

# HAMPSHIRE COUNTY COUNCIL

## Officer Decision Record

<b>Decision Maker:</b>	Director of Economy, Transport and Environment
<b>Date:</b>	12 November 2019
<b>Title:</b>	Extension of the Strategic Partner Contract for the provision of Professional Services for the Built Environment, Lot 3 Multi-Disciplinary Highways, Transportation Development and Management Services
<b>Report From:</b>	Director of Economy, Transport and Environment

**Contact name:** Keith Gale

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### 1. The decision:

- 1.1 That confirmation is given for the extension of the Strategic Partner Contract for the provision of Professional Services for the Built Environment, Lot 3 Multi-Disciplinary Highways, Transportation Development and Management Services, in accordance with the contract provisions for an additional Service Period of two years from 23 June 2020.
- 1.2 That alternative strategic engineering and infrastructure arrangements and resources are investigated with a view to securing provision prior to demise of the Lot 3 contract.

### 2. Reasons for the decision:

- 2.1. The extension provides continuous support from the supplier to enable the Council to develop its infrastructure programme at a time when professional engineering and management services are in short supply.
- 2.2. The existing supplier is performing to the upper quartile results of the key performance indicators included within the contract.
- 2.3. The contract remains economically efficient.

### 3. Other options considered and rejected:

- 3.1. That the contract is terminated at its current end date of 22 June 2020:
  - this would create significant disruption as knowledge for several projects would need transfer to another supplier;
  - there is currently no indication that more economically advantageous prices would be received for the services; and

- a rapid procurement exercise would be necessary to provide a replacement service, whereas the extension allows for a prolonged market investigation exercise to be conducted for the next generation of services.

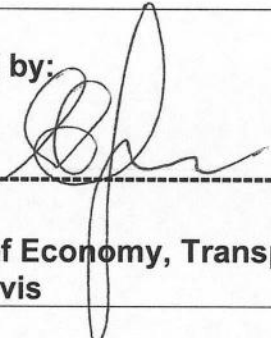
**4. Conflicts of interest:**

4.1. Conflicts of interest declared by the decision-maker:

**5. Dispensation granted by the Conduct Advisory Panel: none.**

**6. Reason(s) for the matter being dealt with if urgent: not applicable.**

**7. Statement from the Decision Maker:**

<b>Approved by:</b>	<b>Date:</b>
 -----	<b>12 November 2019</b>
<b>Director of Economy, Transport and Environment</b> <b>Stuart Jarvis</b>	

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## Decision Report

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### Purpose of this Report

1. The purpose of this report is to examine the performance of the Lot 3 Strategic Supplier contract and to recommend that this is extended to its maximum permitted duration.

### Recommendation

2. That confirmation is given for the extension of the Strategic Partner Contract for the provision of Professional Services for the Built Environment, Lot 3 Multi-Disciplinary Highways, Transportation Development and Management Services, in accordance with the contract provisions for an additional Service Period of two years from 23 June 2020.
3. That alternative strategic engineering and infrastructure arrangements and resources are investigated with a view to securing provision prior to demise of the Lot 3 contract.

### Executive Summary

4. This paper seeks to:
  - *set out the background to the decision*
  - *consider the procurement and financial risks to the extension*
  - *review the key performance areas and economics of the contract*
  - *consider other key issues which may occur if the contract is not extended*

### Contextual information

5. The Strategic Supplier contracts were developed to provide construction related professional services for the Council by appointment of substantial companies to

assist with development, design, and management of capital programmes for the Culture, Communities, and Business Services (CCBS) and Economy, Transport, and Environment (ETE) Departments.

6. Issue of the Strategic Supplier contracts gained approval within a report to the Buildings, Land and Procurement Panel (BLaPP) on 19 March 2013 (reference 3846) written by the Director of CCBS. This report was also included in an Executive Member for Policy and Resources Decision Record 4567 dated 18 April 2013.
7. The Strategic Partner contracts were procured by a joint team from ETE and CCBS Departments and separated into three lots. Lot 1 was for Multi-Disciplinary Design, Property Maintenance, and Repair Services; Lot 2 was for Multi-Disciplinary Project, Programme and Cost management; and Lot 3 was for Multi-Disciplinary Highways and Transportation Development and Management Services.
8. Although described as Lots under the Strategic Partner Contract umbrella, the arrangements are through three totally separate contracts with a single supplier being allocated to each Lot.
9. Each lot has a core contract period of four years (2014-2018), followed by two further periods of two years each, making a total contract duration of eight years (2014-2022). To date, all three Lots have been awarded one extension period taking the current completion date to 22 June 2020.

