

## **WIRRAL COUNCIL**

**CABINET – 19<sup>TH</sup> MARCH 2009**

### **REPORT OF THE DIRECTOR OF TECHNICAL SERVICES**

#### **HIGHWAY AND ENGINEERING SERVICES PROCUREMENT EXERCISE – CONTRACT MOBILISATION UPDATE AND READINESS FOR SERVICE REVIEW**

##### **1.0 EXECUTIVE SUMMARY**

- 1.1 Further to the decision by Cabinet on 16<sup>th</sup> October 2008 to award the new Highway and Engineering Services contract to Colas Limited, this report provides an update on the contract mobilisation process on the run-up to the 1<sup>st</sup> April 2009 contract commencement and seeks Cabinet endorsement for the commencement of the new contract following the recent Gateway 4 Readiness for Service Review.
- 1.2 This report also seeks Cabinet approval for exemption from Contracts Procedure Rule 19 'Procurement valued at less than £50,000.00', to facilitate the use of the Engineering Workshop, by other Council Departments, as set out in paragraphs 3.4.5 and 3.4.6.

##### **2.0 BACKGROUND**

- 2.1 Members will recall my previous report to Cabinet on 20<sup>th</sup> September 2007 which noted the conclusions reached by consultants Capita Symonds that a "single service with single provider" contract arrangement be introduced and achieved using a Restricted Procedure procurement route.
- 2.2 The "single service single provider" arrangement consists of bringing together all the separate service contracts into one single contract with a single provider with the Council retaining full client control. Potential efficiency savings in the Capita Outline Business Case were estimated at £3.6M over eight years and it was highlighted that such an approach would generate significant efficiencies particularly in terms of improved quality and increased output of work for the capital works allocations available and on the client side less staff will be required to manage a single strategic contract resulting in direct staff savings. Further detailed information relating to financial and staffing issues was subsequently presented to Cabinet on 1<sup>st</sup> November 2007.
- 2.3 In the report to Cabinet on 16<sup>th</sup> October 2008, the outcome of the tender evaluation process was presented with the recommendation that the new contract be awarded to Colas Limited (Minute 246 refers).
- 2.4 In relation to the quantitative value for money assessment, the Financial Evaluation Model based on a typical basket of works

indicated that Colas Limited were considerably cheaper than the second placed provider, Balfour Beatty. In addition, Colas Limited were cheaper than Wirral Council Operational Services Division by a similar margin even when taking into account the anticipated cost to the Council of closing down the in-house arrangements.

- 2.5 In terms of efficiency savings, a comparison of the anticipated cost of carrying out works during the current year 2008/9 using existing contract arrangements with the cost of carrying out the same work under the new contract was undertaken. This indicated that the same volume of work could be procured from the new Colas Limited rates for £550,000 less than under the existing contracts, resulting in a projected efficiency saving of £4.4M over the eight year contract period and confirmation that the efficiency savings proposed in the initial Outline Business Case will be realised.
- 2.6 In relation to the qualitative value for money assessment, Colas Limited also achieved the highest quality score with a submission highlighting their expertise in delivering similar Local Authority and Highways Agency maintenance contracts as well as a number of surfacing, street lighting and framework contracts for other Local Authorities with a total value of in the region of £145M per annum.
- 2.7 In advance of the report to Cabinet on 16<sup>th</sup> October recommending the award of the contract, an external Gateway 3 Investment Decision Review was undertaken by the 4Ps organisation. The purpose of the Review was primarily to validate the Council's approach to the procurement exercise including the evaluation of tenders, selection of preferred provider and confirmation of business case before the Investment Decision was made.
- 2.8 The conclusion of the Review was that "the Review Team finds that a successful procurement has been delivered, in a well managed manner. The project continues to meet Council objectives and will deliver value-for-money. The omens for success are good." Recommendations from the Review have subsequently been considered and taken into account as part of the Contract Mobilisation process undertaken jointly by Technical Services and Colas Limited to prepare for the start of the new contract and this is discussed in more detail in this report.
- 2.9 Most recently, a Gateway 4 Readiness for Service Review has been carried out by 4Ps on 16<sup>th</sup> to 18<sup>th</sup> February 2009 and this report draws Members' attention to the Recommendations from the report and corresponding action to be taken. Further detail in relation to the Review is set out in this report and based on the successful outcome it is proposed that Cabinet endorse the commencement of the new contract.

