

Report to: **Scrutiny Committee for Economy, Transport and Environment**

Date: **10 September 2014**

By: **Chair of Highways Contract Scrutiny Reference Group**

Title of report: **Highways Contract Reference Group**

Purpose of report: **To update the committee on the work undertaken by the reference group on the re-procurement of the highways contract and to establish a review board.**

RECOMMENDATIONS

The Committee is recommended to:

- 1. Note the work of the highways contract scrutiny reference group; and**
 - 2. Establish a review board to comment on the highways contract re-procurement detailed business case.**
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1. Financial Appraisal

1.1 There are no specific financial implications at this stage.

2. Summary

2.1 The Economy, Transport and Environment Scrutiny Committee acting as a Member Reference Group has reviewed the contract re-procurement work being undertaken and assessed the different contract models for the new highways contract.

2.2 The Reference Group's objective was to ensure that the future contract achieves quality highway services, better value for money and a responsive customer service. The report in appendix 1 gives an outline of the Reference Group's work over the last 3 years to help inform the new highways contract model.

2.3 The next stage of the re-procurement project is to present the detailed business case (DBC) to the Council's Cabinet in November 2014. In order to allow the Scrutiny Committee to comment on the DBC before it goes to Cabinet, it is recommended that a Board is set up to make comments on behalf of the Scrutiny Committee.

3. Recommendation

3.1 The Committee is recommended to note the report from the Reference Group and establish a Board to comment on the highways contract re-procurement DBC on behalf of the Committee.

COUNCILLOR RICHARD STOGDON
Chair of the Highways Contract Scrutiny Reference Group

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Local members: All

BACKGROUND DOCUMENTS:

Highways contract scrutiny reference group interim report. November 2012.

Report of the Economy, Transport and Environment Scrutiny Committee Highways Contract Scrutiny Reference Group

1. Background

1.1 East Sussex County Council spends around £34m per year on its highway services which includes the repair and maintenance of roads and pavements, a routine maintenance programme incorporating drainage, weed control, hedge cutting and grass cutting. The Highways Service also includes the Winter Maintenance and Emergency Response service, providing and maintaining traffic signals, street lights, bridges and road signs. Most highways maintenance in East Sussex is currently carried out under a contract operated by Kier (formerly May Gurney). This contract was let in 2005 for 7 years with the option of extending by a further 3 years. The current contract ends in August 2015.

1.2 The Economy, Transport and Environment Scrutiny Committee acting as a Member Reference Group has reviewed the contract re-procurement work being undertaken and assessed the different contract models now available. A significant amount of the work of the reference Group has been focused on common themes faced by many local authorities with more 'traditional' highways contract arrangements:

- duplication of activities between Council officers (the client) and contractor;
- value for money & quality issues with delays in repairs or reinstatements;
- restrictive payment mechanisms, weak cost controls and performance measures all working to discourage innovation by the contractor;
- failure to transfer the right levels of risk to the contractor which is a primary benefit of engaging a contractor rather than the Council doing the work itself;
- limited information about the condition of the highways 'asset' leading to too much (expensive) reactive maintenance and too little planned maintenance;
- strained relationships between client and contractor due to: poor communications and uncertain lines of accountability; a culture of 'blaming the contractor' and high levels of suspicion as to whether the contractor is acting in the interests of the council; and
- high levels of Member and public dissatisfaction with the responsiveness to reports of defects and problems.

2. The issues identified in re-procuring the highways contract

2.1 New contract procurement options are now available. Advancing technology and the evolving relationships between local authorities and contractors provide a major opportunity to achieve quality highways services, better value for money and a responsive customer service within the next highways contract.

2.2 The Reference Group's aim is to ensure that the future contract achieves these objectives. It reviewed the experiences of a number of authorities that have more recently re-tendered their highways contracts. Some of the features appearing to work well in contracts elsewhere may not necessarily work well in East Sussex. Over the past 3 years the Reference Group visited a number of other highways authorities to see various highways contract models in operation.

2.3 Against that background, the Reference Group considered that the future highways contract should:

- result in quality works and excellent value for money;
- use a set of key performance indicators (KPIs) that provides a balance between 'carrot and stick' provisions;
- provide a clear line of communication for Members to report problems and receive information, especially accurate estimates of action and timescales for defect responses; and
- benefit the local economy.

2.4 The Communities, Economy and Transport department has completed a transformation programme and has addressed a number of the issues identified above.

- The department has developed the Highways Asset Management Plan (HAMP). It now has better information about the condition of highways infrastructure, which has enabled greater emphasis to be placed on a planned maintenance programme, designed to improve the condition of roads and reduce reactive maintenance.
- The highways contact centre, alongside the highways liaison team and Highway Stewards ensure defects are reported quickly, and good communication is maintained with elected Members and members of the public.
- Following the Scrutiny Review of Street Works, a permit scheme was introduced, which has led to improvements in re-instatement works, better information about planned works and increased network availability.
- The development of the 'Community Self Serve' initiative has helped with local priority setting and will be incorporated into the new highways contract.

2.5 The focus of the Reference Group has been on:

- How a contractor will be chosen and the contract length.
- Whether there will be one contract or several.
- The type of contract model that will be adopted.
- The project outcomes and Key Performance Indicators (KPI's) that will be used to ensure on-going quality and value for money.

