

REPORT TITLE: Procurement of street lighting works and services and revised council approach for management and administration of service.

Cabinet Date	19 th July 2023
Cabinet Member	Councillor Dom Morris, Highways and Flood
Key Decision	Yes
Purpose of Report	To seek approval to procure and award a contract for the delivery of street lighting maintenance, illuminated signs and bollard works that will continue for an initial term of 5 years 8 months and include an option to extend such term for a further period of not more than 4 years and to revise the council's approach for the management and administration of the new contract.
Recommendations	<p>That Cabinet delegates authority to the Assistant Director of Highways & Infrastructure in consultation with the Cabinet Member for Highways and Flood to:</p> <ol style="list-style-type: none"> (1) Conduct a competitive procurement process in respect of a contract for the supply of street lighting maintenance works, capital replacement works and repair services in respect of Gloucestershire's Street lighting assets. The proposed contract shall continue for an initial period of up to 5 years 8 months and include an option to extend its term for a further period of not more than 4 years on its anniversary at extension intervals to be determined. (2) Award such contract to the preferred tenderer; and (3) Determine whether to exercise the option to extend the term of the said contract for a further period of not more than 4 years on its anniversary. (4) Implement a new delivery model for street lighting works and services, including bringing in-house management and administration functions.

<p>Reasons for recommendations</p>	<p>The nature of street lighting work has evolved since previous procurement arrangements were agreed in 2014. This, coupled with the successful delivery of the LED replacement programme has supported the council in progressing the previously targeted energy and carbon emission reductions and reductions in operational maintenance. This also provides the Council with the opportunity to re-procure a more appropriate contract to deliver future needs and ambitions.</p> <p>With the current LED Replacement and Street Lighting Term Maintenance Contract now approaching its end date (2nd August 2024), rather than to opt to extend for the final permissible three year extension, and given the council's changing needs, there is an opportunity for the council to procure a new Street Lighting Term Maintenance contract which makes provision for realigned management, administration and governance rather than opt to extend the existing contract for a further period of three years.</p> <p>The new operating model would bring back in house elements of the currently outsourced management and administrative activities of the current street lighting service. This will provide an improved opportunity to ensure that service data and information is of a high standard, focusing more on delivery rather than contract administration, as well as rebalancing the spend on contract costs and service delivery. Details of the revised operating model are set out in the 'Background' and 'New Delivery Model' sections of this report.</p>
<p>Resource Implications</p>	<p>The estimated value of the new proposed Street Lighting Maintenance Contract is up to £16.5m over the initial 5 year 8 month term and up to a further £13.5m over the optional 4 year extension period. This contract period is considered to be the appropriate balance to allow sufficient investment from the contractor, whilst maintaining flexibility for GCC as client. It should be noted that the contract term has been revisited in order to provide a potential future opportunity to align with the Term Maintenance Contract should that be considered beneficial to the Council and service delivery.</p> <p>The proposed procurement will be carried out using existing in-house resources, supported by external consultancy. The procurement and GCC's element of the Street Lighting Maintenance Contract will be funded from within existing Street Lighting revenue budgets with any top up from the LED Street Lighting reserve if necessary.</p> <p>The proposed in-sourcing of aspects for management and administration of the service.</p> <p>While a staffing structure for the new operating model has not been consulted upon or approved by the Assistant Director of Highways & Infrastructure, the ongoing annual impact on the revenue staffing budget is estimated to be £120k, including liabilities for the transferring of contractor staff into the new Council structure. These costs would all be entirely offset by reduced management fees applicable in the new contract.</p>

