



**Executive**  
16 January 2012

**Report from the Director of  
Environment and  
Neighbourhood Services**

For Action

Wards Affected:  
ALL

**Report Title: Procurement of Highway Services**

## **1.0 Summary**

- 1.1 This report requests approval, as required by Contract Standing Order 85, to participate in collaborative procurement to set up a pan-London contract for Highway Services.
- 1.2 The report explains that emerging pan-London collaborative arrangements could offer significant advantages, including financial savings associated with the delivery of highways services, when the current Brent highway arrangement ends on 31<sup>st</sup> March 2013.
- 1.3 The report outlines work being undertaken to identify and quantify those advantages alongside parallel work with Transport for London and a number of London councils as the procurement of a pan-London framework arrangement proceeds.
- 1.4 The report seeks approval to participate in the collaboration to maximise the opportunity to capture any benefits that may arise by procuring services through the pan-London arrangement.

## **2.0 Recommendations**

- 2.1 The Executive give approval to the Council participating in a collaborative procurement exercise known as the London Highways Alliance Collaborative which will lead to the establishment of a framework agreement by Transport

for London for the supply of an extensive range of highways orientated services from 1<sup>st</sup> April 2013.

2.2 The Executive give approval to the collaborative procurement exercise described in paragraph 2.1 being exempted from the normal requirements of Brent's Contract Standing Orders in accordance with Contract Standing Orders 85(c) and 84(a) on the basis that there are good financial and operational reasons as set out in the body of this report.

2.3 The Executive note the work the Director of Environment & Neighbourhood Services is leading on, as part of the Council's "One Council" programme, to identify the optimum mechanism for delivering highways services in Brent, as set out in this report, and note that a further report will be presented in due course setting out a proposed way forward which will include consideration of use of the London Highways Alliance Contract.

### **3.0 Detail**

#### **Background**

3.1 Highway services (the maintenance and improvement of the highway network) in Brent are delivered by the Director of Environment & Neighbourhood Services. The majority of functions are delivered by Transportation Unit utilising a series of framework contractors but a number of ancillary functions, such as gully cleansing, are delivered by other service units within the same Directorate.

3.2 Since 1994 there has been significant research in the construction sector into how to reduce costs whilst maintaining the right level of quality. The most notable report 'Rethinking Construction' published in 1998 directed the industry towards:

- The wider adoption of partnership contracts rather than adversarial
- Development of a smaller, highly informed client
- A strong focus on customers
- Changing traditional approaches to contractor selection that do not lead to best value
- Early contractor involvement in new projects and schemes
- Partnership and the integration of teams to include suppliers to deliver services
- Performance focus, with failure to perform resulting in penalties, whilst also encouraging collaboration, innovation and continuous improvement
- Contracts that lead to mutual benefit to both parties, are target based and have a whole life cost approach
- Selection of suppliers on a best value basis not lowest price
- Performance measures that are encourage joint working and lead to innovation and continuous improvement
- A culture and processes that are collaborative rather than confrontational that eliminate duplication



3.3 Staffing models differ nationally and regionally with some Councils retaining direct services for delivering highway work and others using contractors to deliver services previously delivered 'in house'. The figure below shows some of the options available, with Brent's current arrangement broadly matching model 1 and the more modern, collaborative structures being models 3 and 4.



3.4 A number of other authorities have already worked together to establish joint partnership contracts which aim to meet best practice. These contracts have resulted in significant savings, for example, the Midlands Highways Alliance Contract is expected to save £11M by 2011 with 6% savings expected over traditional contracts with up to 24% in some areas.

3.5 Although Brent's budgets (and hence buying power) are far lower than these and sample benchmarking from 2009 showed that Brent rates were the third lowest in London there is evidence that an alternative delivery model could deliver savings without compromising service quality.

3.6 The current highways framework arrangements were approved by the Executive in September 2011 and are due to expire on 31<sup>st</sup> March 2013. As a

result, and recognising work that is taking place across London and discussed later in this report, there is now a great opportunity to adopt one of the more modern, collaborative approaches, in order to increase value for money.

