

## Procurement Route Choices for Highway Maintenance Services

### Use of Toolkit and Guidance Document

Version 2 August 2014



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# REVISION SCHEDULE

## PROCUREMENT ROUTE CHOICES FOR HIGHWAY MAINTENANCE SERVICES

Rev	Date	Details	Prepared by	Reviewed by	Approved by
2	August 2014	Teckal model added to evaluation	M Duffy J Towey	J Amos K Fountain	S Child

This report is supported by the following organisations:



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# FOREWORD

## BY THE PRESIDENT OF THE CHARTERED INSTITUTION OF HIGHWAYS AND TRANSPORTATION

“There can be few areas of Highways that have generated more interest in recent years than the procurement of services. For this reason Procurement Route Choices for Highway Maintenance Services was conceived by the CIHT Procurement & Delivery Panel through the oversight of the late John Smart, our Technical Director. What began as an idea was developed and challenged by fellow professionals into a proposal that, having been considered and developed for some time, was submitted and approved by HMEP.

This Guidance Document and the web based Toolkit provides a powerful tool for any Authority undertaking the procurement process for their Highway Maintenance Service. It will enable the Authority, with or without specialist internal or external help, to review, debate and interact at all levels to determine the best option for their Authority. It certainly achieves the objective of HMEP in providing a tool for Authorities to be more efficient and should be more cost effective.

I am delighted as President of the Chartered Institution of Highways and Transportation with the work of the members of the Institution who have worked so hard to deliver this Toolkit. I commend its use to Authorities and look forward to its successful implementation in the days ahead.”

**David Anderson, President CIHT**

## ABOUT THE HIGHWAYS MAINTENANCE EFFICIENCY PROGRAMME

The Highways Maintenance Efficiency Programme (HMEP) is a sector-led transformation initiative that will maximise returns from investment and deliver efficiencies in highway maintenance services. The Programme started in April 2011 with sponsorship from the Department for Transport, and is intended to run until 2018.

The Programme is offering local highway authority practitioners benefits from different ways of working. The vision is that over time, those involved in highways maintenance delivery, the local authorities as clients and their service providers, be they from the private or public sector will adopt an ambitious and longer-term approach to enable them to:

- Continuously find new and improved ways of delivering services to highway users and managing highways assets.
- Make use of collaborative partnerships to improve processes and outcomes, and
- Deliver a sustainable balance between meeting the needs of highways users, improving quality and minimising costs.

The overall programme has been developed by the Programme Board through key personnel who support HMEP’s development. This will ensure that:

- The Programme is truly being driven by what the whole sector needs and wants („by the sector for the sector).

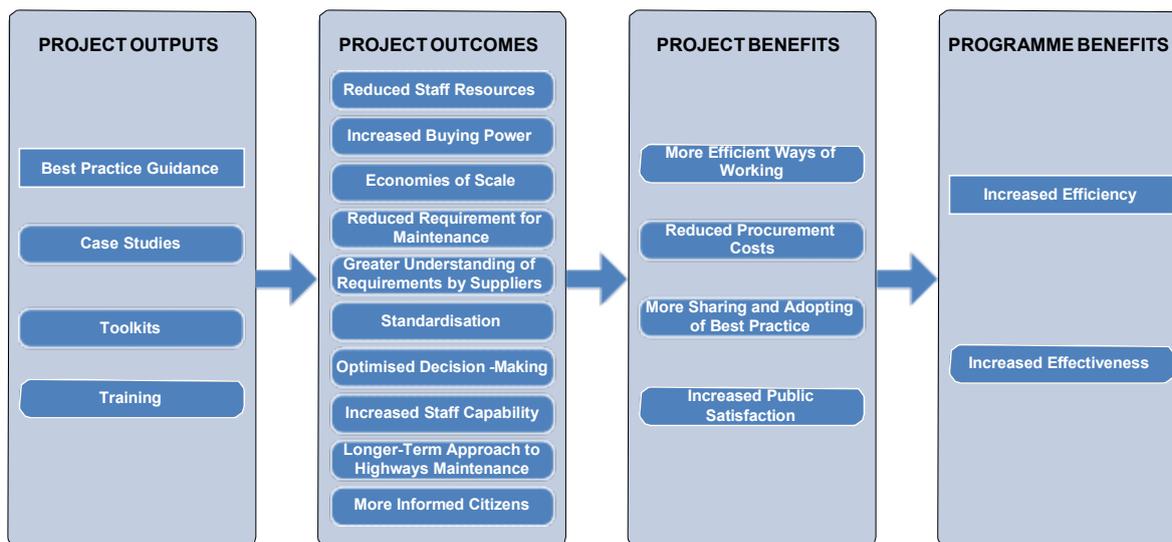
- The solutions identified by the sector are relevant, realistic, repeatable, scalable and sustainable.
- HMEP is benefits-led, driving true transformation of the sector with tangible efficiency gains and a lasting legacy.

As a transformation initiative HMEP is targeting the ways local highway authorities conduct their business. It invites the sector to adopt new ways of working to deliver efficiency savings through:

- **Collaboration & Change** – looking at how alliances between authorities, and clients and their providers, can be formed to deliver efficiencies in the delivery of highway maintenance services. Other projects are looking at changing business processes; for instance by applying LEAN thinking to the processes behind service delivery and how services or processes can be streamlined to realise efficiencies
- **Procurement, Contracting and Standardisation** – advising on the routes to procurement enabling authorities to determine how their current service is aligned to current thinking and which is the best procurement option to realise their future service ambitions. It also provides the tools so that efficiencies can arise through the use of, for instance, a standardised form of contract and highway maintenance specification which are better aligned to the activities that local highway authorities undertake.
- **Asset Management** – by providing advice to the sector in the form of updated asset management guidance; for both a simplistic and, where appropriate, more complex lifecycle planning tool to determine whole life asset costs, thus moving away from a reactive to a longer-term approach for maintaining highways assets. To provide training specifically targeted at practitioners to help them move towards an asset management approach and to adopt the new HMEP guidance and tools.
- **Benchmarking & Performance** – collecting, sharing and comparing performance data on Customer/Quality/Cost to help both understanding to show how effective local highway authorities are in delivering Value for Money services and drive targeted efficiencies.

Products and tools are being developed for each of these themes and are being designed to be interdependent, but complementary, so that authorities can maximise their returns from their investments.

The diagram below indicates how project outputs, including a product such as the Procurement Route Choices Toolkit, will contribute to the benefits of the Programme.



Specific products are just part of a wider offering to the Sector comprising:

- **Health Check/Corporate Review** - to enable organisations to identify and prioritise potential opportunities for efficiency gains and „baseline“ their current level of efficiencies/operation.
- **Signpost and Brokerage** - to direct stakeholders to „good practice“ resources and broker access to experts (champions).
- **Knowledge Hub** - to provide a living community for sharing „good practice “around generating highways efficiencies.
- **Design, Deliver and Enable Projects** - to test and validate initiatives designed to achieve efficiencies (hence providing new good practice) and capture the efficiency gains anticipated and achieved via a defined gateway process (i.e. outcomes and financial/other benefits realised).
- **Industry Forums** – to bring together stakeholders to create a culture of continuous learning and sharing of efficiency, ideas and practices that shape the focus and future direction of HMEP.

The HMEP offering will be backed by members of the Programme Board and others acting as „Advocates “, „Sponsors “and „Champions “to the sector, sharing experiences of how they have achieved efficiency savings through implementing various initiatives from the Programme.

## ABOUT THIS TOOLKIT

The Local Highway Authorities Procurement Route Choices for Highway Maintenance Services Toolkit is part of the Procurement, Contracting and Standardisation theme of the Programme. The Toolkit outlines how Procurement Route Choices for Highway Maintenance Services made by authorities can lead to the most appropriate delivery model for highway maintenance services. The process of procuring the most advantageous delivery mechanism for a variety of highway maintenance services can be complex and time consuming, and also be a costly process. This Toolkit provides guidance on the procurement process to enable the client user to identify at an early stage the procurement route choices available.

This document is located at [www.dft.gov.uk/hmep/efficiency/procurement-route-choices.php](http://www.dft.gov.uk/hmep/efficiency/procurement-route-choices.php)

Local highway authorities typically start the process of procurement for highway maintenance services by undertaking research and determining their procurement and delivery methodology in isolation. This can often be time consuming for client, current service provider and other service providers with whom the client interacts. It is inefficient for every client to make the same journey and for service providers to have to react to each individual procurement exercise. The key driver for this project was a best practice Toolkit to identify and inform the procurement and delivery choices available, based on each Local Highway Authority" s inputs and constraints.

### HOW WILL THIS HELP YOU DELIVER MORE EFFICIENT SERVICES?

This Toolkit will act as a detailed guide to map out the various considerations and alternatives when procuring highway maintenance services. It will enable Authorities to consider everything from Private Funding to In-house delivery with the option to consider various parts of the service differently if so required. The Toolkit is offered as free guidance to the sector and can be used for the following:

- (a) to establish the current position of service delivery in relation to current thinking and hence the need for change in various aspects. There is opportunity for the user to answer a variety of questions and so derive the most suitable delivery model solution for their highway maintenance service needs.
- (b) to help authorities narrow down the service delivery options that can be procured in order to refine their selection and obtain an option which most suits their authority's characteristics and aspirations.
- (c) throughout the process the user is encouraged to set down the justification for the decisions made and responses given to clarify the reasons for decisions made and to facilitate the audit process.

### COMMENTS AND FEEDBACK

The HMEP Programme Board would welcome any comments and feedback on this Toolkit so that it may be reviewed, improved and refined to give the sector the best advice possible. If you wish to make a comment, please send an email to [highwaysefficiency@dft.gsi.gov.uk](mailto:highwaysefficiency@dft.gsi.gov.uk) with the Header „Feedback on the Procurement Route Choices Toolkit and Guidance Document.

# 1 INTRODUCTION

## BACKGROUND

- 1.1 The process of procuring the most advantageous delivery mechanism for a variety of highway maintenance services can be complex and time consuming hence it is a costly process. In many instances there is repetition for both client and provider.

This project, instigated under the HMEP, seeks to provide guidance on the procurement process through a toolkit to enable the client to identify at an early stage the procurement route choices available. It will act as a detailed guide to map out the various considerations and alternatives when procuring highway maintenance services. A principal aim of the Toolkit is to reduce the need for advice from consultants in the early selection of procurement route options advice which can cost many thousands of pounds to procure. Throughout this document aspects are referenced to case studies and these, together with additional case studies encountered while preparing this Toolkit, are all included in the Supplementary Information in Appendix A. The Toolkit and documentation will be updated regularly to reflect changes, feedback from industry and new case studies.