### **Financial and Legal Implications**

10. Documentation of the three Lots provided management structures using similar controls with the Suppliers, integrated at a strategic level in order to provide advice and resources for the Council's economic development requirements. To an extent this has been delivered through operation of KPI's in areas such as collaboration, responsiveness, health and safety, and continuous improvement. The effectiveness of the overall partnership has, however, been restricted due to difficulties in interlacing time scales and resource requirements of each Department's diverse capital programmes.
11. CCBS has recently decided to extend Lots 1 and 2, which means that those contracts will now terminate on 22 June 2022.
12. Set out below are contract actual and projected spending figures (therefore totals are estimates), including from our colleagues in CCBS regarding Lots 1 and 2 of the Strategic Supplier Contract.

Year	Lot 1	Lot 2	Lot 3	
<b>TOTALS</b>	<b>£36.49m</b>	<b>£13.48m</b>	<b>£49.00m</b>	<b>£98.97m</b>
<b>Max OJEU Limits</b>	<b>£60.00m</b>	<b>£22.50m</b>	<b>£37.50m</b>	<b>£120.00m</b>

13. The increased spending value for Lot 3 is being covered through OJEU by a regulation 72 (1) amendment. The Executive Member for Policy and Resources Decision Record 4567 dated 18 April 2013 did not detail expenditure for the individual lots but gave (at paragraphs 5.7 and 5.9) values of between £24 million to £120 million for a maximum duration of eight years. The combined estimated expenditure will not exceed the overall approved maximum of £120m. In addition, CCBS expect their spend in the latter years to actually decrease as they move toward other arrangements.
14. Based on the figures set out above, even with this proposed extension, and extension of the other two Lots, the approved total sum is not projected to be reached. In these circumstances no further decision to authorise spending is needed. Therefore, a delegated decision would be appropriate in terms of enacting an extension, the provision for which was authorised by the Executive Member for Policy and Resources at the time the original contract award was approved.

### **Procurement and Financial Risks**

15. The Public Contract Regulations 2015 do allow for modifications for additional value being placed through the contract provided the original scope is not extended and the contract remains materially unchanged.
16. The Legal Services team has advised that the risk of challenge to this modification are low as the extension was provided for in the contract, and the terms and nature of the contract will not change during the extended period.

### **Economic and Performance Discussions**

17. Within the construction sector there is considerable demand for engineering design and management services as significant funds are available for infrastructure development. This effect is also reflected by the significant expenditure that has been placed through the Lot 3 contract at levels higher than anticipated. Current indications are that the sector and Hampshire requirements will continue for the immediate future, which means demand for such services to supplement in-house capability will be necessary to deliver the County's capital requirements.



18. Although an examination of the performance indicators contained within the Lots 3 shows a variation of scores, generally the consultant has performed within the upper quartile of results. This shows a satisfactory performance.
19. The original contract prices were achieved through market competition, and to date operation of the variation of price clause has produced an increase of 6% since the June 2014 base. The prices in the contract are considered to be economically efficient in the current heated marketplace.
20. The Lot 3 supplier is currently involved with providing feasibility, outline, and detailed designs for a number of capital projects at crucial development stages. Termination of those commissions with knowledge transfer to another supplier could impede progress with delivery of these projects.
21. A further extension of the Lot 3 contract would provide time to investigate and introduce other arrangements which reflect market structure, provide innovative solutions and develop the Council's aspirations for future delivery methods.

### **Other Key Issues**

22. The Lot 3 supplier is currently involved with providing feasibility, outline, and detailed designs for a number of capital projects at crucial development stages. Termination of those commissions with knowledge transfer to another supplier could impede progress with delivery of these projects.
23. Within the construction sector there is currently considerable demand for engineering design and management services as significant funds are available for infrastructure development. This effect has also been reflected by the expenditure that has been placed through the Lot 3 contract at levels higher than anticipated. Current indications are that such requirements will continue for the immediate future, which means demand for such services to supplement in-house capability will be necessary to deliver the County's capital requirements.
24. A further extension of the Lot 3 contract would provide additional time to investigate, develop, and introduce other arrangements that reflect the future market structure, provide innovative solutions, and develop the Council's aspirations for future infrastructure delivery methods.

### **Conclusions**

25. The Lot 3 supplier has allowed the Council to engage resources to assist with delivery of its capital programmes. Reference to the performance scores included in the contract have indicated satisfactory overall performance. Furthermore, the contract remains economically efficient and provides significant support to delivery of the Council's capital programmes and infrastructure development.
26. The Lot 3 contract remains a competitively priced contract, especially when compared with some sectors of an overheated construction services market.
27. Resources through the Lot 3 contract are being secured at a time when demand for engineering services are significant.

## REQUIRED CORPORATE AND LEGAL INFORMATION:

### Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

### Other Significant Links

Links to previous Member decisions:	
<u>Title</u> Executive Member for Policy and Resources Decision Record 4567	<u>Date</u> 18 April 2013
Direct links to specific legislation or Government Directives	
<u>Title</u> Public Contract Regulations	<u>Date</u> 2015

### Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

### **2. Equalities Impact Assessment:**

The extension to the contract is a procedural, procurement matter and would not directly affect service users.