- 3.7 The challenges of doing so should not be under estimated in terms of staff structure, client leadership and process improvement.

#### **4. The London Highways Alliance Collaborative**

- 4.1 For a number of years London Boroughs and Transport for London (TfL), supported by London Councils and Capital Ambition, have been undertaking work within the “Transforming London’s Highways Management” project to identify and seize opportunities to improve arrangements for the delivery of highway services in London. The project has a number of work streams but has essentially focused on opportunities to increase value for money across London through new collaborative delivery models.
- 4.2 The work is consistent with work being undertaken on a national scale through the Department for Transport (DfT) led, Highways Efficiency Management Programme (HEMP).
- 4.3 This London work has culminated in the development of a new highway services framework which will be used by TfL, and could be used by any London highway authority, for a period of up to 8 years from April 2013. Brent would be in a lot under the framework covering north-west London. The intention is that only one provider would be appointed to provide services in each geographical area as opposed to the multi-provider approach that Brent currently has.
- 4.4 The contract terms and specification have been developed by a partnership of London Borough and TfL officers in a way that is considered will provide quality, affordable services across London. Brent officers have participated fully in development of the common specifications, contract and delivery model although it should be recognised that, as is the nature with all collaborative projects, the project team have not always been able to incorporate all the suggestions from individual members of the collaborative.
- 4.5 When the new framework arrangements are in place, authorities will be able to procure a full or limited range of highways services through the new frameworks. They will be able to contract for those services at any time after 1<sup>st</sup> April 2013 having considered the best fit around their current delivery arrangements.
- 4.6 Table 1 maps the scope of the London Highways Alliance contract, Brent's current service provision arrangements and an initial estimate of the areas where it may be advantageous to the Council to procure services through the pan-London contract.

	Scope	Brent Interest	Current delivery arrangement
1	Safety Inspections	Yes	In house

	Scope	Brent Interest	Current delivery arrangement
2	Service Inspections (requests from customers)	No	Council staff determine extent of reactive repairs
3	Inspections of Bridges and other Structures	Yes	In house
4	Site Investigations and Surveys	Yes	In house – assessments are external
5	Design Services	Possibly	In house - involves extensive public consultation and liaison.
6	Road Pavements (including minor repairs and resurfacing)	Yes	External
7	Kerbs, Footways and Paved Areas	Yes	External
8	Traffic Signs	Possibly	In house
9	Road Markings	Yes	External
10	Lighting (including electrical work for signs, etc)	No	PFI Contract
11	Fencing	Yes	Ad-hoc
12	Road Restraint Systems (including pedestrian guard railing)	N/A	External
13	Drainage (excluding gulley cleansing)	Yes	External
14	Earthworks	Yes	External
15	Horticulture, Arboriculture, Landscaping and Ecology	No	Contract recently re-tendered
16	Street Cleaning (sweeping and litter picking)	No	Separate Veolia contract in place
17	Street Cleaning (including gulley cleansing; excluding sweeping and litter picking)	Possibly	In house - includes graffiti removal
18	Bridges and other Structures	Yes	Ad-hoc requirement
19	Tunnels	N/A	No tunnels
20	Street Furniture (excluding signs, lighting columns and pedestrian guard railing)	Yes	External
21	Winter Service	No	Separate Veolia contract in place
22	Emergency Call-Out Service	Yes	In-house

## 5.0 Procurement

- 5.1 Early work on procurement of the new London Highway Alliance framework has begun. The table below sets out the programme being followed:

<b>Activity</b>	<b>Timescale</b>
OJEU notice	October 2011
Supplier day	24/10/11
Specification workshops (for potential participants)	31/11/11 & 03/11/11
Contract terms & conditions to potential participants for comment	16/12/11
Completion of contract documentation	Through to January 2012
Issue Invitations to tender (ITT)	06/02/12
Tender return	30/04/12
Borough specific prices available	June 2012
Award of contract	November 2012
Start of contract	April 2013