## WORKING TOGETHER

- 1.2 Users will have various levels of competence regarding procurement of highway services and if this is lacking then advice should be sought through collaboration with others. The HMEP has developed a Collaborative Alliances Toolkit and a Shared Services Toolkit to aid the user in this respect and which evidences how various authorities have been involved in joint procurement exercises. The benefits of working together in this respect are described more fully in Section 5 below which also refers to BS11000 (Reference 1).

## SCOPE – “PROCUREMENT PROCESS” AND “DELIVERY MODEL”

- 1.3 This Toolkit is entitled “Procurement Route Choices for Highway Maintenance Services” however the main focus is on the delivery model that will be selected by the client. The Toolkit provides advice on the various procurement processes that can be used including timescale requirements. Although the project scope is based on provision of highway maintenance services the Toolkit can be adapted for wider use by the user. It is recognised that “highway maintenance service” is interpreted in many ways and can include both blue collar (operational) and white collar (design and consultancy) services.

## GOOD PROCUREMENT THEMES

- 1.4 There have been numerous procurement guides produced in recent years including various data sheets on “Good Procurement Themes” (Reference 2) produced by the Highways Term Maintenance Association. These include “Planning for a good contract” and “Creating a good contract”. The advice given is reflected in this guidance document. Further examples include the Institution of Civil Engineers Client Best Practice Guide (Reference 3) and the Chartered Institution of Highways and Transportation/4ps [now Local Partnerships] Guide to procuring local authority transport schemes and services (Reference 4).

## SUMMARY OF CONSULTATIONS

- 1.5 A survey was undertaken of all English local highway authorities in October 2011 and various questions related to Procurement Route Choices for Highway Maintenance Services were asked. Key results are summarised as follows:

Survey Question	Response
Do you have an integrated contract to include different aspects of the service?	Of 74 responses 68% said yes
Does this cover all aspects of highway maintenance service?	Of 52 responses 52% said yes
How is this service carried out?	65 responses gave the following: In-house 11% External provider 60% Combination 29%
What procurement method was employed in the selection of the contractor?	64 responses gave the following: Competitive dialogue 22% Restricted dialogue 34% Open procedure 28% Negotiated procedure 6% Other 10%
In this service shared with other authorities?	Of 66 responses 91% said no

Appendix B provides more detail as to the results of the HMEP survey.

## LINKS TO OTHER HMEP PRODUCTS

- 1.6 This project is part of the wider HMEP and throughout links to relevant work packages will be highlighted. Particular reference will be made to the following:
- Local Highway Authorities Collaborative Alliances Toolkit
  - Shared Services Toolkit
  - Supply Chain Review
  - Standard Suite of Procurement Documents for Highway Maintenance Services comprising a standard Form of Contract, Official Journal of the European Union (OJEU) Notice, Prequalification Questionnaire (PQQ) and Instructions for Tenderers (IfT)\*
  - Development of Standard Specification and Standard Details for Local Highway Maintenance
  - LEAN Toolkit for Highway Maintenance Services
  - Client/Provider Collaboration Toolkit

## CASE STUDIES

- 1.7 Throughout this document, summaries of case studies are included to highlight practical and successful experiences of authorities around the country. These provide essential information to the sector, particularly highway authorities, when undertaking procurement.

A wider range of case studies, many historic but still relevant, have been collated as part of this project and a link to a schedule of these case studies can be found in Appendix A1.

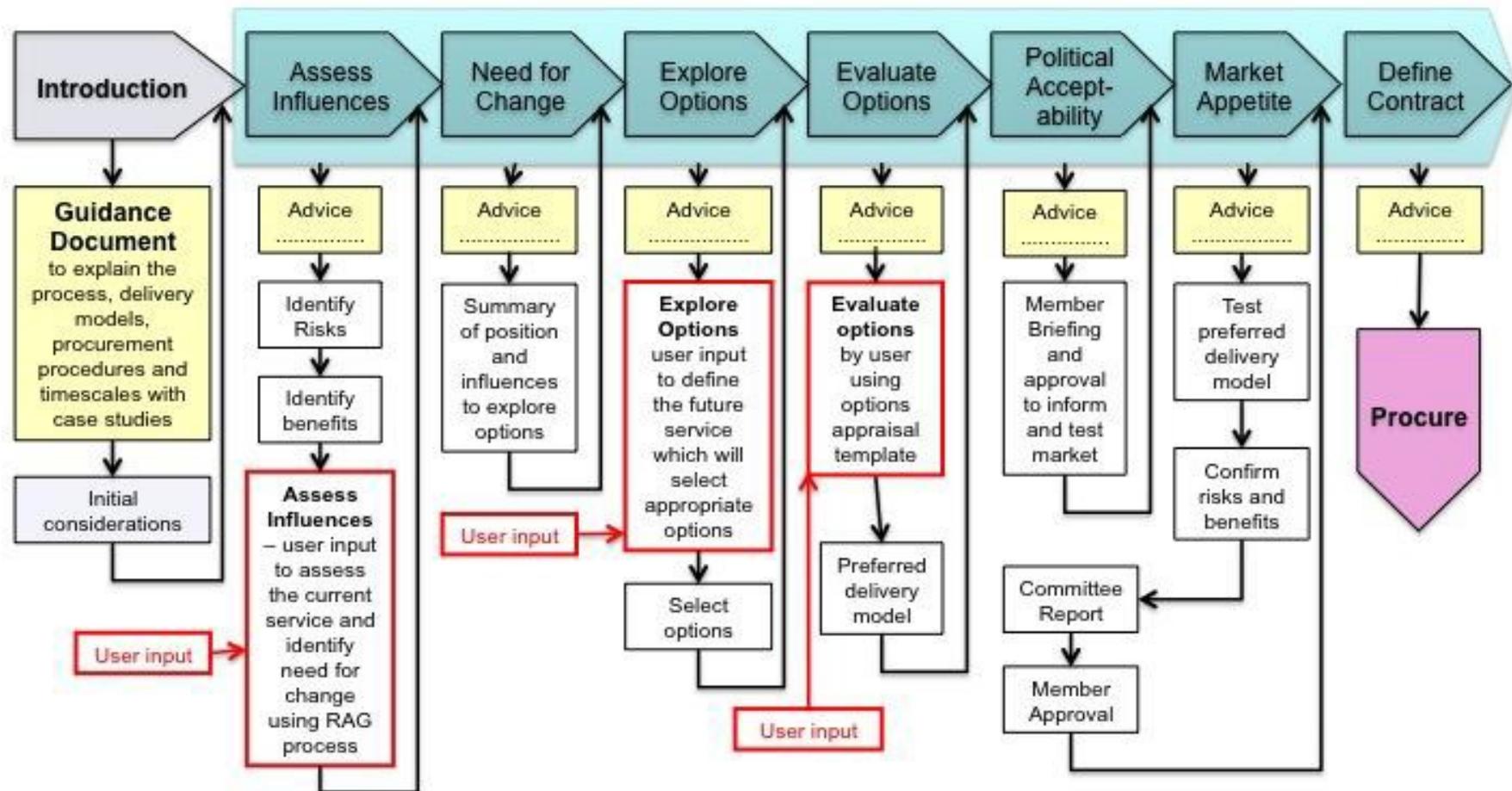
## GENERAL DESCRIPTION OF TOOLKIT

- 1.8 The Process Diagram shown below provides an overview of this document and the Toolkit. Although there is much guidance provided, the essence of the Toolkit is in three parts as shown in red on the diagram:
- Assess influences
  - Explore options
  - Evaluate options



Highways Maintenance Efficiency Programme

# Procurement Route Choices: the process



Reference: Case Studies, Examples, Advice Notes, Codes of Practice, Websites, Procurement Rules, Surveys, etc

HMEP Workstream Links: Collaborative Procurement, Client Leadership, Governance, Key Business Processes, Managing Change etc

## PROJECT PROCESS

- 1.9 To produce the Toolkit, the Project Team has involved a variety of client organisations, discussed case studies with a host of parties and held workshops involving clients together with HMEP Project Board and Programme Board members. In addition specific bodies such as the Highways Term Maintenance Association, Chartered Institution of Highways and Transportation and Association of Directors of Environment, Economy, Planning and Transport have been consulted and made aware of the developments. At every stage progress has been reported to the HMEP Project Board and their advice/direction has been noted and followed in the development of the output. The complexity of the HMEP Programme and the variety of products has been covered through direct contact with other relevant product project managers and where relevant this document includes cross-references to other HMEP output.

## 2 TOOLKIT NOTES FOR GUIDANCE

### WHERE TO FIND THE TOOLKIT AND ACCESS IT

- 2.1 See [www.dft.gov.uk/hmep](http://www.dft.gov.uk/hmep) under Efficiency Options

### HOW TO USE THE TOOLKIT

- 2.2 This Toolkit acts as a detailed guide to map out the various considerations and alternatives when procuring highway maintenance services. The user is taken on a route through a process that includes advice and interactive elements to assess influences, explore options and then evaluate options before gaining political acceptability and determining the market appetite prior to procuring a new contract.
- 2.3 The Guidance Document can be referred to at any stage and downloaded as a PDF.
- 2.4 Each route with its selections and justification can be saved by the user at any point in the process and then be amended as required at a later time.
- 2.5 Users will need to register with their name, email and organisation together with confirming their agreement to the terms and conditions. Once registered, an email will be sent and the user will need to check their email account for an authorisation email and click on a link to verify their identity (the system will generate a password that can be changed later by the user in their profile when they log in).
- 2.6 At **Log In**, registered users will need to provide their email address and password.
- 2.7 On the **Welcome Page**, users will be able to:
- See a summary of their account information
  - Name, email, Organisation
  - Link to update their profile/password
  - Download the guidance document
  - Read about the HMEP process
  - Create a new route choice
  - See a history of saved routes with the ability to
    - See route title
    - Read route summary
    - See date created and date last modified
    - Edit route title/summary
    - Amend route choice content
    - Copy (clone a route)
    - Delete a route
    - Download a PDF of the route
    - Share route PDF, via email

- See up to 5 saved routes with the option to load more
- Order saved routes by title, date created or date modified
- Access the feedback form page

### USER INPUT REQUIRED TO THE TOOLKIT

- 2.8 Users are guided through the process and on each screen can:
- See and download the relevant guidance for that part of the route or the whole Guidance Document
  - Select their choices and provide justification
  - At any time during the process save the route or save a new route
  - Go back to the previous step
  - Go to the next step

### OVERVIEW OF HOW THE TOOLKIT WORKS

- 2.9 The Toolkit provides guidance and has three interactive Sections:
- Assess Influences – see Section 7
  - Explore Options – See Section 9
  - Evaluate Options – see Section 10
- 2.10 The user may save the first route and then choose to amend this for alternative considerations or influences and use the Toolkit process to show the options for this alternative route.
- 2.11 Any number of routes can be explored, each with the justification documented for further consideration and to be reviewed with regards to their political acceptability and market appetite.
- 2.12 The Toolkit provides an opportunity for the user to enter his thoughts as evidence of the selection process for the chosen option/route for the production of a report to council committee before informing the market by advertising in accordance with OJEU and the Authoritys standing orders.
- 2.13 Guidance is given on how to collate data to define the contract such as the HMEP Pre Qualification Questionnaire, Contract Form, and Specification etc.

