performance Indicators:**

The list of the KPI targets for each of the four lots is detailed in **Appendix D**. The KPI targets will be monitored as part of the contract management arrangements detailed above.

Performance information will be collected on a monthly basis from the Contractor and the Council's own records; with reviews being undertaken on a quarterly basis. A formal review meeting will be held every 6 months at the strategic level to assess the performance of the contract. As well as these formal reviews, it is intended that a progressive review policy will be ongoing as part of the projects' and contract's normal project management. This is to ensure that important information and lessons are neither lost nor forgotten and should be a benefit to work in progress where information and experiences can be exchanged.

11. **COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES**

- 11.1. This report details the competitive procurement process and seeks approval to appoint a contractor to deliver the Streetscene Highways Maintenance Contract comprising of 4 lots (Civil Engineering, Street Lighting, Road Surfacing and Road marking). The proposed contract term is 4 years with options to extend for further 4 years of (2x2 year) extension, which is subject to contractor performance, in sourcing and procurement strategy. .
- 11.2. As set out in section 3 the key recommendation of the report is to approve award of contract to commence from July 2020 for 4 separate lots; Civil Engineering to Bidder B, Road Surfacing to Bidder C, Street Lighting to Bidder B and Road Marking to bidder A.
- 11.3. Section 5 looks at alternative options considered and rejected mainly bringing the service inhouse. Certain activities consisting of gully cleansing and winter maintenance will be performed by the Council's Waste Operations Team from

April 2020. There is also the intention to bring further activities which are to be procured in-house at a later stage. These activities will be considered separately and will be subject to an appropriate cost-benefit analysis.

- 11.4. The value of the contract for all 4 lots is circa £40m for the initial 4 years (£80m if extended for the full 8 year period). A robust contractor evaluation has been carried and the recommended bidder was the lowest in price and highest in quality for each of the four lots.
- 11.5. As set out in section 5.6 of the report this contract is a framework contract based on a term schedule of rates which means that no guarantees are given over the volume of work. The majority of funding for this contract comes from LBH revenue and capital budgets together with direct funding from TfL (Transport for London) and S106 sums received through the planning process. The expenditure incurred under the contract will need to be contained within the budgets available at the time which can fluctuate, particularly capital and TfL due to relevant priorities at the time.
- 11.6. As indicated in section 6 of the report it is difficult to quantify the true cashable savings on this contract, initial calculations show that overall there has been an net increase of £80k in costs compared to predicted budgeted spend. Within the first year savings will be realised as contractual uplift is not applied, however going forward there will be annual contractual uplift which negates any savings.

12. VAT Implications on Land & Property Transactions

N/A

13. COMMENTS OF THE DIRECTOR of LEGAL and GOVERNANCE SERVICES

- 13.1 The Business Case for the procurement of the Streetscene Highways Maintenance contract was assessed as high risk and was approved by Cabinet Procurement Committee on 11th February 2019. Therefore under paragraph 2.5.3 of Contract Standing Orders the award of contract will need to be approved by Cabinet Procurement Committee.
- 13.2 The combined value for the contract is an estimated at £80m over the course of a maximum of eight years and therefore is in excess of the current threshold for works under the Public Contracts Regulations 2015. Therefore the Council published an OJEU notice in respect of the contract. The Council used the Restricted Procedure to undertake the procurement, pursuant to Regulation 28 of the Public Contracts Regulations 2015. Details of the procurement process are set out in this Report.
- 13.3 The award of the suite of maintenance contracts will ensure that the Council fulfils its obligations as the highway authority for those roads in Hackney for which TFL are not responsible. This is in line with its statutory duties set out in section 41(1) and section 41(1A) of the Highways Act 1980.

13.4 The form of works contract intended to be used is the ICC Infrastructure Conditions of Contract, which replace the ICE Conditions of Contracts.

14. COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 14.1. The overall value of the proposed contract is £80m and above the EU threshold for works contracts, it is therefore subject to the Public Contracts Regulations 2015. Alternative procurement routes were considered and rejected as described elsewhere in this report. The preferred procurement route was the Restricted Procedure with the works contract split into four discrete types of works. This provided greater assurance of identifying suitably qualified contractors but also a more attractive offer to the market. The shortlisting assessments and the tender evaluations were supported by the procurement team.
- 14.2. The separation of the works contract into four separate Lots was intended also to attract local and SME contractors to bid. Unfortunately this has not been reflected in the outcome as they were not able to compete on price relative to the larger contractors.
- 14.3. The separation of the Lots has facilitated the potential phased insourcing of the works. The winter service and cyclical gully cleaning will, from April 2020, be brought back in-house to Waste Operations.
- 14.4. Subject to a viability assessment it is proposed that within the next 18-24 months from contract commencement, as part of insourcing next phase, the responsive repairs will be brought back in house.
- 14.5. Further insourcing phases will be considered following a review of the first two phases. The Streetscene team are in the process of researching and developing a report and plan which will be submitted to CPC within the next 12 months. Our Procurement Category Lead is required to comment on/endorse all reports presented to Committee.

APPENDICES

Exempt Appendix A – Long List of SQ Bidders and Scoring

Exempt Appendix B – Short List of ITT Bidders

Exempt Appendix C – Summary of Final ITT Scoring

Appendix D - Key Performance Indicators (KPI's)

EXEMPT

By Virtue of Paragraph(s) 2 Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains Information which is likely

to reveal the identity of individual and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

None

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