2.6 The Reference Group has also examined how the new contract will address:

- The Highways Asset Management Plan.
- Elected Members Role.
- Dealing with Highway defect reports and providing information to the public.
- Local priority setting and the Community Self Serve initiative
- Impact on the Local Economy

3.0 Reference Group Comments on the Highways Contract Outline Business Case (OBC) and Detailed Business Case (DBC)

3.1 In reviewing the development of the outline business case (OBC) and the detailed business case (DBC), the Reference Group has considered the following:

One contractor or several

3.2 Which procurement method would best meet the Council's needs. The OBC envisages the contract will be procured using the 'restricted procedure' to specify the Council's service requirement. The 'restricted procedure' is a procurement process where expressions of interest in bidding for a contract are sought from potential suppliers. A short list of suppliers is then drawn up who are invited to tender for the contract.

3.3 It is likely that there will be one large contract covering a range of services, together with a small number of specialist service contracts. The Council will determine which services will be included within the main contract through the development of the DBC. The Reference Group recommends that whatever contract model is proposed, the following essential elements shall be included:

- Flexibility and minimising risk;
- Maximising the use of local SMEs;
- Specialist work to be let to specialist contractors.

The contract model – the size and roles of the Client and contractor

3.4 The Reference Group sees the potential benefits of a contract, which changes and evolves from one contract model to another during its life. While this approach was not seen by the Reference Group on its' visits to other highway authorities, it is considered that an evolving and changing contract model should prove to be a highly innovative next step for East Sussex.

3.5 However, the top level relationship between lead officers and senior personnel of the contractor has to be particularly good at each level, especially as the client size begins to diminish. The Reference Group sees this as a critical element. The Reference Group's visit to Bedfordshire highlighted this potential vulnerability for the Managing Agent type contract.

3.6 As the DBC develops further, the size and roles of the client and contractor are likely to change. While the outline has been reviewed by the Reference Group it has confined its comments to the proposed overall functions and works that the contractor will undertake. However, the Reference Group thinks the Highway Steward model and local priority setting through the Community Self Serve initiative should be retained as part of the new contract.

Ensuring quality, value for money and key performance indicators (KPIs) that provide a balance between 'carrot and stick' provisions

3.7 The Scrutiny Reference Group's view is that the top priority should be given to the condition of assets when specifying key objectives and outcomes for the contract, not least in bringing about improvements in customer satisfaction and value for money through the asset management plan approach. The Reference Groups suggests that key objectives and priorities should be identified in the key performance indicators as follows:

- Improve the highways asset condition i.e. improve the quality of roads, pavements etc.
- Reduce costs and increase value for money.
- Improve customer satisfaction and local engagement with the local economy (small and medium enterprises SME's), Parish Councils, etc.

3.8 The new contract should result in quality works and best possible value for money. The Reference Group has examined the proposed Key Performance Indicators (KPIs) to ensure they prioritise the right behaviours. Incentives for the contractor to perform well should be in place throughout the life of the contract, and not merely for the first few years as is so common with more traditional contract arrangements.

Elected Members' roles

3.9 Any contract model needs to show the clear line of communication for Members to report problems and receive information. The Reference Group spent some time considering whether Members would wish to talk with the client or the contractor, when problems arise or Members wish to pursue some local scheme, and concluded that what matters is that whoever Members talk to is responsive, understands Members' roles and can communicate effectively.

3.10 The Reference Group considers that the Highway Stewards model has been broadly successful in East Sussex and would endorse a similar model in any future contract, subject to improved routes of communication and accessibility.

Accountability & governance

3.11 The Reference Group believes accountability and effective governance of the contract are key to the success of the contract. It is vital to have the right number of ESCC staff, with the right skills to manage the contract so that the contract outcomes are achieved. The contract also needs to have measures in place to ensure the contractor's performance is properly monitored and managed.

3.12 The elected Members' role should be explicit in the Governance arrangements for the highways contract.

Highway Defects Reports

3.13 The reporting systems, the use of new technology, and how updates are communicated back to Members and the public, who report defects, are all critical features that need to be clearly explained in whatever contract model is adopted.

Supporting the Local Economy

3.14 The Reference Group considers that measures, which support improvements in the local economy, must be effectively incorporated in the new Highway Contract and must be feasible to deliver. This could be achieved, for example, by requiring the main contractor to use local SMEs in the supply chain. The Reference Group considers that the contract and the local economy would benefit if the new contract arrangements make this perspective explicit.

Affordability

3.15 The Reference Group has looked at the cost of the highways contract over the proposed life of the contract. The costing models show that the reinvestment of efficiency savings, and long term capital investment in the road network, will lead to lower contract costs in future financial years. Therefore, having some certainty about the level of future capital investment in the County's road infrastructure will be a key factor.

3.16 The Reference Group concurred with the view taken by officers concerning the desirability of longer term planned funding programmes for revenue and capital spending on East Sussex highways. Such planned programmes should increase the certainty around cash flow and likely income for potential bidders. It is the officer's view that having greater certainty about future spending levels will lead to better value for money when re-procuring the contract as this gives the whole supply chain a better view of forward orders and helps reduce risk.

4.0 Concluding comments

4.1 The Scrutiny Reference Group commented on aspects of the OBC and DBC. It has continued to work with officers of the highways team as they go on to further develop the DBC. The Reference Group recommends that the Economy, Transport and Environment Scrutiny Committee establish a Board to comment on the final DBC on behalf of the Scrutiny Committee.

COUNCILLOR RICHARD STOGDON

Chair of the Highways Contract Scrutiny Reference Group.