### USER FEEDBACK

- 2.14 A **feedback form** is provided on the final screen for the user to provide their opinion on:
- Their experience of using the Toolkit and how they rate it.
  - How the Toolkit can be improved
  - Any savings made by their authority by using this Toolkit

- Suitable case studies to include in the Guidance Document in future revisions

### OTHER USEFUL DOCUMENTS – APPENDIX A

2.15 In addition to the list of References included in this Guidance Document other useful Documents are referenced in Appendix A2, Supplementary Information, of this Guidance Document.

### 3 DELIVERY MODELS

3.1 This project has focused on the following variants of delivery models which are described in paragraph 3.2 and are shown in the diagrams on the following pages:

- Private Funding
- Single Provider
- Multiple Providers
- Framework
- Joint Venture
- In-House with top up
- Teckal
- In-House

This Toolkit is related to the delivery of highway maintenance services, generally meaning contract works on the ground; however it is recognised that in many instances authorities include a range of white collar/consultancy /client services as highway maintenance services. Local highway authorities will recognise that there are a number of variants within each of the models usually driven by the service responsibility retained by the client, the payment mechanisms adopted and the performance management regimes put in place.

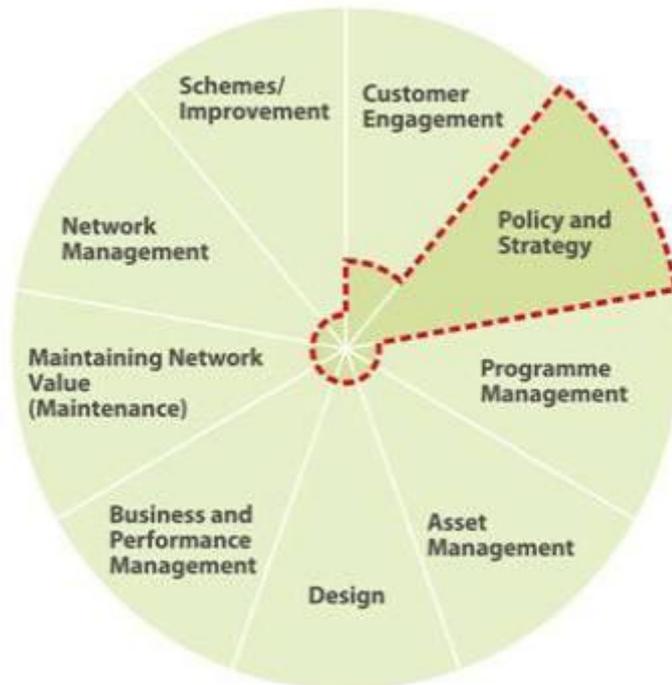
#### SERVICE SPLITS

3.2 Depending on the preferred service delivery model being pursued by the Authority, they will need to determine where the service split should lie between client and provider. In assessing the service split there are various factors that will influence the decision and these will include:

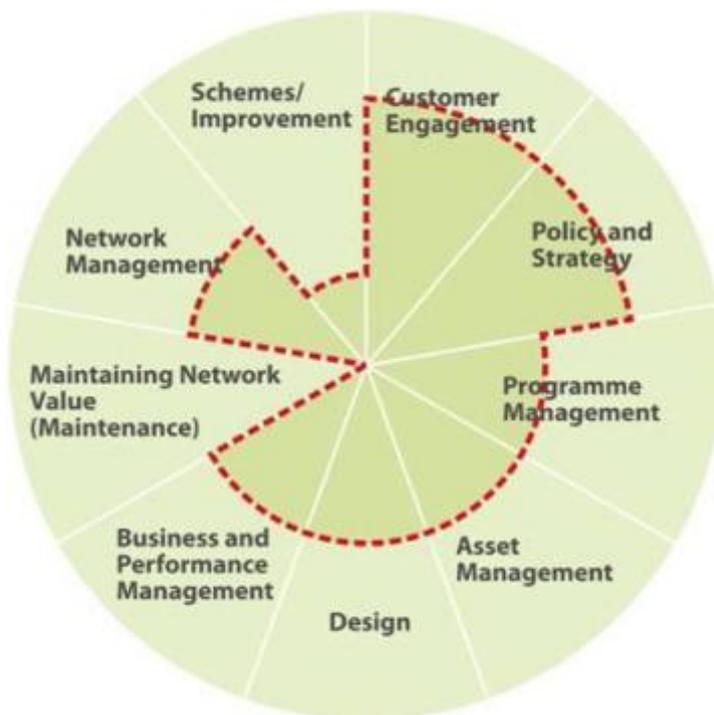
- The overall objective for the service
- Client capability and capacity
- Risk

A diagrammatic representation of various alternatives is shown below:

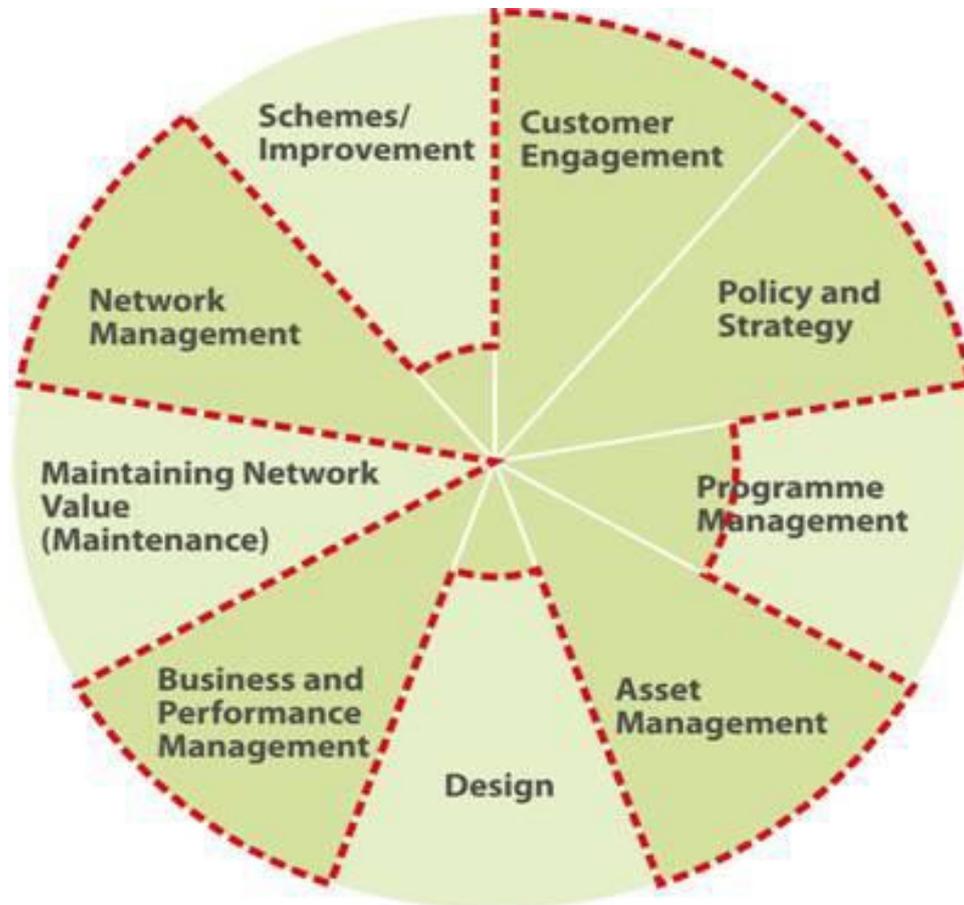
**Figure 2 – Service mainly outsourced (client retains responsibility for policy and strategy)**



**Figure 3 – Top up in most areas (client retains active involvement in most areas of service)**



**Figure 4 – Top up in some areas (client retains full service responsibility in most areas and active involvement in some)**

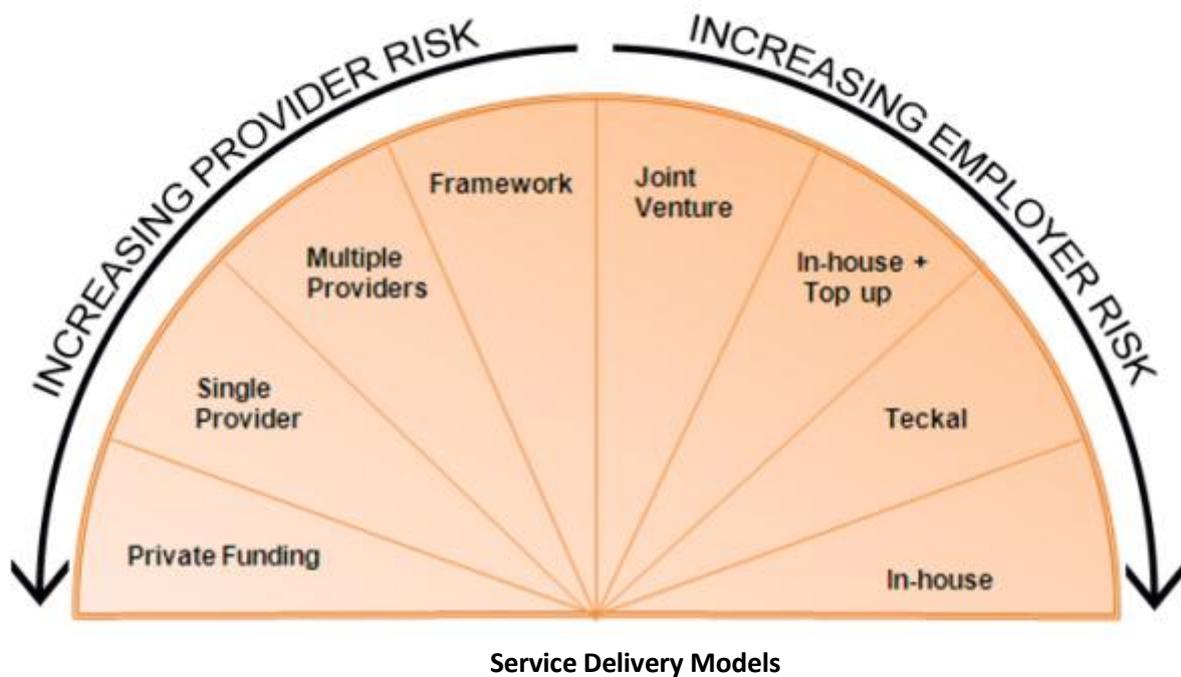


The contract durations can vary significantly within a single model, however, there are a number of attributes which are unique to one model or another and this guidance document aims to identify the „generic “pros and cons of the service delivery models identified above.