Background Documents	<p>Cabinet Paper June 2017 – Highways Procurement Strategy Development Cabinet Paper June 2017 – Highways Procurement Strategy Development</p> <p>Cabinet Paper September 2017 – Highways Procurement Strategy Cabinet Paper September 2017 – Highways Procurement Strategy</p> <p>Cabinet Paper July 2014 - Street Lighting-LED Replacement and Term Maintenance Contract Street Lighting - LED Replacement and Term Maintenance Contract</p> <p>Procurement Policy Note PPN 06/21 – Taking Account of Carbon Reduction Plans in the procurement of major government contracts.</p> <p>Highways Improvement Initiative Procurement Policy Note PPN 06/21 – Taking Account of Carbon Reduction Plans in the procurement of major government contracts.</p>
Statutory Authority	<p>Gloucestershire County Council holds responsibility for the maintenance of highways as the Highway Authority (Street Lighting and Illuminated signs/bollards) as set out by the Highways Act 1980.</p>
Divisional Councillor(s)	<p>All countywide service</p>
Officer	<p>Name: Ken Pitt, Street Lighting Manager Tel: 08000 514514 Email: Ken.pitt@gloucestershire.gov.uk</p>
Timeline	<p>Issue termination notice to incumbent Contractor: 2nd August 2023 Issue Invitation to Tender: by end of Nov 2023 Tenders returned: by 28th February 2024 Tenders evaluated: March 2024 Tender Awarded: by 8th April 2024 Contract Mobilisation: April -July 2024 Contract Starts: 3rd August 2024</p>

Background

1. The nature of street lighting work has evolved since previous procurement arrangements were agreed in 2014. This, coupled with the successful delivery of the LED replacement programme has supported the council in progressing the previously targeted energy and carbon emission reductions and reductions in operational maintenance.

However, the current LED Replacement and Street Lighting Term Maintenance Contract is now approaching its end date (2nd August 2024) and the current street lighting delivery model and associated NEC3 contract are no longer considered to be optimal now that the LED Replacement has been completed. This provides the Council with the opportunity to re-procure a more appropriate contract to deliver future needs and ambitions, making provision for realigned management, administration, and governance. It is considered this would be a more appropriate option than to extend the current contract for a further 3-year term.

A previous Cabinet report from September 2017 revised and improved the way in which the Council procured and delivered its wider Highways Contracts.

[Cabinet Paper September 2017 – Highways Procurement Strategy](#)

This report seeks to align the proposed procurement of the street lighting maintenance works and services contract with the model implemented relating to our Highways Maintenance works contract to ensure consistency of approach between them and any shared learning and efficiencies. The revised operating model and industry feedback have been incorporated into the proposed approach for the street lighting maintenance and works contract.

New Delivery Model

2. The procurement will provide the opportunity to remodel the Council's function and provide for a new approach to reflect the changing needs of the service and improve effectiveness by supporting a new model of delivery to secure improved outcomes in our communities.

The new operating model would bring back in house elements of the outsourced management and administrative activities of the current street lighting service. This will provide an improved opportunity to ensure that service data and information is of a high standard, focusing more on delivery rather than contract administration, as well as rebalancing the spend on contract costs and service delivery.

This solution would eradicate the significant duplication which is required under the current contract model. This is highlighted in the amount of essential due diligence and auditing of records that each of the contract parties currently complete. It would also significantly reduce the volume and indirect cost of contract administration required. Transferring the management and administrative responsibilities from the contractor and placing them back with the Council team would allow a contractor to concentrate on their core strengths - delivery of "Value for Money" street lighting maintenance activities. This would also provide the Council with accurate service information, improved data, and the ability to be more responsive.

Moving to this model would also significantly reduce the current risks for the Council which are created by not having direct control for the data input into the management system.

The new Council team structure for the street lighting service will be agreed prior to contract award with all the necessary HR and TUPE issues addressed to allow the new structure to be implemented.

The new Council role will be more resilient, responsive and able to enhance its contract management and service outcomes. It will also cement and enhance our role as a competent technical client ensuring that contract knowledge and expertise continues to be 'owned' by the Council.

Financial implications

3. The estimated value of the proposed Street Lighting Maintenance Contract is up to £16.5m over the initial 5 year 8 month term and up to a further £13.5m over the optional 4 year extension period. For Contract Notice purposes, the contract value range is based on predicted budgets over the full term of the contract. The values also include contingency to account for inflation, potential one-off funding bids, DfT awards and other unknown possible increases in capital funding over the contracted period. This contract period is considered to be the appropriate balance to allow sufficient investment from the contractor, whilst maintaining flexibility for GCC as client. It should be noted that the contract term has been revisited in order to provide a potential future opportunity to align with the Term Maintenance Contract should that be considered beneficial to the Council and service delivery at that time.

