

EXECUTIVE

13th October 2022

Report Title	Award of Contract for Highway Professional Services to WSP UK Limited
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Lead Member	Cllr Graham Lawman, Executive Member for Highways, Travel and Assets

Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Equality Screening Assessment

1. Purpose of Report

- 1.1. To advise the Executive that following the completion of the KierWSP Highways Services Contract, there are a small number of service activities and projects on which retaining the professional services of WSP UK Limited (WSP) is important to support the Council and protect it from any reputational or financial risk.
- 1.2. This report seeks Executive approval to award a contract to WSP to deliver service activities and projects until they reach a suitable stage to transition to the new Highways Services Contract provider (Kier) or be delivered by another specialist provider through a separate procurement process.

2. Executive Summary

- 2.1. The new Highway Services Contract awarded to Kier came into operation on 12th September 2022. Officers have identified a small number of service activities and projects where the ongoing technical support from WSP is required to ensure continuity of delivery until such time as a natural break has been reached. Appointing an alternative service provider at key stages of these service activities and projects will result in delay, additional work, at a cost to the Council and reputational and financial risk to the Council.
- 2.2. This report seeks Executive approval for a direct contract award to WSP under the Crown Commercial Services Construction Professional Services framework Lot 1: Built Environment.

3. Recommendations

- 3.1. It is recommended that the Executive approves a direct award to WSP under the Crown Commercial Services (CCS) Construction Professional Services framework Lot 1: Built Environment.
- 3.2. Reasons for Recommendation
 - The proposed direct award to WSP is for the continuation of technical support on projects which WSP have already commenced work on and built up a working knowledge and experience. Changing service provider at this stage would result in delays as a new service provider becomes acquainted with the work as well as additional costs for reviewing WSP's prior work and possible re-working.
 - Council officers have reviewed the intended scope of any direct award to ensure that WSP are only retained on those service activities and projects where to not retain WSP is considered likely to result in reputational and financial risk to the Authority. It is not intended to use this award to commission new work with WSP and officers will be working to hand work over to the new highways service provider as soon as practicable.
 - The CCS Construction Professional Services framework was assessed as being available for use by the Council and offering the most advantageous route to a direct award based on WSP's rates and fee percentage; offering better value for money than the alternative available frameworks.
- 3.3. Alternative Options Considered: The Council has a number of options regarding how to manage these projects namely:

- Passing them onto the new Highways Services Contract provider, Kier, to pick up the remaining work and continue it until it is completed.
 - Procuring a new supplier to pick up the remaining work and continue it until it is completed.
 - Procuring a contract with WSP to continue with the work until it is completed or at a suitable stage to hand over to another supplier.
- 3.3.1 Either of the first two options would result in additional risks and cost to the Council. This is because a new supplier who had not previously worked on the projects would need to satisfy themselves as to the adequacy of any previous work undertaken by others prior to taking on liability, if indeed they were willing to do so. They would also result in delays to projects while this process took place and whilst the new supplier became acquainted with all relevant aspects of the project.
- 3.3.2 The third option in awarding a contract to WSP to continue delivering these service activities and projects would not result in either of these risks.
- 3.3.3 Whilst other suppliers could pick up the work currently being undertaken by WSP under the now expired KierWSP Highways Services Contract, there are significant financial and reputational risks to the Council due to delays, if we are not to retain the existing WSP resources to complete their current commissions. On this basis, the alternative options considered primarily relate to procurement routes available to enable a direct award to WSP, as follows:-
- ESPO – ESPO is a public sector owned framework which the Council has access to. WSP are approved suppliers on the ESPO framework. The ESPO terms and conditions vary between direct award and award following mini competition. WSP confirmed that they would not be able to agree to the terms and conditions for a direct award under ESPO and this option was therefore discounted.
 - PAGABO – PAGABO is a commercially owned and managed framework, as opposed to being publicly managed. It is open for use by any employing organisation, including the private sector. WSP are approved suppliers to the PAGABO framework and, whilst their rates are comparable to the CCS framework, WSP's fee percentage or margin was approximately three times higher under PAGABO than under the CCS framework. This route has therefore been discounted on the basis of not providing value for money.