Figure 5 below highlights the eight delivery models considered highlighting the risk profile. In order to provide appropriate guidance to the user certain assumptions have been made about the models to facilitate some consistency of approach when comparing them. The basic assumptions are as follows:

- 1) Private Funding - delivered through this vehicle. Similar in most respects to a Private Finance Initiative (PFI) which is long in duration and passes asset and service responsibility to the service provider. Note, it is acknowledged that although the PFI mechanism is not currently available for use it will be in the future, however, it will change significantly as recognised in the 2012 Autumn Statement by the Chancellor of the Exchequer who refers to a replacement for PFI, namely, PF2.
- 2) Single Provider - most services transferred to private sector partner. Client retains some elements of service such as strategy, performance management etc.

- 3) Framework - assumes more than one provider with similar skill set to allow mini competitions to be held for appointment against work packages.
- 4) Joint Venture - exhibits attributes of an incorporated joint venture (i.e. it is a separate legal entity). Very small client function retained in the local authority for contract management purposes.
- 5) Multiple Providers - authority procures individual services from different providers such as surface dressing, gully emptying, street lighting, etc. Client retains some elements of service such as strategy, performance management etc.
- 6) In-house + top up - simple top-up arrangement to fill gaps/weaknesses in the client team. The amount of highway maintenance function remaining with the client depends on how much top up is involved, be it single or multiple providers.
- 7) Teckal - a company wholly owned by the Council, which subject to certain conditions is exempt from European Union procurement regulations'.
- 8) In-house - assumes very limited and ad-hoc input from the private sector.



**Figure 5 – Service Delivery Models in this Toolkit**

SERVICE DELIVERY MODEL DESCRIPTIONS

**Private Funding**

In project financing models through private funding, the Authority enters into a long term contract (previously 25 years) with the private sector organisation to provide a service to or on behalf of the Authority. The Concession Agreement usually requires construction or refurbishment of facilities and infrastructure, debt finance for which is raised from investors based on the forecast revenues of the project. The private sector organisation is then paid a Tariff for the provision of the service. The Tariff is designed to repay the debt finance, cover the operation and maintenance costs and deliver a return on equity investment for the private sector. In the emerging PF2 model there is a suggestion that Government is looking to act as a minority public equity co-investor in PF2 projects and introducing funding competitions for a proportion of equity to attract long term investors.

There are many variants of project finance and this has been used for many projects from oilfield development, to toll roads, to school provision. In the highways maintenance sector to date this has been delivered through Private Finance Initiative projects. The “availability” model is adopted whereby the Tariff paid is a Unitary Charge for the periods when the asset has been operationally available. The contract has previously called for a “core investment period” to bring the asset up to agreed standards followed by maintenance to maintain the asset at the required performance standards during the life of the contract. Often used for street lighting and latterly for highway maintenance and management by authorities such as Portsmouth, Sheffield, Birmingham, Hounslow and Isle of Wight. Portsmouth and Birmingham are typical of these contracts starting in 2004 and 2010 respectively, and will terminate in 2029 and 2035.

**Advantages**

- Risk of investment and completion of capital works during core investment period at private sector risk
- Transfers risk of asset performance to the private sector
- Ability to secure major capital investment in asset at an early stage and “off balance” sheet
- Brings in private sector expertise in asset management and stewardship

**Disadvantages**

- Can be lengthy, complex and costly to procure and negotiate. In the Treasury's review of PFI and the emerging PF2 there is reference to shortening the procurement process through a standardised approach
- Less flexibility and control over the stewardship of the asset – provider's key requirement is to maintain asset to required performance standards
- Reviews of previous Private Finance Initiative deals have raised questions in terms of value for money – may be politically and publicly unpalatable. Note that political and public opinion of PF2 is unknown
- Authority takes risk of asset deterioration at end of concession period
- Requires long term commitment from Authority - significant costs may arise from early termination or changes in service level requirements i.e. lack of flexibility

## CASE STUDY 1 – PORTSMOUTH CITY COUNCIL

### Background

Portsmouth City Council has responsibility for 455km of roads. In 1998 a short study by Mott MacDonald revealed that almost half the city's principal road network was in a failed or critical condition. It was confirmed that there was a significant maintenance backlog and a number of roads would need to be reconstructed due to the previous lack of funding and timely preventative maintenance. This established it was necessary to secure additional investment to arrest the decline and restore the assets to an optimised, steady state and sustainable level.

### What was done and why

The city council searched for alternative funding solutions. Private Finance Initiative was the chosen option. The Business Case was rigorously assessed by Department for Transport's predecessor Department of the Environment, Transport and the Regions, and the Private Finance Initiative option promised to achieve savings over the whole life of the contract, linking capital investments to planned maintenance and economies of scale.

In 2004 Colas Ltd were awarded a highly incentivised 25 year "performance related" contract to upgrade highway assets to a defined level, based on Network Condition Indices.

### What was achieved

Secured, ring fenced, long term funding has meant it has been possible to develop an effective investment/highways assets renewal plan. Early identification of future maintenance projects exploits the significant potential synergy savings of integration with capital (both public and private) schemes and road safety schemes – significantly enhancing the quality of schemes and reducing costs.

- A client culture has been adopted by the Service Provider
- The nature and structure of a long term contract requires empathy and understanding of the client's needs and adoption of shared values with the Council
- Whole life costing and getting the job „done right first time “
- Transfer of risk to the contractor
- A better understanding and closer alignment to the Council's corporate objectives supporting economic, social and environmental challenges and developing a long term association with local businesses, communities and other groups
- Investment in skills and training throughout the supply chain
- Network Condition Indices have proved to be another vital tool for a strategic approach to highway maintenance
- Efficiency savings generated upfront through the PFI procurement route and whole life saving cost approach
- CIHT 2008 Award for Effective Partnerships
- Improvement in user satisfaction with highway maintenance as demonstrated by the NHT surveys showing Portsmouth topping the participating local authorities

### What is planned next

After the success of the initial rehabilitation phase and acknowledging the financial pressure the Council are under, the parties are developing an approach based on the findings of the Best Value Review aimed at generating additional efficiency savings, without compromising the principles of the Project. This includes:

- Refresh the terms of reference for the partnership
- Revisit the delivery model and adjust the specifications for the soft activities.
- Improve the reporting and monitoring tools and processes to better inform both the Council and the Project Board and ensure performance and objectives are aligned
- Develop the asset management approach for residential roads
- Promote innovation (e.g. LED trial) and cost efficiencies
- Improve the coordination relating to schemes and enforcement

### Who to contact

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Brian Hicks, Managing Director, Ensign Highways Ltd: [brian.hicks@colas.co.uk](mailto:brian.hicks@colas.co.uk)

**Single Provider**

In this model the authority enters into one single contract with a single service provider to deliver all highways related services for a defined time period. The authority retains a small team to manage the contract with the selected service provider. This offers the potential to enter into a long term strategic partnership between the public and private sectors.

The strategic partner may be able to provide all services or may be responsible for procuring some or all services from other sources whilst retaining overall responsibility for service delivery and integration of the supply chain.

This arrangement requires a long term commitment between the parties and attendant contract duration in order to make the considerable investment worthwhile for the service provider.

**Advantages**

- Engages private sector and allows access to skills and resources
- Commercial and service performance risks transferred to private sector
- Easy to administer with one point of responsibility for all disciplines
- Ability to develop a consistent “brand” for customers and stakeholders
- Maximises ability to build long term collaborative relationships with selected provider and customer / other stakeholders
- No ongoing tendering costs
- Maximises the ability to deliver an integrated service and consistent approach to service delivery
- Likely to be attractive to private sector with long timeframe and extent of workload, maximising opportunity for cost savings and competitive pricing

**Disadvantages**

- Potential for “cosy” relationship to develop with resulting issues of probity
- Majority of knowledge transferred out of authority
- Possibility of being “stuck” with inappropriate service provider for duration of contract period
- Difficult to terminate unsatisfactory performance without causing major disruption to delivery of whole service
- At renewal if a new service provider is selected not all staff may wish to transfer to new employer resulting in loss of retained knowledge
- No ongoing competition between service providers. Requirement to implement robust measurement performance regime
- Risk of incorrect specification / definition of service leading to potential for claims in the event of change in service requirements

## CASE STUDY 2 – Bedfordshire County Council

### Background

Bedfordshire County Council had let a 10.5 year Highway Maintenance integrated service contract in May 2005 based on the Managing Agent Contractor (MAC) model first developed by the Highways Agency in 2001. Two existing outsourced contracts for term maintenance and engineering services were brought into a single contract.

### What was done and why

The MAC for routine and planned maintenance and professional services is worth £28m per annum. It was procured using the Restricted Procedure.

The Contract basis is the New Engineering Contract (NEC) Term Service Maintenance Contract and was awarded to Amey with a start date October 2005 and contract duration of 5.5 years with annual extensions based on performance for a possible further 5 years.

### What was achieved

- Moved from 0 to 4\* Comprehensive Performance Assessment (CPA) rating in 4 years
- Increased Best Value Performance Indicator (BVPI) performance from lower to upper quartile
- Novation of the contract to Central Bedfordshire Council in April 2009 as part of local government reorganisation. The contract now serves two clients as Bedford Borough Council also procures highway services through the current contract
- The contract has been extended to March 2016
- There has not been a single compensation event submitted to date!
- A joint monthly contract review meeting at officer level attended by both authorities and bimonthly Strategic Board attended by elected members
- Migrated service delivery from a prescriptive performance model to a more flexible delivery agenda driven by a move to localism.

### What is planned next

- The contract is moving into its final phase with three years to run and joint working is being undertaken to develop a refined model based on the current good practice.

### Who to contact

Paul Mason, Central Bedfordshire Council

Contact details: [Paul.Mason@centralbedfordshire.gov.uk](mailto:Paul.Mason@centralbedfordshire.gov.uk)

**Framework**

The authority enters into a series of framework contracts for the provision of particular services. The frameworks may cover individual disciplines e.g. surface dressing or may include a number of bundled disciplines e.g. multi-discipline design services. Frameworks can be single provider frameworks or include 3 or more providers. The maximum duration of a framework under European Union Regulations is 4 years, however, Transport for London has recently let four framework contracts for an 8 year period based on appropriate advice.

