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**Decision Maker:** ENVIRONMENT PORTFOLIO HOLDER

**FOR PRE-DECISION SCRUTINY BY THE ENVIRONMENT PDS COMMITTEE ON:**

**Date:** 7th July 2015

**Decision Type:** Non-Urgent                      Executive                      Non-Key

**Title:** **TRANSPORTATION, HIGHWAYS AND ENGINEERING CONSULTANCY SERVICES CONTRACT - REVIEW OF SERVICE PROPOSALS AND PROCUREMENT OPTIONS**

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**Chief Officer:** Nigel Davies, Executive Director of Environment & Community Services

**Ward:** (All Wards);

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1. Reason for report

This report considers the continued need for Transportation, Highway and Engineering Consultancy Services and considers short and long term proposals for provision of this service.

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2. **RECOMMENDATION(S)**

The Portfolio Holder is requested to agree to :-

- 2.1 **Receive a further report comparing viable options for Transportation, Highways and Engineering Consultancy Services and making recommendations for longer term provision of this service once TfL's Professional Services Framework is available.**
- 2.2 **Extend the current contract with Aecom for the provision of Transportation, Highways and Engineering Consultancy Services up to a value of £170k, until new arrangements are in place according to 2.1, above.**

### Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Quality Environment
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### Financial

1. Cost of proposal: Estimated cost £80k
  2. Ongoing costs: Recurring cost – subject to future procurement options
  3. Budget head/performance centre: Various budgets within Transport and Highways, as well as TfL LIP funding
  4. Total current budget for this head: £188k
  5. Source of funding: Existing revenue budget for 2015/16 and TfL LIP funding
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### Staff

1. Number of staff (current and additional): 0.6 Fte
  2. If from existing staff resources, number of staff hours: 0.6 Fte
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### Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Applicable
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough wide
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not available

### **3. COMMENTARY**

#### **Background**

- 3.1 Engineering Consultancy Services has been delivered through external providers since January 1994, following a previous decision to competitively tender this service. This provides professional services for Traffic and Transportation, Highway Engineering (including multi-storey car parks), Highway Development and as support to the Council's Emergency Planning service.
- 3.2 Competitive tendering was originally the preferred route for appointing service providers but, more recently, Transport for London's (TfL) Engineering and Project Management Framework 2 (EPMF2) has been used to provide access to a panel of service providers. Further information about these arrangements can be found in two previous reports to committee (ES10081 and ES12064).

#### **Requirement**

- 3.3 The majority of commissions placed through TfL's Framework support either the Council's statutory responsibilities as Highway Authority under the Highways Act 1980 (broadly, the safe passage of members of the travelling public), or the Council's responsibilities as the Transport Authority delivering the Mayor of London's Transport Strategy in accordance with Bromley's Local Implementation Plan (LIP). However access to the Framework also supports the Council's resilience during times of major emergencies; and provides the Council with the ability to call on specialised engineering resources at any time, allowing staffing levels to quickly peak but then diminish when the initial response is complete. The ability to fluctuate the Council's call on resources is equally relevant to times when the Council has major projects to deliver, a recent example would be the design and implementation of the replacement bridge structure at Chislehurst Road.
- 3.4 On the basis that the Council's statutory (highway) responsibilities will not alter in the short term and the Council will continue to deliver traffic and transportation solutions, there will remain a need for the Council to have access to engineering consultancy services in the foreseeable future.

#### **Information**

- 3.5 It is appropriate to revisit the possible options for future provision of professional services within Highways and Transportation, which include:-
- Competitive tender
  - Return to a full in-house service
  - Framework
  - LoHAC
  - Combinations of the above
- 3.6 Competitive tendering or returning the service in-house is unlikely to provide either practicable or viable solutions. Since the estimated total value of work exceeds European Union thresholds, any tender would be subject to OJEU advertisement, a pre-qualification exercise, tenders and evaluation, the cost of which would fall directly to the Council. Although minor traffic schemes and street lighting continue to be designed in-house, returning the whole service in-house is unlikely to be a viable way forward due to the combination of the breadth of skills required and the degree of use of those skills, on a day to day basis.
- 3.7 LoHAC is the London Highways Alliance Contract established by TfL. It is a highway works contract holding a significant array of highway works items, but with some capability to provide inspection and design services mostly on a reactive basis. Accordingly there is some overlap

with the Council's Highway Engineering requirement. The Council has already approved the conclusion of an access agreement to LoHAC. However, the breadth of services the Council may require at any one time exceeds that covered by LoHAC schedule items, and hence there is not a sufficient 'fit' for this to be a single viable way forward.

- 3.8 Frameworks offer a flexible solution and remain a good fit to the current requirements of this Council for provision of Transportation and Engineering Consultancy Services. A framework would continue to provide access to a panel of organisations with appropriately skilled staff. Those resources may be tapped into as and when required and therefore peaks and troughs of work may be sourced accordingly. TfL is in the process of providing a replacement arrangement to EPMF2, which is to be known as the Professional Services Framework.