- 5.2 The new contract will be let as a collaborative procurement led by TfL and will be tendered according to TfL standing orders. As discussed above, Brent officers have been actively involved with TfL and officers of other London councils in developing the specification, performance indicators and ways of working.
- 5.3 The tendering process has already been commenced by the placing of OJEU adverts. However at this stage potential tenderers have been given no assurance that Brent will procure any or all of it's' highway services through the new arrangements.
- 5.4 The extent of participation by other boroughs in the new arrangements is difficult to gauge at this time. Certainly TfL will be procuring all their highways services through the new arrangements. A small number of councils are intending to procure their core (highways maintenance & improvement) services through the new framework from April 2013. A greater number of councils are indicating that they may procure services through the arrangements beyond April 2013 as their current contracts expire.
- 5.5 As the Invitation to Tender is due to go out in mid-February and as Brent wishes to have a continuing and full role in the shaping of the service specification, it is necessary to obtain Executive approval to participate in the procurement now.
- 5.6 At present the evaluation criteria that will be used to evaluate tenders have not been finalised. Nor is it clear how the evaluation process will be run for this collaboration. Nevertheless governance arrangements are being developed to ensure that any authority procuring services from the contract is able to seize appropriate benefits (savings, service delivery arrangements etc.) from the collaborative arrangements.

5.7 The advantage of Brent being part of the ITT process is that the council can influence the specification for the service and participate in the evaluation process so as to ensure it will provide good services and best value for the residents of Brent if services are procured from the new contracts.

## **6.0 The One Council Highways project**

6.1 A project has been initiated, within and utilising the methodology employed in the One Council programme, to assess and seize the advantages that could flow from procuring services through the London Highways Alliance contract.

6.2 The project sponsor is the Director of Environment & Neighbourhood Services.

6.3 The project will review the Council's current arrangements for delivering all the services that could be delivered through the London Highways Alliance contract to determine whether those services are best procured through the new arrangement from April 2013 (or a later date) or whether an alternative delivery mechanism (which could include tendering services as a single client) would be the most efficient and effective approach.

6.4 Brent's Transportation Unit team has been very successful in the delivery of core highway services and associated work to date. The project will provide a great opportunity to build upon this success. Using national best practice Brent's ways of working and staffing structures can be examined with the goal of delivering savings.

6.5 By getting the best possible prices, we will aim would be to make the money go further - maximising whatever investment is available to manage the risks of potentially deteriorating assets.

6.6 Notwithstanding the eventual conclusions of the project it is anticipated that savings in excess of £300k per annum could be made by adopting a more collaborative approach to the delivery of highways services in Brent.

6.7 The conclusions of that work will be the subject of a separate report to the Executive Committee at an appropriate time.

## **7.0 Current Highway Services budgetary arrangements**

7.1 Expenditure on Highways activity is primarily undertaken through the Transportation Unit cost centre. The Transportation Unit budgets are complex with significant (street works) income and fee recharge targets that offset revenue expenditure.

7.2 In broad terms the Transportation Unit revenue budget is £8m which is offset by £8m income from

- street works fees & penalties (7%),
- fee income from TfL and other work (31%)
- 20% other income and
- a 42% revenue contribution from the parking account.

Expenditure is broadly split as follows:

- Staffing costs - £4.3m
- Internal charges - £1.4m
- Supplies & services - £0.7m
- Contract (works) costs £1.7m

The annual capital budget is £11m approx. which is comprises

- (i) Brent Capital (chiefly the planned roads programme) Allocation (26%)
- (ii) developer contributions (34%) and
- (iii) TfL LIP allocation (40%).

7.3 Of the annual capital budget of £11m, 16% (£1.8m approx.) is spent on staff recharges and 84% (£9.3m approx.) on scheme (infrastructure improvement) work.

7.4 There are other areas of expenditure on highways services that could potentially be in scope for delivery utilising alternative arrangements such as the London Highways Alliance Contract. The One Council Highways project will be identifying those areas of expenditure and potential savings that could be captured through alternative delivery arrangements.

## **8.0 Financial Implications**

8.1 There are no direct financial implications flowing from the recommendations set out in this report which is seeking Executive approval to participate in the London Highways Alliance Collaborative and asking Committee to note the "One Council" project work on the delivery of highways services.