The features of an effective framework are documented in the Treasury publication – Infrastructure Procurement Route Map (Reference 5).

**Advantages**

- Ability to access “best in class” providers in specialised disciplines
- Flexibility of choice of providers
- Ability to deal with peaks and troughs in workload – workload risk with private sector
- Ability to benchmark providers against one another and drive continuous improvement
- Potential for steady workload can lead to reduction in prices from market

**Disadvantages**

- Maximum duration is 4 years, without extension
- Requires significant management by the authority
- Co-ordination can lead to gaps and overlaps in service
- Providers may lose interest if work volumes through frameworks are small and or unpredictable
- May lead to loss of in-house skills
- Less opportunity to build up collaborative relationships with multiple providers
- Possibility of “learning curve” for each commission

## CASE STUDY 3 – Midlands Highway Alliance

### Background

During late 2006, the Highways Agency indicated that it intended procuring its “Midlands Managed Works Framework 3” (MWF3), its third generation contract for delivering structural maintenance and new highway schemes, each valued up to £8m, from 2007 onwards. Working primarily in conjunction with Leicestershire County Council, the contract differed from its predecessors in that it enabled 10 local authorities to access MWF3’s four contractors. This was courtesy of a formal contract collaboration agreement and the creation in July 2007 of the Midlands Highway Alliance for local authorities primarily in the East Midlands. A “mini-competition” process was devised that enabled the local authorities to choose the most cost effective framework contractor in an auditable way for each scheme. Due to its success and the government’s aspiration for ‘fiscal stimulus’ the Official Journal of the European Union financial limit of £50million for MWF3 was reached far earlier than conceived. The Highways Agency had to embark on an accelerated re-procurement process that didn’t allow much contractual change and the Midlands Managed Works Framework 4 (MWF4) came into effect in October 2009.

Through the Midlands Highway Alliance membership, these frameworks were available to all highway authorities in the East and West Midlands.

### What was done and why

To ensure applicability to local authority needs rather than a focus on motorway and trunk roads, the Midlands Highway Alliance established its own contract - Medium Schemes Framework 1 (MSF1) – for schemes up to £12m of a highway, civil and municipal engineering nature. Since its launch in July 2007 and due to the flexibility that MSF1 offers, the participating authorities in the MHA has expanded in number from the 11 founding members of: Derby City Council, Derbyshire County Council, Highways Agency, Leicester City Council, Leicestershire County Council (lead local authority), Lincolnshire County Council, Northamptonshire County Council, Nottingham City Council, Nottinghamshire County Council, Peterborough City Council and Rutland County Council. The geographical spread of the MHA has expanded and now includes Doncaster Metropolitan Borough Council, Milton Keynes Council, Rotherham Metropolitan Borough Council, South Derbyshire District Council, Staffordshire County Council, Stoke-on-Trent City Council, Telford and Wrekin Council and Wolverhampton City Council.

Four contractors deliver schemes under the MSF1 contract: Balfour Beatty/Birse, BAM Nuttall, Ringway and Tarmac/Carillion - any of whom can be selected to deliver a wide range of projects under a works package. Both the selection and performance assessment of scheme delivery focus on 10 quality criteria: product, service, right first time, cost management, time, safety, learning and development, community, traffic management and, innovation and value for money.

These factors combine with a cost evaluation (given the 70:30 quality:cost ratio deployed) - tied to 6 cost model projects – to provide different contractor selection options. The contract is primarily built around the NEC3 Engineering and Construction Contract Option C, underpinned by a „harmonised specification” from the previous specifications used by Derbyshire, Leicestershire, Nottinghamshire and Staffordshire. That specification now forms the backbone of the standard specification being offered to the highways industry by the Highway Maintenance Efficiency Programme.

**What Was Achieved:**

- The creation of the Alliance's first Professional Services Partnership Framework (PSP1) which started in April 2011. All the Alliance members can use the engineering consultants URS to top-up internal design services or draw in specialist assistance. This arrangement is based on the previous Three Counties Alliance Partnership which saw £1.1m efficiency savings derived from around £14.5m worth of commissions over 4 years (i.e. around 7.5% efficiency savings).
- The creation of the first highways-based „Skills Academy to upskill existing workforces at both blue and white collar levels, and bring in new recruits to the industry. Initially, supported by Construction Skills and the National Skills Academy for Construction, the MHA Skills Academy is shifting from a project-based academy to a client-based academy and is set to create an Institution of Civil Engineers approved training scheme applicable to all Alliance member authorities.
- A collaborative approach led to substantial savings in 2008 (£700,000 over 3 years) on highway salt in a supply framework (procured by the **Eastern Shires Purchasing Organisation**) for both East and West Midlands local authorities. Further savings are now accruing from a replacement framework.
- A street lighting “lantern” framework is accessible via the **Eastern Shires Purchasing Organisation**.
- Over £16m of efficiency savings since its creation with the potential for much more in the future with the creation of „MSF2” , an enhanced version of MSF1.
- Office of Government Commerce identified Midland Highway Alliance's work as best practice and the MHA has won a multitude of regional and national awards.
- Development of a term maintenance contract toolkit that Alliance members have started to use and, like much of the work that the MHA has progressed since its inception, this has been taken up for national usage via the Highways Maintenance Efficiency Programme.
- The Alliance has been the blueprint for the creation of other regional local highway authority alliances such as the Eastern Highways Alliance and the Yorkshire Highways Alliance.

**Who to contact**

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**Joint Venture (Public/Private)**

This model is distinct from the consortium arrangement in that it involves entering into an agreement with the private sector. A joint venture describes a range of different commercial arrangements between two or more organisations but in this context is a situation whereby the entities create a joint venture company with its own separate legal identity. The joint venture company then enters into a contract for the provision of the services with the local authority.

The shares in the joint venture company can be held in any proportion but are generally held in proportion to each shareholder's investment. A shareholder may, however, have preferential rights attached to its share.

Joint venture arrangements are typically used for the purpose of optimising an operations potential by investing a resource that otherwise would not be available, such as start up or expansion capital. Within the local authority market place this model is likely to suit an arrangement where there is a need for investment in assets, the development of land and/or buildings and/or the provision and delivery of services.

As profit will be made through the joint venture, the new company must be limited by shares. This arrangement is easily understood by the private sector and a company limited by shares is a much simpler structure to enable a change in participants, since a withdrawing or retiring participant can simply transfer its shares to those who remain or to potential new participants.

A joint venture will have its own legal capacity, separate from its original stakeholders. Consequently this allows the joint venture to own and deal in assets, employ people and enter into contracts in its own right. The duration can continue beyond the contract period thus providing the basis of a long term partnership. Joint ventures create wealth based on the performance of its operations and this wealth can be realised through the disposal of shares.

**Advantages**

- The structure has an indefinite life and will provide the basis for capturing long term value and relationships
- Good staff incentive to succeed resulting in higher salaries, bonus payments and share options
- Accesses skills and resources of the private sector
- Can be used to limit the liabilities of the authority
- Flexibility to attract new providers without major changes to structure
- Ability to raise finance off balance

**Disadvantages**

- Lack of public accountability
- May not be attractive to private sector because of perception of lack of own destiny
- Difficulties of matching public and private sector cultures in one vehicle
- General risk of insolvency of private sector partner and discontinuity of service
- The authority's shareholding may restrict the joint venture from making commercially sensible decisions

<p>sheet of the local authority</p> <ul style="list-style-type: none"> <li>• Ability to enter into other contracts and generate other income from external sources and deal in assets</li> <li>• Skilled independent management team can be put in place in new joint venture companies</li> <li>• Local authority may be given “golden share” rights</li> </ul>	<ul style="list-style-type: none"> <li>• Conflicts of interest between Members / Officers of the authority and the joint venture</li> <li>• Potential difficulties in public sector withdrawing from arrangement if required at a later date</li> <li>• Authority may carry liability for financial losses of the joint venture company</li> </ul>
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## CASE STUDY 4 – Staffordshire County Council

### Background

Prior to 2004, highway services in Staffordshire were procured through dozens of price based contracts resulting in significant back office costs and a fragmented supply chain. Procurement processes were prescriptive and process driven resulting in a lack of contractor ownership, integration in the delivery process and limited performance management. In 2004 the 5 year extendable Highway Term Maintenance Contract was let under the Engineering and Construction Contract 2<sup>nd</sup> edition using the Option C Cost Reimbursable Contract. A partnering arrangement was also established using EEC Partnering Option X12. Also in 2004 a 3 year extendable Highway Term Construction Contract was let under ECC using Option C Target Cost and with Partnering Option X12. The highway service operated as „Staffordshire Highways “ in a three way partnership between the Authority and the two contractors.

### What was done and why

In 2009 the Highway Term Construction Contract ended and as part of the transformation of the highway service the partnership between the Authority and the Highway Term Maintenance Contractor evolved to become a single integrated team operating as a ‘Virtual Joint Venture’ (VJV). This approach represented a further development of the collaborative approach to the Contract rather than the traditional contractor-client relationship, in order to deliver better value for money.

A comprehensive Business Process Re-engineering exercise took place to identify opportunities for efficiency improvements as well as reduce the remaining areas of duplication.

### What was achieved

The contract with Enterprise plc is based on a set of core values aimed to bring out the best of the public and private sector in a single integrated team with a fully empowered operations board.

- Combining management from the contractor and client ensures leadership, maximum co-operation, minimum conflict and appropriate governance.

- Staffordshire County Council staff employed in the service has reduced by 12% releasing over £1.3m
- In 2010 the service was recognised by the Midlands Highway Alliance as „an exemplary practitioner of integrated working and at the forefront of collaborative working and best practice “
- Public responses to the highways operation show quality and compliments up and complaints down
- Open book cost management combined with long term incentives for performance facilitates investment, continuous improvement and the introduction of new and innovative technology
- The cost based contract allows savings to be re-invested in the service. This was estimated to be worth £10m in 2009/10 and circa £25m since 2004 compared to a traditional price based contract using inflation indices.

### What is planned

- Continuing to invest in the future via trainee, graduate and apprenticeship programmes
- Development of single integrated quality management, health and safety, training and performance review systems
- Further Invest in work planning and scheduling to improve productivity, reduce costs and carbon emissions
- Work with other organisations maximising use of resources, taking advantage of synergies with other contracts and improving outcomes for communities
- Add value to the waste stream through maximising the value of materials suitable for recycling
- Develop the delivery model to support the „commissioning“ role bringing in other services where value for money can be demonstrated

### Who to contact

David Walters, Regulation and Governance Manager, Built County, Place, Staffordshire County Council: Tel: 01785 854024, Email [david.walters@staffordshire.gov.uk](mailto:david.walters@staffordshire.gov.uk)

### Multiple Provider

In this model the authority enters into a contract with multiple service providers to deliver the various highways related maintenance services for a defined time period. The authority retains a team to manage the contract with the various providers. This offers the benefit of ensuring specialist organisations deliver the relevant discrete highway maintenance service element such as street lighting.

