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## Scrutiny Management Committee

29 January 2007

### Report of the Head of Civic, Democratic and Legal Services

## Interim Report for Highways Maintenance Procurement Review

### Background Summary

1. At its meeting in September 2006, Scrutiny Management Committee agreed to proceed with a review of topic no. 135 into Highways Maintenance Procurement, the PFI bid and associated Expression of Interest (EOI) to the DfT.
2. On 20<sup>th</sup> November 2006, Scrutiny Management Committee considered a further report incorporating a revised registration form referencing the PFI bidding process. It was decided that the remit for topic 135 on Highways Maintenance be dealt with in two parts in order to address the urgency of the PFI issue, and a draft remit for Part A detailing its aims was agreed together with the following objectives:
  - i. Examine the potential efficiencies from a PFI arrangement.
  - ii. Make recommendations with regard to available alternative options in the event that a PFI outcome is unsuccessful.
  - iii. Looking at the cost effectiveness of those options, including improved ways of working.
  - iv. profiling expenditure over the lifespan of the PFI and any associated secondary costs.
  - v. understand the cost implications associated with the PFI bid and its outcome if successful.
3. At their November meeting SMC agreed that the review for Part A be completed by the end of January 2007, to enable the findings and recommendations to be used in considering the Council's next steps following the outcome of the PFI Expression of Interest.

### Consultation

4. In view of the tight timescale, the Chair of the Sub-Committee consulted with the Head of Highways Infrastructure prior to the first meeting of the Highways PFI Ad-Hoc Scrutiny Sub-Committee. This met on 3 January 2007 to consider a report containing information on the history of highways maintenance procurement, as detailed in Annex A.

## Analysis

5. Originally the Sub-Committee were informed that the outcome of the Council's Expression of Interest (EOI) submission was expected by the end of January 2007. Subsequently, the DfT have indicated that we are not likely to hear back until early/mid February.
6. The Head of Highways Infrastructure informed the sub-committee that due to this change in timescale a report detailing the outcome together with a recommendation on whether or not to proceed with the PFI bid would not go to the Executive before early/mid March.
7. Given the complexity of Part A of the review and the detailed analysis required, the Sub-Committee recognised it would not be possible to give due consideration to all of the objectives within the agreed timescale previously set by SMC.
8. As a result of this and the later date of the EOI outcome, the sub-committee have requested that the review timeframe be extended and that a final draft report be brought to SMC on 26 February 2007.
9. The revised timeframe will allow for objectives (i)-(iii) of the remit to be looked at first. The table below details actions and gives a breakdown of the work to be covered within the requested extended timeframe.

<b>Date</b>	<b>Activity</b>	<b>Responsibility</b>
17 <sup>th</sup> Jan & 22 <sup>nd</sup> Jan	Two informal meetings of the Sub Committee <ul style="list-style-type: none"> <li>• Discuss review remit and scope and evidence available in respect of objectives (i)-(iii)</li> <li>• Receive a presentation from an Expert Witness on the PFI process and its potential benefits</li> <li>• Consider the Best Value Review from June 2001 and the report to Urgency Committee from 5 September 2006</li> </ul>	All/Scrutiny Officer
29 <sup>th</sup> Jan	<ul style="list-style-type: none"> <li>• Interim Report to SMC</li> </ul>	Scrutiny Officer
w/c 5 <sup>th</sup> & 12 <sup>th</sup> Feb	Further informal meetings of the Sub-Committee to be arranged <ul style="list-style-type: none"> <li>• Discuss review remit and scope and evidence available in respect of objectives (iv)-(v)</li> </ul>	All/Scrutiny Officer
<b>Date</b>	<b>Activity</b>	<b>Responsibility</b>
26 <sup>th</sup> Feb	<ul style="list-style-type: none"> <li>• Final Draft Report to SMC</li> </ul>	Chair supported by Scrutiny Officer
13 <sup>th</sup> Mar	<ul style="list-style-type: none"> <li>• Final Report for the Review of Part A of the remit to Executive</li> <li>• PFI Report to Executive</li> </ul>	

10. The extension of time will enable the scrutiny review to respond to the immediate needs of Part A of the remit and contribute proactively to the decision making process in relation to whether or not to proceed with the PFI bid.
11. At the time of this meeting, the Sub-Committee have already met twice informally to consider the first three objectives of part A of the remit. The findings to date are contained within the briefing notes in Annex B and further information can be provided by the Chair of the Sub-Committee at this meeting.