4. Report Background

- 4.1. The previous Highways Services Contract with KierWSP ended on Sunday, 11th September 2022 with the new contract with Kier commencing Monday, 12th September 2022. WSP UK Limited are not involved in the new contract. As is normal at the end of a longstanding contract, such as the KierWSP contract (which ran from 2008 to 2022), there are a number of projects which WSP have commenced work on, but, either the work is incomplete, or the work has not reached a sensible hold point where work can be packaged up for handover to another provider.
- 4.2. Following the award of the new contract to Kier, a review of all service areas and projects within the Highways Service was undertaken and this identified some service activities or projects where Council officers consider that retaining technical support from WSP would be in the Council's best interests, either to avoid programme delays, costs for abortive work or reputational risk with funding bodies or stakeholders. The scope of the proposed direct award has been challenged to ensure that only those existing works which cannot be picked up by the new highways service provider are included and where WSP's ongoing support is, therefore, considered essential. These work areas include:-
- Support to Council officers in managing the delivery of a number of developments and planning applications where delays could impact on the Council's reputation with developers or prevent the Highway Authority from responding to a planning application within the timescales defined within the Town and Country Planning Act. These developments are the large and high-profile sites and losing support from WSP could result in major applications being delayed or considered without adequate input from officers on the highways impacts of a development.
 - Continued management and operation of the Northamptonshire Strategic Transport Model which is used by the Authority to determine and assess the impact of schemes and development proposals on the highways network and enable officers to negotiate schemes of mitigation with developers.
 - Continued support to a small number of capital projects where project knowledge is heavily reliant on WSP resource. These schemes include the Corby Town Investment Plan schemes, which are a high priority for the Council and time-bound in terms of maintaining committed programme dates with stakeholders including funding bodies.
 - Completion of the Local Cycling & Walking Improvement Plans for Corby and Kettering.
- 4.3. Officers will be managing these services and projects with a view to reaching sensible hold points with WSP when the work can be handed over to Kier as part of the new highways contract or be subject to a new procurement process.

- 4.4. Officers from the Highways Service have been working alongside colleagues from Procurement to investigate procurement options which facilitate a direct award to WSP on the best possible terms for the Council. This work has concluded that the Crown Commercial Services Construction Professional Services framework offers the most beneficial route to a direct award with WSP.
- 4.5. As the KierWSP contract finished on 11th September 2022, an interim order has been issued to enable the WSP support to continue until such time as this report could be presented and Executive approval sought for a direct award of a larger value. This interim order was approved by the Council's Purchasing Gateway Group on Wednesday 31st August 2022.
- 4.6. Detailed project briefs and fee proposals have been agreed with WSP for the work covered by this report, but the full value will exceed the £500,000 threshold and, hence, require Executive approval.
- 4.7. It is not intended to use this direct award to commission any new works via WSP and new work will be commissioned either via the new Highways Contract with Kier or by engaging new suppliers through new procurement processes where appropriate to do so.
- 4.8. Separately, the Council has appointed WSP to continue work on the A509 Isham Bypass. This was progressed in line with the Executive decision on Thursday 16th June 2022 and taken under delegated decision by the Executive Member for Highways, Travel and Assets on 16th September 2022.

5. Issues and Choices

- 5.1. As set out in Section 3, the Council has a number of options for managing these service activities and projects to their completion including; awarding the work to Kier under the new Highways Services Contract; going to the market to procure a new supplier to complete WSP's work; or a direct award of limited scope to WSP to complete existing commissions until such time as the work can be transferred to another supplier without risk to the Council.
- 5.2. Using another supplier to complete works already in hand with WSP will introduce delays affecting response times on planning applications and resulting in increased costs for projects. This is because a new supplier must review work to date and potentially revise it, prior to assuming liability for work by others. The recommendation to engage WSP via a direct award eliminates these risks and the proposal to use the Crown Commercial Services Contract Construction Professional Services framework Lot 1 provides comfort that we are using a tested procurement route offering value for money to the Council.

6. Next Steps

- 6.1. As stated in Section 4.1 above, an interim contract of a value below £500,000 has been approved by the Council's Purchasing Gateway Group and a contract

set up with WSP. Subject to Executive approval, the cost ceiling of this order can be increased as a “compensation event” under the contract terms. The contract in place does not commit the Council to the higher spend and the contract can be cancelled should the Executive not confirm the suggested approach for a direct award.

7. Implications (including financial implications)

7.1. Resources and Financial

- 7.1.1. The works by WSP which are the subject of this report are existing projects funded from existing budgets with all necessary approvals already in place. The direct award of this work to WSP requires no further financial approval from the Executive.
- 7.1.2. Further costs associated with delays and abortive works may be incurred if the Council does not award this work to WSP and chooses to appoint another supplier who will then have to spend time becoming fully acquainted with these works. This additional expenditure could result in expenditure exceeding current approval levels.
- 7.1.3. Subject to the Executive confirming the recommendations of this report, then there are no resource or financial implications to the Authority arising from the proposals.