This arrangement is best served by a longer term commitment between the parties and attendant contract duration in order to make the investment worthwhile for the service providers.

#### Advantages

- Engages private sector and allows access to skills and resources
- Commercial and service performance risks may be transferred to private sector
- Maximises ability to build long term collaborative relationships with selected providers and customer / other stakeholders
- No ongoing tendering costs
- Likely to be attractive to specialist private sector with long time frame and repeat workload, maximising opportunity for cost savings and competitive pricing
- Unlikely to be “stuck” with inappropriate service provider for a particular service

#### Disadvantages

- Some potential for “cosy” relationships to develop with resulting issues of probity
- Majority of knowledge transferred out of authority
- More difficult to administer with multiple points of responsibility for various disciplines
- Difficult to develop a consistent “brand” for customers and stakeholders
- Reduces the ability to deliver an integrated service and consistent approach to service delivery
- Difficult to terminate unsatisfactory performance without causing major disruption to delivery of a specialist service
- Transfer of Undertakings (Protection of Employment) Regulations may be difficult to apply because of the “multiple” service provision
- No ongoing competition between service providers. Requirement to implement robust measurement performance regime
- Risk of incorrect specification / definition of service leading to potential for claims in the event of change in service requirements

**CASE STUDY 5 – NOT USED**

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**In-House + Top Up**

In this model the authority delivers certain elements of the highway services in-house and procures other elements of the service via contracts with external organisations, whether it is a single service area or multiple service areas. The amount and type of support procured from the external organisations may be defined as a percentage split of work but perhaps more commonly by type of work.

**Advantages**

- Ability to externalise those elements of the service that are “failing” or would be better provided by another organisation
- Some access to external service providers skills
- Some opportunity to benchmark performance between service providers
- Some risk transfer for service quality and finances to private sector (but only in areas externalised)
- Utilisation of specific private sector skills to complement in-house resources
- In-house knowledge substantially retained

**Disadvantages**

- Limited flexibility in the event of budget / workload changes
- Potential lack of clarity in roles and responsibilities between parties
- Lack of co-ordination of services and potentially an inconsistent “brand” / point of responsibility to customers and stakeholders
- Potential lack of clarity in which elements are to be externalised and why
- Limited risk transfer to the private sector
- Depending on nature and size of workload may be unattractive to private sector
- Impact of private sector on majority of services would be limited
- Limited opportunity to develop partnership working with the private sector and multi-party delivery may inhibit partnership with community and other agencies

## CASE STUDY 6– Dorset County Council

### Background

This describes a strategic public/private sector partnership between Dorset County Council (DCC) and Hanson Contracting. The arrangement facilitated additional resources to be made available when required by the in-house team or the direct award to Hanson Contracting for works where resources or expertise are not available within DCC. In addition, reciprocal working arrangements were established to offer DCC teams the opportunity to carry out works directly for Hanson and their supply chain.

### What was done and why

In 2002 Dorset County Council (DCC) sought a strategic private sector partner to work alongside its in-house contracting division, Dorset Works Organisation (DWO), to deliver the highway maintenance programme.

Hanson Contracting was awarded the seven-year contract which was the first public/private partnership in the UK highways industry.

In 2008, at contract renewal stage, DCC sought an enhanced highway strategic partnership to assist in the provision of:

- Highway structural maintenance
- Major highway improvements
- Carriageway surfacing
- Delivery of the Weymouth Transport Package
- Construction of waste management sites
- Recycling of highway materials

After a rigorous procurement process, Hanson Contracting retained the contract for five years, with the option of a further five years.

The Dorset Highways Strategic Partnership (DHSP) contract began on April 1, 2009 with the mission statement: “To ensure a high quality, value for money service is at the disposal of DCC and all our customers.”

DCC has established a suite of Key Performance indicators which monitor issues across the full scope of the Partnership; these are amended annually to facilitate continual performance improvement

### What was achieved

Dorset County Council has successfully delivered a challenging capital programme which has included an addition £ 11 m being invested in the structural maintenance programme through the prudential borrowing route. DCC has completed the construction of extensive infrastructure improvements prior to the Olympic sailing events in Weymouth with DCC and Hanson teams working through joint venture arrangements. Hanson have established a robust supply chain structure which has enabled all capital works to be

procured through our partnership framework thus significantly reducing tendering costs on both sides. Through the Partnership arrangements DCC has seen a steady increase in reciprocal working, a reduction in reportable accidents and secure Considerate Constructor audit scores well above the national average.

DCC are able to ascertain the competitiveness of its in-house teams by benchmarking operational costs against the schedule of rates submitted by the private sector.

Dorset Highways were awarded the Highway Service Team of The Year 2012 in the Association of Public Service Annual Awards.

### **What is planned next**

To establish a jointly funded apprenticeship scheme, share expertise in establishing full mobile working arrangements across all functions and introduction of recycling centres across Dorset.

### **Who to contact**

Andrew Martin – Dorset County Council

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**Teckal**

The Teckal Exemptions allows for the establishment of a wholly owned public sector company that is able to provide services for public sector bodies and is exempt from European Union procurement regulations.

There are a number of rules which apply if Teckal status is to be achieved:

- The local authority exercises a control similar to that which it exercises over its own departments
- The exercise must be a power of decisive influence over both strategic objects and significant decisions of the company
- The principal part of its activities must be undertaken with the authority and any other activities must have no more than marginal significance

The Teckal Exemption still applies even where multiple contracting authorities share the control over the proposed service providing that the constitution gives decisive influence to the public sector owners acting together. This must include the ability to determine the strategic objectives and significant decisions of the company, with any proposal to move outside an agreed business plan being referred back to the members. The participating authorities must each have the opportunity to appoint a representative to the board.

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Ability to enter into shared services arrangements with other authorities and continue to market test for the life of the arrangement</li> <li>• As a wholly owned company local authority Members can easily remain actively engaged</li> <li>• The councils have flexibility in the way that works are allocated without being concerned about contractual rights. This would not necessarily be the case where services are delivered through external providers.</li> <li>• All profits are returned to the council in the form of dividend or rebate which allows the council to reinvest in other services.</li> <li>• Although good value must be demonstrated open advertising and tendering rules for public contracts do not apply resulting in procurement savings.</li> <li>• The arrangement is relatively straight forward and quick to create.</li> <li>• Can add further services at a future point in time, provided the company is structured to take advantage of the Teckal exemption.</li> <li>• Commercial focus but not sole motive.</li> <li>• Agile - ability to rapidly respond to reduced budgets or changing priorities and be flexible, without financial penalty or commercial renegotiation.</li> <li>• Strong alignment with vision and priorities of parent authority.</li> <li>• Greater ability to align Terms and Conditions to reflect market forces</li> <li>• Significant time and financial savings in procurement</li> </ul>	<ul style="list-style-type: none"> <li>• Unfamiliarity with the potential arrangement - insufficient skills and experience to set up and operate the Teckal arrangement</li> <li>• Lack of resource/funding to establish the arrangement</li> <li>• Lack of suitability of existing systems to accommodate changes</li> <li>• Limited influence from private sector - little access to innovative practices / up to date practice of private sector</li> <li>• Difficulties in retaining specialist resources and skills for “occasional” services.</li> <li>• No transfer of the risk for service quality and financial performance to the private sector.</li> <li>• There is a clear limit on pursuing external commercial activities.</li> </ul>

## CASE STUDY 7– Cornwall Council and CORMAC Solutions Limited

### Public/public partnerships under a Teckal arrangement

#### Background

Cornwall Council (CC) integrated their DLO and design services in 2008, at the same time saving £1.5m in costs. The DLO operation was commercially effective and had secured a number of term maintenance contracts for the authority in open competition. However, CC wished to become a commissioning authority, and at that stage preferred a 'mixed-economy' model. An in-house team was tasked with researching potential delivery models and they visited a number of authorities which included some operating a Teckal company arrangement. In line with most authorities, impending budget cuts and the fight for share in the allocation of scarce resources meant that for CC at that stage "doing nothing was not an option".

There was resistance within the council to externalising the services, and the key drivers were job creation and the support of local SME's. However, outsourcing as an option was still on the table. An extensive options appraisal was carried out with independent external consultant support and the most favourable option was shown to be a Teckal company arrangement.

#### What was done and why

A formal Gateway process was adopted and CORMAC Solutions Limited (CSL) was established as a Teckal company wholly owned by CC. Existing CC staff transferred to CSL under TUPE arrangements. A detailed business case/plan was prepared which targeted a further £3.5m savings from reduced tendering costs and more streamlined overheads. Commitments were made that CSL would utilise existing CC back office services and properties via service level agreements. Services provided include highways maintenance and network management, civil engineering construction and consultancy, environmental services, facilities management, fleet and engineering, and school crossing patrols.

A shadow board was established to oversee a pilot of the arrangement before going live in April 2012 – subsequently a partnership Board with CC and CSL oversee the operations.

Under the Teckal arrangement CSL trades externally (equivalent to a private company) up to a threshold of 20% of its turnover as governed by legislation.

#### What was achieved

In essence the best of the private sector approach has been integrated with a public sector culture to provide a platform for on-going and expanding public/public partnerships, whilst creating a better place to work for CC employees.

The tangible commercial benefits have been significant:

- In addition to the previous cost savings delivered in 2008, CSL has met the business case target of a further £3.5m cost savings

- For the two trading years ending March 2014, CSL on a combined turnover of £176m has returned £11.6m to CC by way of dividend payments from trading profits generated – this is money that would have been traditionally transferred to and retained by the private sector had the services been externalised i.e. now the money stays in Cornwall
- Procurement efficiencies and particularly on aggregates and Tarmac. 250,000 tonnes internally delivered from CSL's Quarry over the two year period with an estimated saving of £2.50/tonne.
- Service level agreements on property etc. have returned £2.7m p.a to CC
- As part the arrangement CSL has absorbed a historic pension deficit in the order of £1.5 p.a.

