


<p>London Borough of Hammersmith & Fulham</p> <p>CABINET</p> <p>10 JULY 2017</p>	
<p>HIGHWAY MAINTENANCE CONTRACTS 2017</p>	
<p>Report of the Cabinet Member for Environment, Transport and Residents Services - Councillor Wesley Harcourt</p>	
<p>Open Report</p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Consultation:</p>	
<p>Wards Affected: Addison, Avonmore & Brook Green, Hammersmith Broadway, Ravenscourt Park, Town</p>	
<p>Accountable Director : Mahmood Siddiqi - Director for Transport and Highways</p>	
<p>Report Author: Arif Mahmud - Group Manager - Highway Maintenance</p>	<p>Contact Details: Tel: 020 7341 5237 Email: arif.mahmud@rbkc.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1 The Council currently uses the Westminster City Council's (WCC) framework Contract for the highway maintenance work, approval was obtained in the paper presented in December 2014. The Royal Borough of Kensington and Chelsea (RBKC) has procured a new framework and the assessment of the contract shows that this is more cost effective and more compatible with LBHF specification and requirements. As such officers now seek approval to join the RBKC Framework Agreement. The RBKC framework has now received cabinet approval, this has meant delaying our report until the approval was granted.

2. RECOMMENDATION

- 2.1 That approval be given to join the RBKC framework agreement (5-year term with options of further three 1 year extensions) for the following five contracts:
- Paving Work
 - Asphalt Surfacing Work
 - Drainage Work
 - Project Work
 - Highway Bridges and Structures Work
- 2.2 That approval be given to award Paving, Asphalt Surfacing, Project and Highway Bridges and Structures Work contracts to F M Conway Limited for total to notional sum of £34,125,000.
- 2.3 That approval be given to award the Drainage Works contract to Cappagh Contractor Construction (London) Limited for a notional sum of £1,500,000.

3. REASONS FOR DECISION

- 3.1 The Council have a statutory duty to maintain the highways that are maintainable at the public expense under Section 41 of the Highways Act 1980. A decision is required to enable the officers to deliver this service.
- 3.2 Having previously explored the feasibility of LBHF renewing its own contracts or using the current WCC Framework Agreement for highway maintenance work. It was concluded that WCC was at that time the better option for most of the contracts. The Key Decision Report, Future of Highway Works Contracts, 5th January 2015 set out LBHF procurement strategy of using frameworks.
- 3.3 The new Framework Agreement procured by RBKC offers the overall best value, having undertaken direct comparisons with the WCC framework contract. Both Framework Agreements allow LBHF to sign up, but there is no obligation for contracts to be subsequently awarded. Therefore, there is no intention for LBHF to leave the WCC framework and this will be available if required in the future.
- 3.4 Should LBHF wish to pursue its own contract procurement strategy within the next year, the likelihood is that contract prices will mirror or be higher than those currently on offer within the RBKC Framework Agreement, this is because of the recent fluctuations in the currency markets and uncertainties with Brexit. Carrying out our own procurement would cost LBHF in the region of £60-£100k, the RBKC framework has been developed taking into account LBHF service requirements.
- 3.5 The cost evaluation of the RBKC Framework Agreement against the current WCC framework shows that the RBKC Framework results in better value. In addition to the financial benefits, joining the framework will improve efficiencies for LBHF by aligning both Boroughs' highway maintenance service teams. This

framework would allow LBHF the flexibility to assess future work programmes based on the financial situation.

- 3.6 There are no requirements for LBHF works undertaken by the framework contractor needing approval from RBKC. LBHF Cabinet has already approved the Council joining the RBKC street lighting framework contract. This means LBHF are free to resolve issues with the contractor independently of RBKC.

4 BACKGROUND

- 4.1 The LBHF has traditionally awarded separate term contracts for various types of work on the highway. The contracts are competitively tendered and this arrangement ensures that our contractors are responsive to our work programme and fully familiar with the standard of workmanship expected within our Borough.
- 4.2 In 2014 WCC awarded a Framework Agreement, as part of the procurement process LBHF agreed to be named as one of the potential participating authorities, although this contract was primarily designed to work with WCC's commissioning model, the works element of the contract could be used independently which suited LBHF. A cost comparison was carried with our own separate contracts which were due to expire, although there were some differences in specifications, it was concluded that there was sufficient financial benefit in joining the WCC Framework Agreement for most of our contracts, as recommended in the December 2014 paper. RBKC came to the same conclusion at the time.
- 4.3 RBKC continued testing the market developing a contract fully inclusive of both RBKC and LBHF specific requirements, specification and method of working used within both the Boroughs and under a shared service. The underlying background and guiding principles of this contract are completely in line with LBHF own competitive contract procurement strategy. The procurement team worked with Highways on the development of all parts of the contract, including KPIs. The KPIs incorporated in the Framework are designed to be challenging, for example failure to meet these KPIs results in financial penalties. Example of KPIs are 'right first time', undertaking works on time, health and safety and high quality customer service.

5. CONTRACT ANALYSIS

- 5.1 The five contracts that we currently use under the WCC framework contract are all awarded to one contractor F M Conway Limited. The annual values of these are as follows:

Paving Work	£2,025,000
Asphalt Surfacing Work	£1,600,000
Drainage Work	£ 300,000
Project Work	£3,200,000

Highway Bridges and Structures Work - No independent contract in place.