## **Discussion**

- 3.9 The Council's use of the current framework (EPMF2) has provided an appropriate method of resourcing this service need. The cumulative spend since starting use of the Framework is £1,158k however annual spend does fluctuate depending on whether major projects are being undertaken as explained elsewhere in this report. The framework has provided a means of accessing appropriately qualified professionals as and when required. Each of the Council's main commissioning clients (traffic, highways engineering and highways development) has indicated they are satisfied with EPMF2 and they have responded positively to the suggestion of a replacement framework, TfL's Professional Services Framework.
- 3.10 Utilising a framework brings procurement efficiencies as the main procurement tasks (OJEU, PQQ processes etc) are performed by others. Further opportunities exist to return improved value for money since most work will be commissioned using the process of mini-tender – this involves selection of three or four consultants from the panel available and a request for them to re-bid for a particular bundle of tasks. Tendered rates are often returned below framework standard hourly rates. AECOM is the current term provider for highway structures, multi storey car parks and highway development work.
- 3.11 The latest information from TfL indicates that the replacement arrangement (Professional Services Framework) will be under a series of Lots (expected to be 5). An OJEU notice has been issued (OJEU reference 2013/S 58-095770). However, there remains continued delay with award of Lot 5 which covers Engineering requirements etc. Given current progress it is possible the earliest availability of Lot 5 may not be until the end of 2015.
- 3.12 Utilising TfL's Professional Services Framework will impact positively on the local community. Only organisations with relevant experience of working in an urban environment qualify for this Framework. The benefits of this work will include helping to ensure a safe environment for public use of Bromley's highways and multi-story car parks, facilitating access and availability of all areas of the borough and hence improving the economic and social well-being of residents and businesses alike. The Framework has been re-designated into five categories, specifically with the objective of encouraging employment of SME's.

## **Interim Arrangements**

- 3.13 As identified in 3.2 above the Council has utilised TfL's EPMF2. At the time of approval, the intention was to continue with this arrangement until the Framework end date, which was originally November 2013. However, replacement arrangements have been subject to delay and TfL had agreed with suppliers, through Deed of Variation, to extend EPMF2 to allow time for their tendering of Lots making up their Professional Services Framework, successor to EPMF2.
- 3.14 Bromley's use of EPMF2 has continued beyond the original Framework end date, but delay by TfL to provide a successor Framework has been the subject of recent review and the Council's

Procurement Team advised caution in any further extended use of EPMF2. This is due to EU Regulations that normally limit framework duration to 4 years. In order not to leave the Council without access to Consultancy Services, the Procurement Team suggested the forming of an interim arrangement through permissible direct negotiation with the current main provider, AECOM. This was formalised by signed Waiver according to powers available to the Director of Environment and Community Services (under CPR13.1, between £50k and £100k) for a period 1<sup>st</sup> April 2015 to 31<sup>st</sup> October 2015 for work up to a value of £90k.

- 3.15 On the basis TfL remain unable to confirm the date when Lot 5 will be available it would be prudent for the interim arrangement identified above to be extended, at least until 31<sup>st</sup> March 2016 but ideally to a time coinciding with award etc of the successor arrangements. This would offer the flexibility required to procure new Framework arrangements and for future Transportation and Highways programmes of works to be carried out. The value of work to be undertaken up to the end of March 2016 is likely to exceed the current waiver value, by up to a further £80k. In accordance with Corporate Procurement Rule 13.1, the Portfolio Holder is requested to agree to extend the current interim arrangements with Aecom, to allow a total value of work up to £170k to be procured. Officers are mindful that total expenditure of the negotiated arrangement must be kept within limits set by EU Regulations which is currently £172,514.

#### 4. POLICY IMPLICATIONS

- 4.1 The Borough's carriageways and footways, highway structures, multi-storey car parks and street lighting have a high profile and benefit most residents and businesses on a daily basis. Helping to protect the integrity of these key assets and ensuring the highway network is safe, available and of sufficient capacity will contribute to the Council's vision of providing a place where people choose to live and do business. They support the priority outcomes for a Quality Environment set out in the Environment Portfolio Plan – Improving the Street Scene, Securing our Transport Infrastructure and Improving Transportation.

#### 5. FINANCIAL IMPLICATIONS

- 5.1 For information, the table below shows the actual spend per year since using the TfL framework: -

	2011/12	2012/13	2013/14	2014/15	Total
	£'000	£'000	£'000	£'000	£'000
Spend	212	414	190	342	<b>1,158</b>

- 5.2 The existing waiver allows for value of transportation, highways and engineering consultancy work up to £90k to be procured through the negotiated contract with Aecom. This report is seeking approval to increase the value of this contract to £170k in accordance with CPR 13.1.
- 5.3 The budget available to fund these works is made up of £130k from within the Transport and Highways revenue budget for 2015/16 and TfL Lip funding of up to £58k.
- 5.4 Officers will investigate viable options for the longer term provision of this service once TfL's Professional Services Framework is available.

## 6. LEGAL IMPLICATIONS

- 6.1 Under the Highways Act 1980 the Council as Highway Authority has duties to ensure the safe passage of users of the highway and to maintain the highway.
- 6.2 The current TfL Framework contract was arranged according to Council and EU regulations. A restricted procedure was followed leading to award of contract. Notice number in OJ 192-253816, dated 29<sup>th</sup> September 2008 and contract notice number 2008/S 230-306165 refers.
- 6.3 The Waiver currently in place follows CPR13.1 and represents permissible direct negotiation for values between £50k and £100k.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	<p>1. ES10081 (Executive, 16<sup>th</sup> June 2010) - Review of service proposals and procurement strategy- Transportation, Engineering and Consultancy Services Contract.</p> <p>2. ES12064 – (Environment PDS, 17<sup>th</sup> April 2012) - Suitability and use of TfL's Framework for Engineering Consultancy Services to Support In-House and Partnership Working</p> <p>3. ES13073 – (Executive, 24<sup>th</sup> July 2013) - London Highways Alliance Contract</p> <p>4. Waiver - Transportation, Highway and Engineering Services according to permissible direct negotiation.</p>