In addition there are a number of other important characteristics that will enable further commercial benefits to be realised on a repeatable basis going forward:

- CC can commission work faster – far less procurement time – a waste plant facility was commissioned through CSL in a fraction of the time that would have been taken going to market
- On-going saving on tendering costs
- Staff terms and conditions can be aligned with the equivalent private sector levels making allowing CSL to be competitive in the market
- CSL can attract capable staff with the opportunity to operate in a highly motivated commercially astute team – pay structures are not tied to existing CC arrangement in other departments and so incentivised reward mechanisms have been introduced which has allowed CSL to meet all of its operating and financial targets year on year
- Highly successful training regimes equivalent to or better than the private sector have been introduced for staff and operatives
- New industry best practice systems have been introduced for estimating, job costing and accounting
- Extensive support has been provided to local communities through the provision of employment and skills development – CSL has increased the CC local economic footprint
- Engagement of local members has been extensive providing a forum for local decision making and local democratic control

### What is planned next

Due to the extraordinary success of the model CSL is seeking to extend the Teckal arrangement by joining forces with other authorities to create unique Public Sector owned multi-disciplinary service companies – essentially this is where a Teckal is established as a joint venture arrangement between CSL and another authority (or group of authorities) utilising CSL's expertise in already having successfully operated the model and providing the opportunity for other authorities to harness the benefits described above with a significantly reduced risk.

### Who to contact

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**In-House**

Local authorities have traditionally delivered services via “In-House” teams. Although many authorities have externalised services to a greater or lesser degree in recent years, a significant number of authorities continue with the In-house approach.

This model allows for internal provision of the highway services by the authority and staff remaining within the employment of the authority.

**Advantages**

- Authority exercises total control over provision of service – ability to co-ordinate service provision
- Single point of responsibility for service delivery
- Consistent “brand” and point of contact for customers / stakeholders
- All knowledge relating to highways is retained In-house
- Familiarity with process is built up and retained
- Appreciation of corporate objectives and political decision making process by managers and staff
- Consistent approach to delivery of services
- Minimal requirement to manage external interfaces and administer contracts
- Generally no requirement to tender the services

**Disadvantages**

- Lack of flexibility to deal with workload / budget fluctuations and changing future service requirements
- Difficulties in retaining specialist resources and skills for “occasional” services
- Lack of external competition and commercial expertise of private sector
- Less ability to protect long term interests of staff in event of budget fluctuations / changes in practice
- Limited access to innovative practices / up to date practice of private sector
- Little opportunity to develop relationships with external organisations
- External contracts, when required, will require tendering and are unlikely to be attractive to private sector without premium rates
- Ongoing staff recruitment, retention and absenteeism issues for local authority
- No transfer of the risk for service quality and financial performance to the private sector

## CASE STUDY 8 - Northumberland County Council

### Background

Northumberland County Council (NCC) operates a highway maintenance service based upon an in-house service team supported by a number of external contracts and supply arrangements. It maximises the skills and logistical arrangements of employees and depots to provide a resilient delivery vehicle which has the flexibility to respond to routine, major works and emergency situations. It covers a highways network of 5000 km of roads and over 400 structures, undertaking routine highway and winter maintenance, capital works and schemes with an approximate annual turnover of £30m. It employs approx. 180 direct employees based on a three area structure.

### What was done and why

NCC recognised that service delivery should be based on LEAN and has modelled its approach using these principles. Staff workshops enabled processes to be reviewed from „end to end “ensuring improvements in efficiency and more output in real terms from the available budget. Early involvement of the construction teams, a form of ECI, allowed staff to focus on the required outcomes and eliminate issues at the earliest possible stage.

NCC also recognised the benefits of the local supply chain and developed a category management approach to all external contracts, ensuring that where benefits exist in this area they are taken and incorporated in service delivery.

### What was achieved

This approach allowed NCC to regularly deliver a full LTP programme within the appropriate financial year and within the overall available budget allocation. The flexibility of staff and resources were such that significant weather events and the subsequent damage to the asset could be incorporated into immediate outputs. Public satisfaction levels were also increased.

### What is planned next

The next stages allow for further integration of design and construction arrangements setting up a complete one team approach.

Procurement of a long term partner to assist in the supply of materials and delivery of works will assist in maximising the benefits already achieved and allow possible expansion of work areas through sharing of skills and resources. It will develop more appropriate risk sharing in selection of site solutions, a whole life approach to asset management being the underpinning aspect of the delivery teams.

### Who to contact

Andy Rutherford – Northumberland County Council  
Contact details: [andy.rutherford@northumberland.gov.uk](mailto:andy.rutherford@northumberland.gov.uk)

## ALTERNATIVE SERVICE DELIVERY MODELS

- 3.4 There are various alternative service delivery models that are emerging and some local highway authorities will want to consider their relevance further. Whilst they have not been addressed in the Toolkit this guidance provides an insight to these models.

The alternative service delivery models considered here include:

- Trading through a Section 95 Company
- An Employee Led Mutual

### Section 95 Company

Section 95 of the Local Government Act 2003 gave local authorities the powers to “do for a commercial purpose, anything which it is authorised to do for the purpose of carrying on any of its ordinary functions”. The powers can only be exercised through a company.

A Section 95 trading company is suitable for generating 3<sup>rd</sup> party income through contracts as a wholly owned public sector company.

### Employee Led Mutual

An employee led mutual is an organisation that is owned by its employees. The principle of „spinning off “public services into employee led mutuals is a core part of the governments „Big Society“ approach and the Cabinet Office is currently running a number of pathfinder projects to assess their viability and the support and structures that will best enable their development.

There are three main models for employee ownership:

- Direct employee ownership – using one or more tax advantaged share plans, employees become registered individual shareholders of a majority of the shares in their company
- Indirect employee ownership – shares are held collectively on behalf of employees, normally through an employee trust.
- Combined direct and indirect ownership – a combination of individual and collective share ownership

## SUMMARY

- 3.5 It is evident from the above that there are various delivery models that can be used for delivery of the highway maintenance service and it is recognised that one size does not fit all. The use of this Toolkit will enable an authority to identify the model that is most appropriate for the authority’s aspirations based on a wide ranging review of authority facets both internal and external.

## 4 PROCUREMENT PROCEDURES

### INTRODUCTION

4.1 Although this Toolkit does not determine the procurement procedure to be followed, the options available may affect the route chosen. For example extensive dialogue for a private funding project will require the ability to negotiate with providers during the formal procurement. The following paragraphs summarise the various procurement procedures; more detailed guidance can be found in Reference 4. It is important to consider the following factors when determining procurement procedures:

- Identify and establish an efficient, transparent and planned procurement process in accordance with legislative (European Directives) and organisational (standing orders/corporate rules) requirements
- Identify and establish the client team and decision making process needed for the service/project
- Identify any internal and external stakeholder engagement
- Identify project management processes to show progress; demonstrate control; manage risk; deliver required asset management outcomes; and manage associated organisational change
- Identify any gate reviews necessary
- HMEP has undertaken projects that provide advice on Official Journal of the European Union, Pre-Qualification Questionnaire and Instructions for Tenderers as a precursor to inviting tenders for Term Maintenance Contracts. This advice can be found under the HMEP Standard Form of Contract: <http://www.dft.gov.uk/hmep/efficiency/standard-form-of-contract.php>

### THE OPEN PROCEDURE

4.2 All interested parties can submit a tender. Bidders are asked to return tenders by a set date; these are evaluated and contract(s) awarded to the winning party/parties. Contracts are usually advertised using this procedure when the most important consideration is price.

## THE RESTRICTED PROCEDURE

4.3 Comprises a two stage process:

- In the first stage the suppliers need to pre-qualify before being allowed to submit a tender, often by completing a pre-qualification questionnaire. A short list of suppliers is identified.
- In the second stage, suppliers identified at stage one are invited to respond to an Invitation to Tender.

This procedure is most often employed when there is a need to establish whether the firms bidding possess the relevant skills, capacity and qualifications.

### CASE STUDY 9 – Warwickshire County Council (WCC) Background

Warwickshire County Council had let a 7 year highway maintenance contract in 2004 as a target cost contract. The contract was due to end in May 2011.

#### What was done and why

The new 2011 highway maintenance contract for routine and planned maintenance is worth £250m plus over 9 years. It was procured using the Restricted Procedure in collaboration with Coventry City Council and Solihull Metropolitan Council enabling sub-regional working to save procurement and operational costs.

The contract basis is the New Engineering Contract Term Service Maintenance Contract and was awarded to Balfour Beatty with a start date of 5 May 2011 and a contract duration of 5 years with annual extensions based on performance for a possible further 4 years.

#### What was achieved

- Price list for cost certainty
- Closer working together enables opportunities to be reviewed
- Larger volume of work protects the contractor and client from market fluctuations
- Partnering takes time to develop relationships

#### What is planned next

- The working relationship between three Authorities enables maximising the benefits of “Best Practice” from looking at Winter Maintenance to exploring recycling of materials
- WCC can share both commercial and technical knowledge and associated training

## Who to contact

Andrew Savage, Warwickshire County Council

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## THE NEGOTIATED PROCEDURE

4.4 Can only be used in limited circumstances, such as:

- There is only one source of supply
- Where no suitable bids have been received in response to a previous notice
- In the event of an emergency
- The need to replace goods/services on a partial basis

In this procedure the public sector body may enter into contract negotiations with one or more suppliers.

## COMPETITIVE DIALOGUE

4.5 This procedure is used for more complex procurement contracts. Similar to negotiated procedure in that it specifically permits dialogue between the contracting authorities and providers during the stages of the procurement process. It enables contracting authorities to develop specifications with the input of providers, and to assist providers in developing tenders that are responsive to specifications.

The authority negotiates with companies to develop suitable solution(s) and on which chosen companies will be invited to tender. After the dialogue is closed there is a call for tenders and no further negotiation is allowed, only discussion about clarifying or fine-tuning the tender. An award is subsequently made. It should be noted that at present the Government makes a presumption against the use of competitive dialogue (announced by the Cabinet Office in November 2011) except where its use can be justified. The Treasury publication; Infrastructure Procurement Route Map provides more detail (Reference 5).

## CASE STUDY 10 – Kent County Council

### Background

In May 2010, KCC Highways and Transportation began a new journey of procurement regarding the future of current contracts and the re-procurement of the Term Maintenance Contract.

KCC decided that it would follow a new and modern way of procurement, by using the Competitive Dialogue concept, ensuring that a more collaborative solution was achieved with regard to service delivery and payment mechanisms. From the outset, KCC was clear on what success looked like and relayed to the bidders what outcomes were expected, particularly with regard to allocating risk to the most appropriate party, improving value for money by reducing costs year on year and ensuring procurement flexibility throughout the life of the contract.

### What was done and why

The procurement timescale was extremely tight with only a year to undertake the whole process. It was decided to hold a Bidders Day early on to gauge market interest and to ask for expressions of interest. Following the OJEU procedure the 6 most appropriate companies were selected for KCC to engage in discussions. The six companies were then invited to dialogue days where KCC officers and Members explored with each bidder the most appropriate solution to fulfil KCC's future vision. At two stages, the bidders were required to submit written and estimated cost proposals that were then assessed and those companies with the lowest marks were removed from the process. At each stage KCC selected positive proposals, in essence to „cherry pick “ the best ideas. These were built into the final document of KCC's requirements that was priced by the final 3 companies.