## **3.0 CONTRACT MOBILISATION UPDATE**

### **3.1 Project Management Arrangements**

3.1.1 Following the award of the contract last October, robust project management arrangements were introduced jointly with Colas Limited to ensure the successful execution of the Contract Mobilisation phase. This has included:

- The establishment of a detailed Project Plan consisting of nine workstreams with a lead officer for each. (The workstreams are People & Communications, Partnering/ Change Management, Depot & Offices, Plant/ Vehicles & Equipment, ICT, Supply Chain, Operations & Work Programme, Management Systems and Stakeholder Liaison).
- Regular meetings at Director level from both organisations on a fortnightly basis to track and monitor contract mobilisation progress.
- Regular meetings on a weekly basis between Head of Service and key officers.
- A robust approach to actively managing risks associated with the mobilisation phase and also once the contract has commenced (see next section).
- A value engineering exercise to review and improve key client processes.

### **3.2 Risk Management**

3.2.1 The previous Gateway 3 Investment Decision Review highlighted the need to carry out a fundamental review of the project risk register once the contract had been awarded. On this basis, the Risk Sub-group consisting of representatives from various Council Departments and with the assistance of an external consultant carried out this fundamental review of risk from a Council perspective and this has subsequently been combined with the Colas Risk Register to achieve a joint approach, not only for risks associated with mobilisation but also once the contract has commenced.

### **3.3 Communications and Stakeholder Engagement**

3.3.1 The previous Gateway 3 Review highlighted the importance of developing an enhanced Communications Plan covering all aspects of the mobilisation and implementation of the contract. This enhanced Plan has been developed and implemented and has included thorough engagement with all Council employees affected by the new contract and plans for communication and engagement to formally launch the new contract.

3.3.2 A new partnership logo has also been agreed with Colas that will be used on vehicle livery, signage and operatives' workwear.

### **3.4 Transfer of Operational Services Division Employees**

- 3.4.1 The previous Gateway 3 Review stressed the importance of having a properly planned and resourced approach for the employee transfer project.
- 3.4.2 Since appointment, Colas have adopted a rigorous approach to what is arguably the most crucial aspect of the mobilisation process. This commenced with a joint presentation by Colas and Technical Services to all Operational Services employees on 3<sup>rd</sup> December last year at Birkenhead Town Hall and was followed by meetings on an individual basis with every employee before Christmas. Since the New Year, the staff transfer in accordance with the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 has progressed with further regular meetings with employees on an individual basis and Trade Union representatives.
- 3.4.3 It is important to note that in previous reports to Cabinet it was suggested that there were a number of “at risk” employees working in the Engineering Workshop to which TUPE Regulations would not apply as this related to work not carried out under the existing highways contract.
- 3.4.4 Council officers from Legal Services, Corporate Procurement and Technical Services have worked closely with Colas to review and develop the business case for the Engineering Workshop. It has now been identified that there is further work carried out by Technical Services that can be carried out under the new contract and as a result I can confirm that Colas have recognised that TUPE Regulations do apply to these employees and agree to take on the Engineering Workshop as a viable business unit.
- 3.4.5 A side of the Technical Services workload that is now recognised to correspond to approximately 55% of the Workshop’s income, the remaining income is achieved by carrying out work for the remaining Departments of the Council. There is an expectation for the other Council Departments to continue business as in the past and to use the new contract arrangements subject to client Departments being satisfied they are getting value for money and formal approval by Cabinet.
- 3.4.6 In order to protect the Council’s interests and to comply with Contracts Procedure Rules, approval is sought from the Cabinet for an exemption from Rule 19 ‘Procurement valued at less than £50,000’, and to set an upper limit of £30,000 on works orders, with works orders above this value being subject to open competition. This would allow market testing to continue and help to ensure value for money will be achieved.