The proposed procurement exercise will be carried out using existing in-house resources and topped up with external consultancy resources which will be funded from either the in-year revenue budgets or through the use of the LED Street Lighting reserve.

The estimated impact to the annual Street Lighting revenue staffing budget is estimated to be £120k for the new operating model. This together with all other elements of the Street Lighting Maintenance Contract will be funded from within existing Street Lighting revenue budgets over the life of the contract. This will be achieved through reduced management fees payable to the contractor.

Moving street lighting management and administration responsibilities back in house will remove duplication of costs and resources. This will reduce Council to Contractor monitoring which will allow costs to be redistributed back into the service.

Procurement Strategy

4. Officers will use a standard 'Open' evaluation procurement process which is compliant with PCR regs 2015 for tendering the contract. The industry standard New Engineering Contract (NEC) published by the Institute of Civil Engineers will be used, updated to the latest version NEC 4, to align with all other highways contracts to ensure consistency of delivery.

Procurement Timelines

5. The procurement timelines are as follows in order to adhere to the procurement timetable.

Issue Contract Termination Notice to incumbent Contractor:	2 nd August 2023
Issue Contract Notice and invitation to tender:	by end of November 2023
Tenders returned:	by 28 th February 2024
Tenders evaluated:	March 2024
Tender Awarded:	by 8 th April 2024
Contract Mobilisation:	April -August 2024
Contract Starts:	3 rd August 2024

Managing the contracts going forward

6. One of the key risks identified is the implementation of a new delivery model. To help mitigate this challenge, officers have looked at how the contract would be managed including the governance arrangements. The following areas are critical to mitigating this interface risk.

- Governance structures
- Performance management linked to contract extensions.
- Robust contractual processes for managing poor performance.
- Integration of new staff, or staff transferred from the existing contractor (using learning points from the highways contract renewal).

Governance structures

A robust governance structure has already been created and is now in operation to manage the whole of the highways service which has both strategic and operational boards. These requirements will be placed within the tendering documents for the new street lighting contract. This structure includes the following:

- Strategic Highways Governance Board: Focused on ensuring oversight of overall highway services delivery and coordination of contracts. Review of overall performance and for resolving escalated or unresolved issues. Made up of relevant Cabinet Members and Council Directors for the Council's major highways contracts. Street lighting strategic issues will be covered by and included in the Terms of Reference for this board.
- Operational Highways Board: Focused on ensuring operational delivery is coordinated between contractors and for resolving operational and contractual issues. Made up of Council managers and managers from each of the council's highway's contractors. A Street Lighting Operational Board will be introduced separately.
- Health and Safety Board Focused on ensuring health and safety ('H&S') is coordinated across all highways service delivery, sharing best practice, joining up H&S campaigns and training, making best use of H&S resources. Chaired by the term maintenance contractor (Ringway Highway Services) it also includes representatives from the Council, highway teams and the Council's wider highway

supply chain partners. Street lighting Health and Safety issues will be covered by and included in the Terms of Reference for this board.

- Skills Academy: focused on developing apprenticeship opportunities and a long-term pool of skilled highways, construction, and civil engineering staff. The group has representation from all of the Council's highway contractors and the wider supply chain. Street Lighting elements will be covered by and included in the Terms of Reference for this board.
- A Street Lighting Contact Management Board has been in place for some time to manage the LED Replacement and Term Maintenance contract and will continue to do so (until the new contract commences), with formal reports, governance, and terms of reference to ensure that budget, performance, and outcomes are clearly managed. This board will be then superseded by the above governance structure on commencement of the new contract.