### **Options**

12. Members may wish to consider extending the timescale of the review to allow full consideration of all the objectives of Part A of the remit.

### **Corporate Priorities**

13. This review will contribute to improving 'the actual and perceived condition and appearance of the city's streets and open spaces' through contributing to improving the Council's procurement arrangements for highways maintenance. In rationalizing our procurement arrangements, it may help to improve our organizational effectiveness.

### **Implications**

14. There are no known financial, HR, equalities, legal, crime and disorder, IT or other implications at this stage of the process.

### **Risk Management**

15. In compliance with the Council's risk management strategy, there are no known risks associated with undertaking this review, other than the potential of not maximizing efficiencies in the Council's procurement arrangements for highways maintenance.

## Recommendations

16. Members are asked to consider extending the timeframe of the review of Part A of the remit, to be completed by 26 February 2007.

**Reason:** In order to allow full consideration to be given to the objectives of Part A of the remit of the review

### Contact details:

**Author:**

Melanie Carr  
Scrutiny Officer  
Tel: 01904 552063

**Chief Officer Responsible for the report:**

Suzan Hemingway  
Head of Civic, Democratic and Legal  
Services

**Report Approved**  **Date** 22/01/07

Wards Affected:

**All**

For further information please contact the author of the report

### Annexes

Annex A – Information gained through consultation between the Chair of the Sub-Committee and the Head of Highways Infrastructure

Annex B – Briefing Notes from the informal meetings held on 17 January and 22 January 2007

## **HISTORY of HIGHWAYS MAINTENANCE PROCUREMENT in BRIEF**

The procurement of highway maintenance has been a subject included on the agendas of numerous Executive meetings in recent years. The main reason for reviewing the procurement arrangements came from the Best Value review in 2001. This review identified the benefits of developing a highway improvement plan as well as researching the market to improve understanding of various approaches to procurement based upon output based contracts and partnership working.

A brief history of the procurement of highway maintenance, in so far as it has been reported to Members at strategic points in the process, is as follows:

- June 2001 report to the Executive - Best Value Review
- March 2003 to the Executive - A Strategy for Assessing Service Procurement
- July 2003 report to the Executive - Procurement of Services via a “Thin Client”
- March 2004 report to the Executive - Procurement of Highway Maintenance Services.  
Outcome:
  - Approval of temporary extension of contract arrangements for the supply of highway maintenance services
  - Approval that the procurement of highway maintenance services should proceed on the basis of a single tender but in two parts.
- November 2004 report to the Executive - Procurement of Highways Maintenance Services.  
Outcome:
  - If Commercial Services are assessed and accepted as the best value organization to carry out the work then business model 1 will be implemented.
  - If Commercial Services are not assessed and accepted as the best value organization to carry out work then business model 2 is the preferred option for further consideration, notwithstanding the merits of other options being explored with the preferred contractor, for further reporting to the Executive
- November 2004 report to the Executive - Procurement of Highway Maintenance Services.  
Outcome:

- The Executive endorsed the report and the progress made to date as the way in which it wishes to proceed with the Procurement of Highway Maintenance Service.
- March 2005 report to the Executive - Tendering strategy  
Outcome:
    - Approval was given to the procurement of various traffic management maintenance contracts for CCTV, traffic signals, VMS signs etc on a separate basis.
  - July 2005 report to the Executive - Procurement of Highways Maintenance Services - Evaluation Strategy.  
Outcome:
    - The selection of the preferred contractor based on the “most economically advantageous tender” (MEAT) proposal for the City of York Council, on a 60% quality, cultural criteria / 40% price and technical capability basis was approved.
    - The use of the ‘restricted’ tender procedure in selecting the preferred contractor was noted.
  - October 2005 report to the Executive - Procurement of Highway Maintenance Services – Post Evaluation Clarification.  
Outcome:
    - The Executive approved delegation of authority to hold post-evaluation clarification discussions.
  - November 2005 report to the Executive - Procurement of Highways Maintenance Services – Preferred and Reserve Bidder  
Outcome:
    - Subject to the outcome of the market testing exercise on Commercial Services, the Executive agreed to nominate Alfred McAlpine Government Services as preferred bidder for Part A + B and Part A, with Amey Infrastructure Services as reserve bidder for Part A + B and Part A.
  - May 2006 report to the Executive - Joint Report of the Director on City Strategy and the Director of Resources: Highway Services Contract Report  
Outcome:
    - Approval to the short term arrangements to extend contracts. Approval to the maintenance of the current arrangements with Commercial Services (reactive and routine maintenance including small footway improvement schemes) for 12 months to maintain safety on the highway network.
    - Approval to the medium term arrangements to tender the carriageway and large footway schemes, integrated transport schemes and ward committee schemes for a period of 18 months starting from September 2006 extendable annually. The design and management function to remain in-house.
    - The decision made by the corporate management team to suspend the current procurement process was approved, to allow investigation of the new emerging options to address the backlog of highway maintenance.