3.4.7 In relation to the other “at risk” employees identified in the Transport Section, I am also pleased to advise that Colas will lease a number of specialist vehicles from the Council and have them maintained and serviced by the Transport Section. Even though only a small number of vehicles, due to their specialist nature they require a greater degree of maintenance/ servicing and this equates to approximately two thirds of the income that the Section would have received from the existing highways service. Overall, this agreement with Colas safeguards the Transport Section business for a further twelve months to enable the wider review of transport across all Council Departments to be progressed.

### **3.5 Establishment of Intelligent Client**

3.5.1 A number of recommendations from the Gateway 3 Review focused on the development of the new Client team required to deliver the new contract, in particular the need to move from an approach where individual service areas (highway maintenance, street lighting, traffic management etc) issue work and liaise with the contractor separately towards a single “intelligent client” approach with the Council’s Highways Contract Manager and team of managers/inspectors acting as the focal point and conduit for the day-to-day activity within the contract. The Review also stressed the importance of a rigorous approach to skills gap analysis/ training provision and the role of ICT in achieving effective asset management and contract supervision.

3.5.2 In conjunction with Finance ICT colleagues, new client processes have been developed and recently a value engineering exercise facilitated by an external consultant has been undertaken to ensure key objectives relating to establishing an efficient client adopting a single point of contact are being achieved.

3.5.3 Corporate skills assessment/ analysis software has been used to ensure Client staff have the necessary capabilities/ competencies and training needs are identified, and a number of workshops during March are planned with both client and contractor staff to ensure new processes and methods of working are understood and adopted as well as dealing with the broader culture change issues associated with moving to a more modern partnering contract.

### **3.6 Termination of Existing In-house Arrangements including Depot Proposals**

3.6.1 The stock in the ownership of the Council both in terms of stores and materials on site at Dock Road depot have been assessed by the Director of Finance’s Corporate Procurement Unit and they are currently carrying out the negotiation with Colas and other contractors/suppliers to dispose of these assets where possible and achieve the best possible deal for the Council.

- 3.6.2 Due to the current economic climate, it is proving difficult to find interested parties to purchase these stores and materials. Whilst every effort is being made to find suitable purchasers, there may be a situation at year end that will require some of these assets to be scrapped or written off.
- 3.6.3 In terms of service continuity, the level of planned work is now reducing on the run-up to the end of March to ensure that all Operational Services Division work commitments are completed, however reactive teams will still be in place until the day of transfer to deal with urgent repairs/ defects, any emergency incidents and to provide a full winter maintenance service if required.
- 3.6.4 Even though Colas will commence the new contract by occupying Dock Road depot in the same manner as Operational Services Division, the new lease agreement with Colas is strictly on a twelve month basis to the end of March 2010. After this time, Colas have undertaken to move to an alternative depot site in close proximity to Dock Road for the remainder of the contract.
- 3.6.5 This short term lease and commitment by Colas to leave Dock Road provides the Council with the opportunity to review its strategy for the disposal or re-use of the Dock Road site and this will be the subject of a future report to Cabinet by the Director of Law, HR and Asset Management in due course.

#### **4.0 SUMMARY OF GATEWAY 4 READINESS FOR SERVICE REVIEW**

- 4.1 The Gateway 4 Readiness for Service Review was undertaken by 4Ps on 16<sup>th</sup> to 18<sup>th</sup> February 2009 and their final report is appended to this report.
- 4.2 The overall outcome of the Gateway Review process is now captured by a Delivery Confidence Assessment which for this Review was as follows:

##### **Delivery Confidence Assessment: Amber/ Green**

The Review Team finds that much good work has been achieved in the context of a robust procurement. There are some singular factors to be managed at this critical stage including:

- The significant pensions issues
- Opposition party involvement
- Outstanding clarifications
- Further development of risk management approach

The Review has resulted in nine Report Recommendations as follows:

<b>Ref. No.</b>	<b>Recommendation</b>	<b>Critical/ Essential/ Recommended</b>
1.	That a senior briefing of the entire opposition group of Councillors is undertaken to reduce the future risk profile of the contract	Essential Within 2 weeks
2.	That the Council should develop a strategy to effectively involve the opposition group on the development of the project in future. This could include the formation of a cross party working group to receive reports on highways maintenance issues and benefit realisation/outputs from the contract	Recommended
3.	That the contingency plan be completed for continuity of the service if a solution to the outstanding item is not agreed by the Council's target date (ideally, say, before the end of February 2009)	Essential Within 1 week
4.	That a reserve depot site be retained to enable competitive bidding to take place at the future re-procurement stage; and to benefit service continuity	Recommended
5.	That contingency planning be undertaken for the scenario of the new Colas depot being available later than planned	Recommended
6.	It is recommended that the financial values of the risks are established, vetted by the Project Board and appropriately reflected in the Council's accounts	Essential/ Recommended By April 2009
7.	That the Council should aim to resolve all of the outstanding clarification issues before contract signature encourages Colas to finalise and promulgate its long term management structure	Essential by April 2009
8.	That post contract completion the risks and benefits in contract form migration from NEC 3B to NEC 3E are formally evaluated and considered by the Project Board in an options appraisal process	Recommended
9.	That a formal options appraisal process takes place on the new asset management system. This should be done on a cross functional basis with robust project governance. Explicit links should be made to the project for evolution towards NEC 3E operation. Should commencement be approved then formal resource planning should be used	Recommended

## **5.0 PROPOSED ACTIONS IN RESPONSE TO GATEWAY 4 REVIEW RECOMMENDATIONS**

### **5.1 Urgent Actions**

- 5.1.1 In relation to Recommendation 1, a briefing of Opposition Group Councillors is being arranged as suggested.

- 5.1.2 In relation to Recommendation 3 this refers to a complex issue concerning Colas' proposed admission to the Merseyside Pension Fund and in particular the degree of financial risk associated with the current economic climate and future investment performance of the fund.

The matter is currently receiving attention by all parties and a resolution satisfactory to all is being sought.

Obviously the matter is time critical and at this stage I am hopeful of a timely resolution. Mobilisation continues and all parties remain committed to delivering the contract.

## **5.2 Actions before Contract Commencement**

- 5.2.1 In relation to Recommendation 6, the procurement exercise has involved the use of a comprehensive risk register. The contract start of 1 April 2009 means that it is important to determine the costs of those risks still on the register and the potential liability to the Council. By valuing these risks and the costs of any actions that could be taken to reduce or remove these liabilities the Council will be able to determine the most appropriate course of action when it comes to dealing with the outstanding items on the register.

- 5.2.2 Concerning Recommendation 7, the contract documentation used for the tendering process has been amended with changes required as a result of the Points of Clarification raised during the tender period. These amended documents have been forwarded to Colas for comment

## **5.3 Actions after Contract Commencement**

- 5.3.1 In relation to Recommendation 2, a robust approach to partnership management is proposed, consisting of a hierarchy of regular monthly Liaison meetings between Council and Colas representatives supported by weekly Contract meetings and feeding into a formal Partnering Board which meets on a quarterly basis and is attended at Director-level by both organisations.

- 5.3.2 In a similar manner to the Streetscene Environment Services contract with Biffa, it is proposed that this approach to partnership management feeds into the relevant Overview and Scrutiny Committee with a formal review at least every twelve months throughout the life of the contract.

- 5.3.3 In addition to this, the elected Member Steering Group for the new highways contract have suggested that they would like to continue to meet and receive progress reports to closely monitor the new contract particularly during the first twelve months (subject to review).



- 5.3.4 In relation to Recommendation 4, the reviewers identified a possible requirement that the Council may find advantageous in that a suitable depot could be offered to tenderers when this contract becomes due for re-tendering in five to eight years time. It is likely that Colas will move to their own depot from the Dock Road depot in the early part of the contract. Should Dock Road be subsequently sold the Council will not have an available depot to offer any new incoming contractors and this could be deemed to be offering Colas an advantage over any other tenderers in that they would already have their own premises.
- 5.3.5 A review of suitable Council locations will take place after April 2009, however at this stage it is anticipated that the Technical Services transport depot at Cleveland Street could be retained for this purpose.
- 5.3.6 Concerning Recommendation 5, in the event that Dock Road depot is subject to disposal, it will be necessary to ensure contingency plans are in place should Colas be unable to move to their new premises before the Dock Road premises are required by its purchaser. Discussions will be held with the Council's Asset Manager after April 2009 in order to develop a plan.