8.2 The costs of participating in the Collaborative comprise officer time and will be contained within existing revenue budgets within the Directorate of Environment & Neighbourhood Services.

8.3 Expenditure on the One Council highways project comprises (existing) officer time although a Project Manager will need to be hired on a temporary worker contract for a 12 month period (approx.) to support and co-ordinate project activity. The estimated cost of the project manager is £50,000 and again will be met from current (Transportation Unit) Directorate of Environment & Neighbourhood Services Budgets.

8.4 The total (aggregated pan-London) value of the services that could be awarded under the framework arrangements is estimated to be of the order of £750m to £1815m over the 8 year period. Current forecast are that services of the value of £100m are likely to be procured through the framework in the first year of the contract. At this stage it is not possible to forecast the value in successive years because this would depend on the number and size of the authorities that chose to procure services, through the collaborative arrangement in the following years.

8.5 The application of Council Procurement Standing Orders and EU Regulations to this contract is set out in the legal implications in section 9 below.

## **9.0 Legal Implications**

9.1 This report is seeking authority to participate in the procurement of framework agreements for the delivery of highways services through a collaborative arrangement. Transport for London will be the procuring organisation.

9.2 The framework is being procured by means of a collaborative procurement exercise. Under Brent Contract Standing Orders (CSOs), paragraph 85(c) such collaborative procurements need to be tendered in accordance with Brent Standing Orders and Financial Regulations, unless the Executive grants an exemption in accordance with Standing Order 84(a). A request for an exemption from the application of Brent CSOs under 84(a) can be approved by the Executive where there are good operational and / or financial reasons, and for this report these reasons are set out in the body of this report.

9.3 The contract requirement included within the TfL framework is a mixture of works and services. The services are mainly “part A” as maintenance of equipment. As a result the requirement is subject to the EU public procurement legislation. TfL are actively running the procurement to comply with the legislation although there have been some aspects where comments by legal and procurement officers about the running of the process to comply with the legislation have not been accepted by TfL. Legal advice will be provided to the Director of Environment & Neighbourhood Services about such aspects and a view taken on areas of concern at such time if or when Brent proposes to call off from the framework. As identified elsewhere in the report this is always the risk of participation in a collaborative procurement. However it should be noted that if any contractor wanted to challenge the way the framework was set up then this challenge would be against TfL rather than any other participant.

9.4 It will be necessary to ensure that the tender documents meet Brent’s requirements and clearly set out Brent’s rights and responsibilities in view of the fact that TfL will be entering into the main framework agreement, with the right for Brent to enter into a call-off contract. One example where Brent input is required is to ensure that appropriate regard is made to TUPE (transfer of staff) legislation in relation to employees of current providers.

9.5 Once Transport for London awards the framework agreement for the north-west London lot there will be a further report to the Executive as indicated above.

## **10.0 Diversity Implications**

10.1 There are no diversity implications associated with the recommendations set out in this report. Any subsequent report proposing that the Council procures highway services utilising a different model from that currently employed will be accompanied by a full Equalities Analysis consistent with the requirements of the Equalities Act 2010.

## **11.0 Staffing/Accommodation Implications (if appropriate)**

11.1 There may be TUPE implications for staff employed by Brent's current contractors and for staff directly employed by Brent council, dependant on which, if any, services Brent decided to procure through the contract. This will be explored in detail during the procurement and will be set out in any future report(s).

## **12.0 Key Risks**

12.1 Collaborative procurements work best if all the participants have common requirements. In this project, Brent officers have been actively involved in developing a pan-London specification, so it already meets the borough's needs.

12.2 There is a risk that the framework doesn't meet Brent's needs at the end of the procurement. While there is no indication at present that this is likely to occur, it would be expected that in such a situation Transport for London would make a decision based on the views of the majority, which may not be in accordance with Brent's requirements. The same applies to proposals put forward by Brent legal & procurement officers to ensure compliance with the EU public procurement legislations (as set out in 9.0)

12.3 If by the end of the procurement process it became apparent that the framework agreement that TfL were about to award did not reflect Brent's needs, then it would be open to Brent not to make a call-off from the framework and consider other options, such as running its own tender exercise.

## **Background Papers**

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