7.2. Legal and Governance

- 7.2.1. The Council’s legal team have been consulted and it has been confirmed that procuring the services from the Crown Commercial Services (CCS) framework agreement (with reference number RM6165) is compliant with the Public Contracts Regulations 2015 (as amended) subject to all internal governance considerations, and approvals.
- 7.2.2 Under the suite of contracts comprising the CCS RM6165 framework agreement, the NEC3 professional services contract will be used and this will form the basis upon which the terms and conditions of contract between the Council and WSP are formalised and executed.

7.3. Relevant Policies and Plans

- 7.3.1 The work contributes to the Council’s Corporate Plan priority of Safe and Thriving Places by ensuring that the highway implications of all new developments are fully considered and, where required, mitigation measures are identified and delivered as part of the implementation of the permitted development proposals.
- 7.3.2 This work supports the delivery of major development and sustainable growth as proposed in the Local Plans covering North Northamptonshire.

7.4. Risk

- 7.4.1. The report covers the appointment of WSP via a direct contract award to support a number of service activities and projects within the Highways Service. Overall, risks will be managed by Council officers at service or project level.
- 7.4.2. Risks of not securing continuity of service from WSP include not meeting response times and service level agreements for technical audits of development proposals and inability to provide responses to planning applications, resulting in delays to the planning process or planning consents which do not include for mitigation of highways impacts. This could impact on growth targets and result in the Council suffering reputational damage with developers and central Government. On capital projects, not appointing WSP will result in additional costs as alternative service providers will charge the Authority for assuming responsibility for, or re-working, WSP's work.

7.5. Consultation

- 7.5.1. Internal consultation has taken place with key officers through the Purchasing Gateway Group.

7.6. Consideration by Executive Advisory Panel

- 7.6.1 The proposal for the direct contract award has not been considered by an Executive Advisory Panel. The ongoing work or engagement with WSP could be considered by an appropriate Panel if requested by the Chair.

7.7. Consideration by Scrutiny

- 7.7.1. The proposal has not been considered by the Scrutiny Commission but the ongoing work, subject to approval, with WSP could be considered as requested.

7.8. Equality Implications

- 7.8.1. The report covers the appointment of WSP to deliver a range of technical service activities and projects. In undertaking the works covered by any direct award, officers will ensure that WSP are aware of and meet the Council's obligations in respect of equality and will be managed at a project or service level. This includes ensuring consultations on projects associated with the Corby Town Improvement Plan are held in accessible venues and that printed material and web content complies with the Council's accessibility guidance. When designing highway schemes or undertaking audits of developer proposals, officers will ensure that WSP are required to meet or exceed good practice or design standards for mobility or sight impaired highway users, e.g. audible equipment at controlled crossings, tactile paving to indicate crossing points and hazards.

7.8.2. An Equality Screening Assessment is included in **Appendix A**.

7.9. **Climate and Environment Impact**

7.9.1. As this proposal is to continue with existing service activities and projects, including statutory services, with a specific provider, WSP, the climate impacts of the projects and services we are seeking to award have already been considered by the relevant project teams or will be considered as work develops.

7.9.2. The work to support the Northamptonshire Strategic Transport Model and responding to planning applications has a specific and positive climate impact in that these work areas enable the Council to identify the environmental impacts of developments and agree schemes of mitigation. If we are unable to secure this support from WSP then it is highly likely that developments will proceed without appropriate mitigation for related traffic and associated climate impacts.

7.10. **Community Impact**

7.10.1. The contract award would cover works and projects across the whole of North Northamptonshire, so no specific community impacts are identified with this decision. Community impacts will be identified and managed at a project level for those specific projects that WSP will continue to support under this proposal.

7.11. **Crime and Disorder Impact**

7.11.1. It is not considered that there will be any implications in respect of Section 17 of the Crime and Disorder Act 1998 arising as a direct consequence of the recommendations contained within this report.

8. **Background Papers**

8.1 Executive decision on Thursday 16th June 2022 and taken under delegated decision by the Executive Member for Highways, Travel and Assets on 16th September 2022. [Decision Details](https://northnorthants.moderngov.co.uk/ieDecisionDetails.aspx?AllId=3887)
<https://northnorthants.moderngov.co.uk/ieDecisionDetails.aspx?AllId=3887>