

CABINET

9 NOVEMBER 2010

GATEWAY 4 CONTRACT MANAGEMENT: HIGHWAYS MINOR WORKS CONTRACT

Portfolio Holder: Councillor Phil Filmer, Frontline Services

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: Phil Moore, Service Manager - Highways and Parking Services

Summary

This report informs Members of the performance of the Highways Minor Works Contractor for the year August 2009 to July 2010 inclusive and seeks approval to award a one year extension (year 3) to the contract in accordance with the conditions of contract, which was procured through a competitive process.

1. BUDGET AND POLICY FRAMEWORK

- 1.1 The third year extension to the contract should be awarded to VolkerHighways in accordance with the conditions of contract. This extension (year 8) is based on the performance of the contractor during the third year of operation (1 August 2009 to 31 July 2010) and is in accordance with the contract conditions.
- 1.2 Decisions relating to the management and maintenance of the public highway are within policy framework. This contract is a call off contract and therefore officers can ensure that orders placed on the contract do not exceed the available budget. There is an identified budget to support this contract.
- 1.3 This service has been categorised as a High Risk service through the Risk Analysis Tool process. This is therefore a matter for Cabinet.

2 BACKGROUND

- 2.1 Cabinet on 20 February 2007 agreed to delegate the acceptance of the most economically advantageous tender for the Highways Minor Works Contract to the then Assistant Director of Legal, Contracts and Property Services.

- 2.2 This contract provides Medway with the majority of highway maintenance services required, including: winter service, emergency call outs, responsive maintenance, along with some planned maintenance and highway scheme implementation.
- 2.3 The current contract was tendered in accordance with the procurement process and was let by Medway Council on 1 August 2007. This contract is for 5 years with five, one yearly extensions, which can be awarded after the completions of years 1, 2, 3, 4 and 5 respectively. Extensions are granted based on performance measured by key performance indicators.
- 2.4 Reports were submitted to Procurement Board on 3 September and Cabinet on 23 September 2008 to award a 1-year extension (Year 1) and to adopt revised performance measurement criteria.
- 2.5 Reports were then submitted to Procurement Board on 14 October 2009 and Cabinet on 3 November 2009 to award a 1-year extension (Year 2).
- 2.6 The contract value is expected to be around £50m over the full ten years.

3. MANAGEMENT OF THE CONTRACT/ BENEFITS REALISATION

- 3.1 This contract is based on a partnership model and is measured on Key Performance Indicators (KPI's) as described in the original contract conditions as modified and approved in 2008.
- 3.2 The contract went live on 1 August 2007. Officers meet on a weekly basis with the contractor to discuss the previous weeks activities and the planned work for the next week. These meetings are minuted and are fed into the Monthly meetings.
- 3.3 Monthly meetings are held to discuss any issues escalated from the weekly meetings. At the monthly meetings the performance of the contractor is also discussed and monthly KPI's are presented and recorded (see monthly performance figures for 2009/2010 at appendix 2). Highway officers attending this meeting are a mixture of those attending the weekly meeting (operational staff) and selected staff from the highways management team. Issues that cannot be resolved at the monthly meetings are escalated to the Quarterly meetings.
- 3.4 Quarterly meetings are attended by the Highways management team including the service manager. These meetings resolve any issues escalated from the monthly meetings and also monitor the overall performance of the contract.
- 3.5 Following the Quarterly performance meetings, the service manager works with the contractor to resolve any performance issues and agree an improvement plan for the contractor, if required. The service manager also needs to ensure that he has all the evidence to support any reports that need to be written for an annual report to the Procurement Board and Cabinet.

4. VARIATIONS REQUIRED DURING CONTRACT TERM

- 4.1 Variations have been made to the contract following the performance meetings. These variations are around very minor additions to the contract rates where service improvements have been made. For example this year new rates were agreed to vary the rate of spread of salt in order to help preserve salt stocks. This variation was agreed at the quarterly meeting and included new rates for this improved service.
- 4.2 The variation officers are seeking in this report is to award an extension of contract for 1 year following the completion of year three of the contract.
- 4.3 Many benefits on quality and performance have been seen in the delivery of this contract as demonstrated in the KPI figures. A specific benefit is that agreed with the contractor on percentage discounts on bulk orders associated with resurfacing works. Packages over £50,000 attract a 2.5% discount and works over £100,000 attract 5%. This saving allows more schemes to be delivered on the ground.
- 4.4 Annual contract uplift which is contractually due on the anniversary of the contract, (1 August) is governed by the Contract Price factor (CPF) index. This is an annually published figure by the Department for Transport for the industry and is used almost exclusively by local authorities for their highway term contracts. These indexes reflect staff costs, but CPF also reflect costs associated with petroleum and steel prices, which has risen over recent years. The annual index is applied to the base figures of the contract, which we are expecting to be in the order of 14.34% (year 3). Given that year 1 had a CPF increases of 12.38, increases have been marginal since. However following discussions with VolkerHighways they have agreed to a 1.3% drop on the final CPF figure when it is published around Christmas in exchange for the award of year 3 extension.