- 5.2 RBKC's Framework Agreement procurement exercise has now been approved by Cabinet and is in place from 1st April 2017. LBHF were named as a potential participating authority. All the above contracts under the Framework have been awarded to FM Conway Limited with the exception of the Drainage works which has been awarded to Cappagh Contractors Limited.
- 5.3 The RBKC Framework Agreement evaluation included a number of criteria to assess quality and value for money of the submissions. Within the financial assessment a typical sample scheme based on commonly used items for each of the five contracts was prepared. Tenderers were required to price these schemes, we have used these F M Conway and Cappagh Contractors' priced scheme for the comparison with WCC prices. One of the advantages of this contract over the WWC Framework Agreement is that the RBKC Framework has been specifically written to include LBHF requirements, therefore there is less risk of contract variations resulting in higher charges for commissions work, as has been found with some items not available in the WCC Framework. The results are shown in the table in Appendix A.

6 CONSULTATION

- 6.1 Not applicable. No consultation is required. This is a contractual matter.

7 EQUALITY IMPLICATIONS

- 7.1 There are no equality implications in this report

8 LEGAL IMPLICATIONS

- 8.1 The Director of Legal Services comments that Framework Agreements are an approved form of procurement under the Public Contracts Regulations 2015. If a Contracting Authority is identified, either individually or as a member of a class in the tender to set up the framework agreement, it will be eligible to call-off and award individual contracts under the Framework Agreement. However, there is no obligation to award a contract.
- 8.2 LBHF has confirmed that it has been identified in the procurement of the RBKC Highways Framework Agreement as a Contracting Authority eligible to use the Framework Agreement.
- 8.3 Cabinet has power to approve the recommendations under CSO 8.12.1 (Approval for Procurement Strategy). Further approval will be needed for individual awards of contract in accordance with the requirements of LBHF's Contract Standing Orders.

(Legal comments provided by Margaret O'Connor, Solicitor, Tri-Borough Legal Services tel. 0207 641 2782)

9 FINANCIAL AND RESOURCES IMPLICATIONS

- 9.1 Paving, asphaltting and drainage works are covered by the general maintenance budget of £4,295,410
- 9.2 Project work would be carried out as capital projects and would depend on a successful capital bid being made.

10 IMPLICATIONS FOR BUSINESS

- 10.1 The new RBKC framework contract, includes provisions for social responsibility, local economic and community benefits in line with corporate priorities to maximise opportunities for local residents and local businesses.
- 10.2 Consultation with Economic Development Team (EDT) are being be undertaken to determine contractors' commitment to social value benefits with focus on local employment and skills opportunities, local supply chain procurement and sponsorship of community events and activities, including attending the local jobs fair.
- 10.3 Contractors have made a commitment to work with local suppliers as part of their social value offer. They have told us they are keen to look at local supply option. EDT are making introduction to F M Conway with a number of local suppliers. However, highway maintenance contracts themselves would be very difficult for local companies to apply for, as we have reduced costs because of their size of work. FM Conway have won a large number of contracts around London by reducing their supply chain and sub-contractors by having their own plant, labour and materials.
- 10.4 Both of the contractors' company policies demonstrate their commitment to social values, including support and sponsorship of a number of local community events.

Implications verified by: Antonia Hollingsworth, Principal Business Investment Officer, Tel.: 020 8753 1698

11 RISK MANAGEMENT

- 11.1 As Highway Authority, the Council have power under the Highways Act 1980 to provide lighting, while also having a duty of care to prevent danger to road users. Management of our Statutory Duty is noted on the Bi-Borough Enterprise Wide Risk Register as risk number 6, including the subsidiary risks, non-compliance with laws and regulations, and breach of duty of care. Our duty to prevent danger

to road users is fulfilled by undertaking an annual replacement and maintenance programme to minimise risks to the Council and road users.

12 PROCUREMENT IMPLICATIONS

12.1. Comments provided by the Procurement team have been incorporated in the report.

13 IT STRATEGY IMPLICATIONS

13.1. There are no IT Strategy implications in joining the RBKC framework contract.

Local Government Act 2000

Background papers used in the preparation of this report

None.

Cleared by Finance (officer's name)	Giles Batchelor
Cleared by Legal (officer's name)	Margaret O'Connor

LIST OF APPENDICES:

Appendix A. Cost Comparison

Appendix B. Other Implications

APPENDIX A

Cost Comparison

Contract	Contractor	RBKC £	WCC £
		Cost of Sample Project	Cost of Sample Project
Paving Work	FM Conway	33,094	33,167
Asphalt Surfacing Work	FM Conway	27,307	32,590
Drainage Work	Cappagh Contractors	4,408	10,641
Project Work	FM Conway	50,183	53,712
Highway Bridges and Structures Work*	FM Conway		

* LBHF has not had a specific highways bridges and structures contract, previously using elements of the paving and asphalt surfacing term contract. Having the opportunity to use a specialist contract will allow access to resources specifically for this type of work.

Other Implications

1. **Business Plan:** None.
2. **Risk Management:** Risks identified in this report have been considered and mitigation actions addressed.
3. **Health and Wellbeing, including Health and Safety Implications:** The Council requires the contractors to comply with all the relevant Health and Safety legislation, including signing and guarding of works.
4. **Crime and Disorder:** None
5. **Staffing:** None
6. **Human Rights:** None
7. **Impact on the Environment:** The contractors are required by the Council to observe good environmental practice and comply with the relevant statutes, codes of practice and industry guidance.
8. **Energy measure issues:** None.
9. **Sustainability:** The contractors are required to recycle all recyclable waste material arising from the works or reuse materials where possible.
10. **Communications:** The Council sends out notification letters to local residents prior to commencement of work and uses the Council's website to publicise the annual work programme.