- The in-house procurement team will investigate long term options of a PFI contract and, an extended scope contract, and report back to Members with the outcome.
  - The proposed management arrangements of a Project Board and a Steering Group were agreed.
  - The pursuit of a further option, to develop existing arrangements, would go ahead in the event that the other two options are unsuccessful.
- July 2006 report to the Executive - Highways Services.  
Outcome:
- The details for the reporting and management structures were approved.
  - The appointments to the Steering Group were approved.
    - Delegated authority was given to the Project Board and the Steering Group to submit an EOI, should this be considered appropriate, as there is insufficient time to bring a report to the Executive.
- September 2006 report to the Urgency Committee - Highways Services – PFI Option.  
Outcome:
- Members noted that the outcome of the extensive investigation into a PFI option to provide highway maintenance services in the future.
  - Approval was given to the submission of a PFI Expression of Interest for a Pathfinder Project to the DfT for highway maintenance management and works, with traffic management Infrastructure works.

## **Specific Issues in the Scrutiny Topic Registration Form**

Regarding the specific issues raised in the Scrutiny Topic Registration Form the following comments may assist Members.

Potential savings were initially assessed, prior to any tender process, as being in the 5% to 10% region, depending on the type of contract. It is not possible to say if the previous procurement exercise would have delivered that level of saving, as it was not completed. One of the reasons for not completing the exercise was the attractiveness of the Pathfinder PFI contracts for highway maintenance, that came along in February 2006. If the Council is successful then the financial benefits will outweigh anything possible through other means as this is the only way of removing the backlog of works..

If the PFI opportunity is not successful then work currently being carried out will be reported to Members to enable a decision to be made about the most effective strategy for completing the procurement.

Members have already received a considerable number of detailed reports and have had the opportunity to examine these and to ask questions of relevant Chief Officers.

The District Auditor has been briefed on the procurement process earlier this year and is being kept informed.

Best practice has been and continues to be investigated. There is no established procurement package that works well in all cases but advice has been obtained, in 2006 for example, from the following:

- 4ps – advisors to DfT and Local Authorities on PFI and partnership projects.
- Deloitte – financial advisors to 4ps and Government, experienced in Lighting PFI projects and recently Highways Management projects at Portsmouth and Birmingham.
- Halcrow – technical advisor to DfT with hands on experience at Portsmouth and Birmingham.
- Portsmouth – learning from others seminars and discussions.
- Birmingham – learning from others seminars and discussions.
- Service providers – via a soft market testing exercise.
- Yorkshire and the Humber Regional Highway Procurement Collaboration Forum.

Prior to the previous procurement the local authorities across the country that were involved in similar procurements were contacted and in some cases visited to learn from their experience.



**Briefing note for Highways Maintenance & Management PFI Scrutiny  
meeting 17<sup>th</sup> January 2007**

This meeting and the meeting scheduled for 22 January 2007, proposes to address the following objectives:

- i. Examine the potential efficiencies from a PFI arrangement.
  - ii. Make recommendations with regard to available options in the event that a PFI outcome is unsuccessful
  - iii. Looking at the costs effectiveness of these options, including improved ways of working.
- i. Members have received the following documentation giving information on this aspect of the Committee's work:
    - Copy of the confidential Expression of Interest for the PFI
    - Urgency report from 5 September 2006
    - Summary of the Best Value Review from June 2001

Having already had an opportunity to study the information provided, members may be in a position to determine whether there is any further work required.

- ii. On the face of it there appears to be two alternative options outside of PFI:

Traditional – Keeping the work in-house which retains risks for the Council  
Partnership Working – This transfers risk but also transfers a degree of control

Each has its merits and drawbacks, and members will need to ascertain which of these options is thought to be more advantageous by considering the options fully i.e. gathering more information on how a partnership approach would be effected (delivery/costs), and with whom.