5. PERFORMANCE, CHANGE MANAGEMENT AND RISK

- 5.1 Since mobilisation in August 2007, various elements of the service delivery have been excellent, including the emergency call out facilities and the winter service. While in year 2 it was reported that some elements caused officers concern, for example delivery dates not being achieved, resulting in a backlog of orders these concerns were responded to by the contractor. Officers now confirm that over 99% of all task orders are completed on time. All other issues raised have been met with improvement plans and steady improvements in performance by the contractor.
- 5.1 The KPI's used in this contract for year three (1 August 2009 to 31 July 2010) are shown in appendix 1. These KPI's were revised in year two to more closely represent an appropriate range of performance targets.
- 5.2 It is clear that having worked with the revised KPI's over the last two years, both the officers of Medway and VolkerHighway's feel that the future management of the contract should continue to be developed using these new

KPI's. The revised set of KPI's developed in partnership with VolkerHighway's prioritise adherence to programme and getting the repairs undertaken "right first time". The focus for both Medway officers and the contractor is making continuous improvements over the life of the contract.

Risk Management

- 5.3 The Risk Analysis Tool mentioned in 1.3 above detailed that this contract was considered to be a High Risk contract. When officers undertook the RAT prior to the contract being awarded it was evaluated as High risk, purely on the financial value. Having reviewed the risk associated with the contract the only element of risk is that associated with the contract value and that risk is minimum. The value over the 10 years was placed at £50m. It was indicated to the contractor in the contract documents that the value of the contract over the third year should be around £4.5m, not guaranteed. Awarding this contract extension in accordance with the contract conditions does commit Medway to year eight of a potential 10-year relationship. There may be a risk associated with knowing what budgets will be available by year eight and also what the relationship would be with Volker Highway's by then. Given that this contract is a call off nature, there is no minimum financial commitment to the contractor. In addition the way the contractor has performed over the third year along with the way they have embraced the revised KPI's, officers cannot foresee any issues that would put this contract at risk. Moreover, specifically associated with the contract value risk, it is the council managers who are responsible for the management of the budgets to ensure that over commitment does not take place.

6 LESSONS LEARNED

- 6.1 This contract is from a suite of contract conditions known as the New Engineering Contract (NEC) Term Service Contract, which is managed by the Institute of Civil Engineers. It is the first time that these conditions have been used for the Highways Minor Works Contract.
- 6.2 It is clear from the first three years that this form of contract conditions encourage issues to be resolved in a very short time scale (28 days) and as such financial planning and management is very rarely more than 28 days out of date.
- 6.3 Variations to contract details are being managed centrally within highways so that no matter how many variations, big or small that are made to the contract, the central contract is kept upto date.

7 NEXT STEPS

- 7.1 **Future Variations / Amendments Required:** Minor variations to the schedule of rates are dealt with by officers as described in the contract management detailed in section 3 and 4 above.
- 7.2 **Contract Extension Required:** Members are required to consider the award of the contract extension in accordance with the conditions of contract following the delivery of the highway maintenance service during the third year

(1 August 2009 to 31 July 2010). This extension is justified based on the contractor's performance, which is shown in Appendix 2. The KPI's are scored on a monthly basis and a yearly summary is included in the appendix. The revised KPI's aim for a score greater than 8500 for the yearly extension to be made. It can be seen that for this year an average score of 9084 was achieved by the contractor although in recent months the score has exceeded the target indicating progressive improvement in performance.

7.3 **Service Improvement Plan / Continuous Improvement Plan:** This contract is performing well, however both Medway and VolkerHighway's wish to see continuous improvements being made and recent figures would suggest this is the case.

8. **PROCUREMENT BOARD – 20 OCTOBER 2010**

8.1 The Procurement Board considered this report on 20 August 2010. The Board noted the performance of the Highways Maintenance Term Contractor and recommended to Cabinet to award a third one (1) year extension to VolkerHighway's Highways Minor Works Contract.

9. **COMMENTS OF THE PORTFOLIO HOLDER FOR FRONTLINE SERVICES**

9.1 This report seeks to inform Members of the performance of the Highways Minor Works Contractor for the year August 2009 to July 2010 inclusive and to seek approval to award a one (1) year extension (year 3) to the contract in accordance with the conditions of contract, which was procured through a competitive process.

9.2 The contract was awarded to Fitzpatrick in 2007. Fitzpatrick have been re-branded and adopted part of their parent company name. They are now known as VolkerHighways.

9.3 Having looked at the performance of the contractor over the third year in accordance with the revised performance criteria I support the award of an extension for a further year.

10. **FINANCIAL, PROCUREMENT AND LEGAL COMMENTS**

10.1 **Comments of the Chief Finance Officer.** There is an existing budget to fund this contract and that of the contract extension. The contract is clearly performing well and given that this contract went through the procurement process, value for money is assured. This contract does not tie Medway into services it cannot afford and therefore I support this report and the recommendations contained within.