## **6.0 SUMMARY OF FINANCIAL AND STAFFING IMPLICATIONS**

- 6.1 In terms of current spending, the Council is spending £7.985 million on works during 2008/9 as follows:
- Highway Maintenance Revenue Programme = £4.602M
  - LTP and Highways Capital Programme = £3.383M  
(consists of £2.614M LTP plus £769k Highways Capital)

- 6.2 In addition, the revenue staff costs associated with administering these works for 2008/9 are £1,655k.

- 6.3 Anticipated cashable efficiency savings are summarised in the table below:

Spend Area	Expenditure	Saving 2009/10
Revenue Works Programme	£3,102k	£220k
Client Staffing	£1,655k	£100k

- 6.4 The detailed financial implications can be summarised as follows:
- £220k per annum true revenue saving against Revenue Works expenditure (£1.76M over the eight year contract term)
  - £100k true revenue saving associated with Client staffing for 2009/10 rising to £180k per annum in 2010/11 (£1.36M over the eight year contract term)

- £330K per annum efficiency saving against Capital Works expenditure (£2.64M over the eight year contract term)
- Anticipated 1.5% Gershon Efficiency Saving (non cashable) included in tendered rates equating to approximately £1million over the eight year contract term (dependent on actual rates of inflation)
- Approximately £30k income from stock and £50k income from sale of vehicles that will be used to offset any one-off in-house contractor closedown costs
- Reduction in Central Establishment Charges and Business Support contributions as a result of in-house contractor termination equating to £79,200 per annum loss of income which has been absorbed by Technical Services

6.5 The detailed staffing implications can be summarised as follows:

- Highway Maintenance Division (Client) staff – gradual down-sizing involving a 3 FTE reduction in establishment in 2009/10 and a further 3 FTE reduction in 2010/11 with minimal requirement for redeployment/ redundancy
- Operational Services Division – 76 employees under main contract to TUPE transfer to the new provider
- Engineering Workshop – 12 employees formerly “at risk” and subject to potential redeployment/ redundancy will now TUPE transfer to the new provider.

6.6 Even though the work of the Transport Section is outside the scope of this procurement exercise, Operational Services Division are the second biggest user of the Council’s transport fleet and account for approximately 40% of the Section’s workload.

6.7 The viability of this business unit consisting of 14 employees has now been safeguarded for a further twelve months as a result of the new provider agreeing to use specialist Council owned vehicles serviced and maintained by the Section.

## **7.0 EQUAL OPPORTUNITIES IMPLICATIONS**

7.1 Equal opportunities issues have been considered as part of the procurement process.

## **8.0 PLANNING IMPLICATIONS**

8.1 There are no direct implications under this heading.

## **9.0 COMMUNITY SAFETY IMPLICATIONS**

9.1 The provision of an effective highway maintenance regime particularly the street lighting network provides a positive contribution to community safety.

## **10.0 HUMAN RIGHTS IMPLICATIONS**

10.1 There are no direct implications under this heading.

## **11.0 LOCAL AGENDA 21 IMPLICATIONS**

11.1 Sustainability issues have been considered as part of the procurement process.

## **12.0 SOCIAL INCLUSION IMPLICATIONS**

12.1 There are no direct implications under this heading.

## **13.0 ANTI-POVERTY IMPLICATIONS**

13.1 There are no direct implications under this heading.

## **14.0 ACCESS TO INFORMATION ACT**

14.1 There are no direct implications under this heading.

## **15.0 LOCAL MEMBER SUPPORT IMPLICATIONS**

15.1 The contract involves work locations throughout the borough.

## **16.0 RECOMMENDATIONS**

16.1 Cabinet is requested to:

- (1) Note the progress made in relation to contract mobilisation and the positive outcome of the recent Gateway 4 Readiness for Service Review and on this basis endorse the commencement of the new contract;
- (2) Approve the use of the Engineering Workshop by other Council Departments, as proposed in paragraphs 3.4.5 and 3.4.6, and approve the exemption from Contracts Procedure Rule 19 'Procurement valued at less than £50,000' for this process up to a value of £30,000 and subject to client Departments being satisfied that value for money is being achieved.

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