Alternative Options Considered

7. Various delivery model options were explored during the development of the procurement strategy. Options considered included the following:
 - Extend the current arrangement and carry on, as is, for a further 3 years. This would not provide the efficiencies or new delivery model described previously.
 - Direct Labour Organisation – taking all the street lighting service delivery back in-house. This would include directly employing over 30 staff, substantial set up costs, and transfer operational risk to the authority as well as a significant level of cultural change.
 - Teckal company arrangements – setting up an arms-length council owned company to operate the service. This has high set up costs, transfers operational risk, requires a significant cultural change and there would be significant administrative resource impacts to the Council to establish this model.
 - Framework contracts – although seen to deliver good value, there are significant contract management and internal client team requirements to make this model successful.
 - Inclusion of street lighting activities within the current Highways Term Maintenance contract is not practical as their renewal dates do not align.

There may be some advantages of aligning lighting and highways maintenance termination / commencement dates in the future – this is reflected in the terms set out for this procurement. Aligned dates could allow economies of scale to be delivered, however if the market is better able to support our needs through two separate specialist contractors (highways and lighting), then inevitably there would be a peak in workload if two contracts need procuring at the same time.

Conclusion

8. Following industry best practice, a procurement strategy was developed that involved the implementation of a new delivery model that will enable the council to take back control of elements of street lighting service delivery, whilst retaining and strengthening the

Council's arrangements for managing the whole service, with the contractors employed to deliver the service on the ground.

Risk Assessment

9. The management of risk, post Cabinet determination will be through a formalised procurement board which will be managed by lead managers for the service; members of the procurement team; and colleagues from the risk and assurance team. This team will work through its formal plan and one of the key elements will be a risk register for de-mobilisation of the current contract and procurement of the new contract.

The board will brief the Assistant Director for Highways and Infrastructure and Cabinet Member for Highways and Flood, with regular updates provided to the Highways Governance board.

Risks are mainly in the areas of service continuity, legislative and regulatory compliance, reputational issues and health and safety. In addition, there are specific procurement risks around the selection of the right contractor to partner with, as well as the risks of inflationary cost increases.

The risks associated with service continuity are low as there would be a structured de-mobilisation plan for the current contract and mobilisation plan for the new contract, with input from lead highway managers and colleagues from the risk and assurance team. Regular meetings with these colleagues will ensure that these plans are kept updated and that all actions are completed, mitigating any risks surrounding service continuity and ensuring that service delivery through the contract transition is seamless.

Legislative, regulatory and health & safety compliance will be achieved through the tender specification and by ensuring that key staff for the Council and Contractor all have agreed appropriate training and development plans in place.

One of the key risks identified with the proposed delivery model is the potential difficulty in co-ordinating works delivery between all of the different contractors supporting Highways. This is considered a low risk as the Street Lighting team will be represented through the Highways governance structures. The NEC 4 contract through which the service will be procured also contains mechanisms relating to works programming to assist in mitigating this risk.

Risk will continue to be regularly reviewed as part of the project management processes and any significant changes will be reported to the Cabinet Member for Highways and Flood.

Climate Change & Biodiversity implications

10. To assess providers in this area we are seeking to introduce the principles of the Cabinet Office's recently released Procurement Policy Note PPN 06/21 – Taking Account of Carbon Reduction Plans in the procurement of major government contracts. It came into effect on 30th Sept 2021 for procurements in excess of £5M per annum and requires the following.

As part of assessing a supplier's technical and professional ability and as a selection criterion, organisations should include a requirement for bidding suppliers to provide a Carbon Reduction Plan confirming the supplier's commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place, and which will be in effect and utilised during the performance of the contract.

The team will also consider other climate and carbon related improvements, for example this could include how efficiency gains already made through implementation of LED light sources (reducing energy consumption and carbon impact) could be further advanced.

This will also include the utilisation of LED lighting that has warmer colour rendition which is evidenced to be more sympathetic to wildlife and insect species. The contract will also incorporate new and emerging technologies that will further reduce the Council's carbon and energy usage, for example solar streetlights and illuminated signs.

The new contract will also seek to improve on the current contract which allows for 97% recycling of materials, mitigating the need for waste being disposed to landfill; and also, how more use could be made of electric or non-polluting vehicles.