- iii. Members will need to consider the advantages and disadvantages of a variety of sources for funding the above options:

Venture Capital, Prudential Borrowing, Yorkshire Forward, National Lottery, European funding sources etc

In considering objectives (ii) & (iii) members will need to identify the optimum combination of method and funding should the PFI route be unsuccessful. To do this it is envisaged that Members will need appropriate officer and/or external support during the review. Therefore, it has been arranged that the following officers will be in attendance:

<u>Meeting Date</u>	<u>Officer</u>	<u>Type of Advice</u>
17 January	Liz Ackroyd	Procurement issues and process
22 January	Simon Wiles	Procurement, process, and financial issues
17 & 22 January	Patrick Looker	Financial issues
17 & 22 January	Richard White	Neighbourhood Services
17 & 22 January	Brian Gray	Legal
17 & 22 January	Damon Copperthwaite	City Strategy (Development & Transport)
17 & 22 January	Paul Thackray	Highways infrastructure

At the meeting on 17 January members may feel better informed to decide upon a suitable expert witness to attend a future meeting of the committee.

## **Briefing note for Highways Maintenance & Management PFI Scrutiny meeting 22<sup>nd</sup> January 2007**

This meeting and the previous meeting held on 17<sup>th</sup> January 2007, were organised to address the following objectives of Part A of the review:

- iv. Examine the potential efficiencies from a PFI arrangement.
- v. Make recommendations with regard to available options in the event that a PFI outcome is unsuccessful
- vi. Looking at the costs effectiveness of these options, including improved ways of working.

### 17<sup>th</sup> January 2007

iv. Prior to the meeting, Members received the following documentation:

- Copy of the confidential Expression of Interest for the PFI
- Urgency report from 5 September 2006
- Summary of the Best Value Review from June 2001

Having had the opportunity to study the information provided, Members were satisfied that the potential efficiencies from a PFI arrangement had been properly considered and addressed in the Expression of Interest. Therefore it was recognised that no further work was required in regard to this objective.

v. The documentation included information on two simplistic alternative options to PFI. The Assistant Director of City Development & Transport expanded on both of these to give Members a fuller understanding – see attached.

Having considered this information Members recognised that:

- both options had merits and drawbacks and;
- both were extremes on a scale with other options between drawing upon a combination of both of these extremes

Although Members were drawn towards the partnership approach, they agreed that the simplified information they had received would not allow them to make a fully informed decision as to the best approach. Instead, they recognised that, should the PFI outcome be unsuccessful, they could help to identify those key issues which should be considered when deciding how to proceed.

Members were also concerned that allowance was made within the timescale of any future work for innovation. Should the partnership route be adopted the partner would be expected to consider and implement any new beneficial development in working practices.

vi. It was recognised that funding was a key issue and would have an influence on which work method was adopted. Members discussed

various sources of funding, though they decided that they would need further information on the alternative sources of funding before they could fully consider the advantages and disadvantages of each. The identified sources of funding were:

- Venture Capital – this would only be available for partnership working.
- Prudential Borrowing – this would provide funds with which to undertake a works programme, but it would be necessary to identify where savings could be made in future years to repay the loan.
- Yorkshire Forward – it was thought that there would need to be an identifiable improvement to the economic situation in the city in order to attract funding from this source. It was also considered that there would probably have to be a benefit to the region.
- National Lottery – it was considered that the amounts of funding would be relatively small and that it would be a support but not a major source. It would be unlikely to fund maintenance programmes, but may contribute to improvements in Conservation Areas.
- European funding sources – It was thought that any EU funding would be tied to partnership working, possibly even between countries. Access to funding from this source wouldn't necessarily depend on what the scheme was but also how it would be implemented.

It was agreed therefore to consider this issue further at the meeting on 22 January 2007 when Simon Town would be in attendance.

It was also agreed that an interim report be submitted to Scrutiny Management Committee, identifying the work undertaken so far, and advising that this Committee wished to hold two further meetings in February, to investigate points (iv) and (v) of the Scrutiny Remit.

#### 22 January 2007

Members will need to:

- Identify the key issues for consideration when deciding upon an alternative approach to PFI
- Consider the best alternative source of funding
- Decide if a suitable expert witness is required to attend a future meeting of the committee.
- Agree the dates for two further informal meetings in February to consider the remaining objectives of Part A of this review

The following officers will be in attendance:

<u>Meeting Date</u>	<u>Officer</u>	<u>Type of Advice</u>
22 January	Simon Town	Grants & Partnership issues
22 January	Simon Wiles	Procurement, process, and financial issues
22 January	Patrick Looker	Financial issues
22 January	Richard White	Neighbourhood Services
22 January	Brian Gray	Legal
22 January	Damon Copperthwaite	City Strategy (Development & Transport)
22 January	Paul Thackray	Highways infrastructure