10.2 **Comments of the Head of Procurement.** The original procurement was conducted in accordance with EU procurement regulations and the mechanisms for future contract extensions was clearly stipulated within the tender documentation and within the tender advertisements. This report is the third of the annual reports required by the gateway procurement procedures and clearly demonstrates that the contract and contractor are performing well, working in partnership to ensure effective service delivery and continuous improvement. This contract as stated elsewhere does not guarantee the

contractor a specific volume of work, which will give the necessary flexibility to deliver competing service delivery priorities. Strategic Procurement supports the recommendation for an additional one year extension (year 8 of a potential 10 year contractual arrangement) on the basis of the agreed 1.3% discount on the final CPF index soon to be published.

Strategic Procurement advises the client department that consideration should also be given in anticipation of future extensions, to entering into dialogue with the contractor to consider how the contract can further be reviewed to identify cost savings through initiatives such as revised specifications (e.g. moving from an input model to an output based model or looking at more innovative ideas being used in comparative contracts with other public sector bodies).

10.3 Comments of the Monitoring Officer or designated deputy. This report is in line with the contractual requirements of the contract and also in line with Medway Council's procurement procedure. It would appear that the officer's recommendations are appropriate given the KPI data available and the contractual requirements to consider a yearly extension to contract length.

11. RECOMMENDATIONS

11.1 Cabinet is recommended to:

- a) Note the performance of the Highways Maintenance Term Contractor, VolkerHighway's as detailed in Appendix 2.
- b) Award a third one (1) year extension to VolkerHighway's Highways Minor Works Contract, in accordance with the conditions of contract, which was originally procured through the council's procurement procedures, whilst noting the 1.3% discount on the contract CPF figure.

12. SUGGESTED REASONS FOR DECISION(S)

12.1 Medway is contractually obliged to consider the performance of the Highways Minor Works Contractor annually and to consider awarding a yearly extension after each completed year of service delivery.

Report Originating Officer:	Phil Moore	☎ 01643 331146
Chief Finance Officer or deputy:	Mick Hayward	☎ 01643 332220
Monitoring Officer or deputy:	Julian Browne	☎ 01643 332154
Head of Procurement or deputy:	Gurpreet Anand	☎ 01643 332450

Background papers

The following documents have been relied upon in the preparation of this report:

Description of document	Location	Date
Gateway 3 High-risk procurement contract award acceptance report.		4 May 2007
Highways Minor Works Contract documents 2007-2012	Highways Office	May 2007
KPI's for contract award Appendix 1	Appendix to report	Aug 2008
Monthly performance figures Appendix 2	Appendix to report	Aug 2009

APPENDIX 1

Revised Key Performance Indicators (KPI's)		
	Description	Performance Indicator
A	Adherence to Programme	
A1	Predictability	% Planned Maintenance/Schemes Started on Time
A2	Predictability	% Live Orders Not Overdue
A3	Traffic Management Act	Value of Shadow FPN
B	Health & Safety	
B1	Accident Frequency	A.F.R. Indicator
B2	Injuries/Damage	Third Party Injuries / Damage
B3	Site Health & Safety	% of work sites passing Volker Highways site Inspections
B4	Site Health & Safety	Number of Health and Safety breaches reported at weekly meeting
C	Complaints/Compliments	
C1	Complaints	Number of complaints received that require corrective action by the contractor
C2	Response to Complaints	% of C1 Respond to Substantively within 10 working days
C3	Level of customer satisfaction	% Customer Satisfaction received from post-works surveys
C4	Information Boards	Number of Sites inspected not displaying information boards
D	Financial	
D1	Timely Submission of Applications	% Payment Applications issued to Service Manager within 28 days of completion
D2	Accuracy	% Payment requests issued by the contractor, reviewed and agreed by the Service Manager, that are not currently in dispute
E	Innovation	
E1	Construction Waste to Transfer Station or Landfill	% Waste produced in delivering the service that is disposed of at Transfer Station or landfill
E2	Recycling	% Material used to deliver the service that is recycled or secondary sources
E3	CO2 Emissions	% Reduction of CO2 produced by vehicle fleet in delivering the service
E4	Cashable / non cashable benefits	Value of savings (cashable / non cashable) benefits realised (% of value of works in period)
F	Quality	
F1	Right First Time	Number of Task Orders Requiring Corrective action at Weekly Meeting
F2	Emergency Response	% Call-outs attended within response times
F3	Winter Service	% Gritting routes treated within response time
F4	Quality Management System	Number of non-conformances from audits
F5	Considerate Constructors Scheme (CCS)	Average score received from CCS audits (over a 12 month period)

Volker Highways - Monthly KPI Scores 2009/2010

Score for the	Score for the	Score for the	Score for the	Score for the	Score for the	Score for the	Score for the	Score for the	Score for the	Score for the	Score for the
Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 10	Feb 10	Mar 10	Apr 10	May 10	Jun 10	Jul 10
8775	8995	8905	8965	9205	9045	9305	9385	9155	9035	8935	8905

Average for 2008/9

9084