Equality implications

11. Has an Equalities Impact Assessment (EIA) been completed? Yes

An EIA has been completed for this stage of the cabinet decision making process and has begun to examine potential contract changes (and any potential impact) that we envisage could be introduced as part to the new contract. The current EIA is included as part of this report.

The tender process will be developed to ensure that the potential providers take due regard of how their business and business practices effect the target groups. At tender stage potential providers will be asked to explain:

How their business operations will pay due regard to the target groups in terms of.

- Workforce recruitment and development
- Work planning
- Day to day operations

As the new contract is developed and ultimately a final contract specification agreed, further EIA's will be undertaken and shared with members as part of future tender award decisions.

Cabinet Members should read and consider the Equalities Impact Assessment in order to satisfy themselves as decision makers that due regard has been given.

Data Protection Impact Assessment (DPIA) implications

12. The DPIA Decision checklist tool did not identify any implications that required a DPIA to be completed for the contract.

Social value implications

13. The Council will be using a new performance and evidence-based approach to Social Value, based on the National TOMs (Themes, Outcomes and Measures) which has been developed for the Council by the Social Value Portal. Tenderers will be required to propose credible targets against which performance (for the successful Tenderer) will be monitored. Tenderers are free to choose those measures that are proportional and relevant to their business and this specific contract. However, a key success factor for Tenderers will be to demonstrate the ability to deliver against the commitments made.

Tenderers will be required to provide the following as part of their tender:

- a) A quantified Quantitative Social Value Proposal; and
- b) Qualitative Social Value Proposal providing evidence describing how the social value being proposed will be delivered against each of the measures offered.

The Council will make provision for these commitments in its contract with the winning Tenderer which will then be monitored and reported on, periodically, throughout the term of the contract.

The Council recognises that the process of measuring and delivering Social Value requires flexibility and a collaborative approach. Agreed Social Value commitments may require a certain amount of refinement as a result. A key requirement is the willingness of the provider to work openly and transparently with the Authority whilst bearing in mind that the overall value of Social Value commitments made must be delivered.

Full details on the Social Value Portal and the National TOMs framework are available here <https://socialvalueportal.com/national-toms/>

Consultation Feedback

14. The current delivery model of our Highways contracts has now been well tested and challenged over the last 4 years, with initial input from the cross-party Cabinet Panel, and from the industry through soft market testing.

Officer recommendations

15. It is recommended that Cabinet delegates authority to the Assistant Director of Highways & Infrastructure in consultation with the Cabinet Member for Highways and Flood to implement the recommendations contained in this report.

Performance Management / Follow Up

16. The contractor will be given a robust set of key performance indicators that will be used to operationally manage the contract and will need to continue to demonstrate good performance to be considered for any optional extension.

A remodelled, increasingly resilient, and enhanced Council team operating within a repurposed contract environment will increase its effectiveness in governance and performance of the new contract and secure enhanced outcomes, this is the key driver for the recommended contract model.

The use of the New Engineering Contract (NEC4), under whose terms the proposed street lighting services will be procured, will ensure that robust mechanisms are in the contract to enable contractual and commercial issues to be resolved. However, the contract will also include a special mechanism for resolving poor performance or lack of service delivery by allowing any element of failing service to be substituted by the Council. Staff have been appropriately trained in Contract Management (Government Procurement College) and required contract management tools (such as CEMAR). CEMAR is a dedicated contract management solution for NEC and other types of contracts and was created from a need to manage the administrative demands of a contract. Officers now have access to an in house contract support team within Highways and Infrastructure.

Experience tells us that it is unlikely that a contractor will fail in delivery of the entire contracted service, but far more likely that they will experience challenges in one or two specific areas of service. This mechanism will include a detailed escalation process where issues are first addressed at an operational board level, then escalated to the director level governance board before a final 'substitution' penalty is applied. Should the Council have to substitute an element of the service the contract will allow for the Council to charge back to the contractor any additional costs incurred for delivering the service with an alternative provider.

Industry feedback during soft market testing for previous contracts was welcoming of this approach as no contractor wants to have a service substitution reported to the market, as it impacts directly on their ability to bid for other local authority contracts.