As well as scoring their written submissions/proposals, each of the final 3 bidders had to open up their service to scrutiny with two of their existing clients so that KCC staff could experience their actual performance and operation, and discuss each company with their existing clients.

As well as these „sanity check“ visits, each of the final 3 bidders was asked to give a 30 minute presentation to a panel of senior KCC officers and four Members. The presenters were the Management Team that would run the KCC contract if they were successful. The presentation was followed by one hour of questions from the panel and each company was then scored by the panel. These scores were added to their separate score for their priced document and their quality document.

Frequent meetings continued with the Lead Bidder, particularly around mobilisation planning, formalising agreement on leases and some other minor refinements of the contract before they were identified as Preferred Bidder after validation and approvals.

### What was achieved

This method ensured that throughout the whole process, the bidders could „tailor“ their submissions based on discussions with them and any problems or issues could be talked through before the contract started. Although the procurement process was resource intensive for both parties, the time invested in the dialogue sessions ensured

that a good understanding was created between KCC and contractor before the contract was awarded. All bidders praised the procurement process as being efficient and well-managed. As Members were fully engaged throughout, they were also extremely supportive of the process and very satisfied with the result.

### **What is planned next**

KCC Highways and Transportation have just undertaken a procurement process for their Professional Services contract and chose not to follow the competitive dialogue route due to the size and nature of the contract. However, KCC would advocate the process and would undertake this type of procurement on large complex contracts where successfully „developed“ relationships are fundamental at the commencement of a contract and „day one “delivery is absolute.

### **Who to contact**

Kay Groves, Future Highways Programme Manager,  
Contact details [kay.groves@kent.gov.uk](mailto:kay.groves@kent.gov.uk)

**TIMESCALES**

4.6 The legislation imposes minimum timescales for selection and tendering to ensure that all bidders have an equally and appropriate opportunity to express interest or submit a tender for a contract.

Key:

- ECN – Electronic Contract Notice (standard approach)
- ETD – Electronic Tender Documents
- PIN – Prior Information Notice (up to 52 weeks prior to Official Journal of the European Union notice and published for a minimum of 52 days)

Procedure	Receipt of request to participate	Receipt of Tenders	Contract Award Notice (to be published within)
<b>Open</b>	-	ECN: 45 days	48 days
		ETD: 40 days	
		PIN: 36 days	
		PIN + ETD: 29 days	
		ECN + ETD + PIN: 24 days	
<b>Restricted</b>	ECN: 30 days	ETD: 40 days	48 days
		ETD: 35 days	
		PIN: 36 days	
		PIN + ETD: 31 days	
<b>Restricted (Accelerated)</b>	ECN: 10 days	10 days	48 days
<b>Negotiated</b>	ECN: 30 days	Not specified	48 days
<b>Negotiated (Accelerated)</b>	ECN: 10 days	Not Specified	48 days
<b>Competitive Dialogue</b>	ECN: 30 days	Not Specified	48 days

## PROCUREMENT MYTHS

- 4.7 The Treasury Report; Infrastructure Procurement Route Map (Reference 5) dispels a number of myths surrounding public sector procurement particularly around pre-procurement engagement with potential service providers. It acknowledges that such engagement with providers does not compromise EU Procurement Law.

## 5 COLLABORATION

### COLLABORATIVE ALLIANCES & SHARED SERVICES

- 5.1 The Local Highway Authorities Collaborative Alliances Toolkit was published in July 2012 (Reference 6) as part of the HMEP Collaboration theme and can be found at [www.dft.gov.uk/hmep](http://www.dft.gov.uk/hmep) under Efficiency Options. A highway collaborative alliance is regarded for the purposes of the toolkit as a grouping of more than two local highway authorities (LHAs) who carry out joint procurements and/or develop and implement good practices together to improve their efficiency and customer service.

A Shared Services Toolkit was published in March 2013 that will support LHAs in setting up and operating shared service arrangements and can be found at [www.gov.uk/hmep](http://www.gov.uk/hmep) under Efficiency Options. These arrangements will include services from back office to operational services. The advantages of this are:

- benefits and savings through sharing services
- assets and personnel
- reductions in overhead and
- potentially staff and savings on shared services such as winter maintenance

Highway authorities may collaborate in a number of ways by sharing in-house resources or external provider contracts. The arrangements can of course vary but typically there is no binding commitment on the authorities to collaborate, it being a matter of shared interest and benefit to do so.

Collaborative alliances are a method of service delivery, and define the relationships and how service delivery will be carried out. To take the metaphor of a journey, a collaborative alliance defines who is going on the journey and the route to the end destination, but does not identify the best mode of transport to take (the structure and organisational details of service delivery). There are a range of service delivery vehicles which can be used, alongside collaborative alliances, to deliver the service. These should not be ignored, as they can offer a number of different opportunities.

### WIDER COLLABORATION

- 5.2 Collaboration is wider than just service delivery as various authorities have combined their procurement process yet remained independent in letting a contract. The efficiency and effectiveness of collaboration is well recognised throughout the Local Highway Authorities Collaborative Alliances Toolkit.

Authorities can collaborate through joint procurement to reduce cost and increase efficiency.

## **CASE STUDY 11 Procurement Collaboration – Cheshire West and Chester Council with Shropshire Council**

### **Background**

#### Collaboration with Shropshire Council

Cheshire West and Chester Council's contract ended in 2012 and a replacement was required. Past experience had shown that contract development is expensive, both on internal staff resource and when needed on external expertise. To take the opportunity to develop an innovative contract and selection process requires skills that many authorities no longer have or if they do, these skills have been diluted by a drive for slimmer staffing structures.

It was therefore a requirement that the partner authority needed to be willing to share cost and ideally have complementary skills sets in contract development, assessment and ongoing management.

In addition through extensive analysis and soft market testing it was apparent that contractors see significant benefit in bidding for collaborative contracts, economies of scale, and are able to pass those efficiency benefits on in the form of lower prices.

A collaborative process of tendering the contract was seen as a mechanism for addressing these issues.

### **What was needed and Why**

In practice for this to work, it was realised that any partner would need to be local, willing to collaborate with each other and be on a similar procurement time frame.

A review was undertaken of neighbouring authorities with a view to collaboration to identify suitable authorities and discussions were held with a number of these authorities. For many, given the time scale of their current arrangements, any interest they had was expressed in collaborative procurement in the future. Taking this on board provision was built into the tendering process to allow neighbouring authorities to make use of the contract should they wish to do so. When considering collaboration, each authority would need to be satisfied that there would be mutual benefits, a reduction in tendering costs and a saving in tendered rates.

In undertaking this exercise, Shropshire Council was identified as one of the few authorities that met these mutual requirements. Shropshire Council has similar Highways and Environmental maintenance requirements to Cheshire West and their existing contract at the time expired within 6 months of Cheshire West's.

There were well-established informal relationships between Shropshire Council and the Authority at officer and Member levels, which have led to a shared recognition of the potential benefits of collaboration. There was also an acknowledged in depth skills compatibility that could be drawn on in developing contracts and the same management system was used in both authorities.

Three potential stages of collaboration were considered, each of which is an extension of the previous stage. These stages were actively explored and provided a route map for the collaborative working. The stages are summarised below:

1. Informal collaboration (Two separate Tender packages)
2. Single Tender Package (But with two separate Contracts "Lots")
3. Single Contract (Single Contractor win both "Lots")

The approach using two separate Contract "Lots" was deemed politically acceptable as contract award was made on an individual Authority basis. Contractors were encouraged to bid for both contracts and to highlight any savings that would be achieved if successful in both.

Teams for the various specialist work areas were developed ensuring that the skills compatibility was maximised. Where external expertise was needed, it was bought in with the costs shared. Joint working involved active and constructive dialog regarding the contract requirements. Current arrangements and methods of working were challenged which resulted in agreed and efficient requirements being incorporated into the contract documents.

## What was achieved

### Tendering Benefits of Collaboration:

- Significant savings in contract review and development
- Sharing of best practice between authorities
- Improved documentation through the added experience and joint
- in-house skills
- Learning and skills transfer through the process
- Resulted in lower prices arising from both "Lots" being awarded to same Contractor
- Joint Evaluation of Tenders reduced costs
- Shared procurement costs - cost halved
- Common approach, simpler technology again reduced cost

### Operational Benefits:

- Contractor is able to streamline their management processes by channeling work from both contracts through a single contract system
- The availability of other resources in a neighbouring authority
- Sharing operational solutions and ways of working
- Sharing cost of external expertise when required
- Ability to share working priorities and best practice on an on-going basis
- Contractor's ongoing investment in system's is halved
- Shared development fund

- Shared approach to Cultural Change / Partnering

#### What is planned next

- An integrated client team, with expertise in the management of maintenance and improvement activities will manage the contract.
- Consideration is given to the integration of other client teams

#### Who to Contact

Kevin Carrol, Highway Manager, Cheshire West and Chester Council

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### BS11000 COLLABORATIVE BUSINESS RELATIONSHIPS

- 5.3 It is recognised that in business, as in other walks of life, teamwork can pay real dividends. Organisations that work together can often achieve much more than they can achieve alone. BS11000 Collaborative Business Relationships (Reference 1) provides a framework to help organisations develop and manage their interactions with other organisations for maximum benefit to all enabling them to work together most effectively.

BS11000 uses an eight stage approach and the framework is designed to enable organisations of any size and sector to apply best practice principles to its own ways of working, to get the very most out its business relationships. It highlights the key elements for success and provides a common life-cycle based route map which allows ease of integration into an organisation together with a measurable platform to monitor progress. It provides the foundation for developing sustainable relationships and harnessing collaboration through the adoption of the standard's principles.

The Client/Provider Collaboration Toolkit and the Shared Services Toolkit explore in some detail the applicability of BS11000 in highways maintenance.

## 6 INITIAL CONSIDERATIONS

6.1 This section highlights some key initial considerations that the authority may wish to consider at the outset of the procurement process before embarking on any assessment of future delivery models. Each headline factor has a set of thought provoking issues that should form the basis of any procurement process. Some issues will be readily dismissed whilst others will be a concern that requires resolution.

### 6.1.1 Timescale considerations including extension options:

- Reduce timescale of procurement
- How confident is the authority in keeping to the prescribed programme?
- Timing - the market has a finite capacity to tender just as an authority has a finite resource. It is important to avoid periods just before or just after elections due to the constraints and or uncertainty that these create; the difficulty of holiday periods must also be taken into account
- There will be changes which impact on the performance of the service and or the requirements of the service over time; should the contract be able to accommodate such changes

### 6.1.2 Pre-determined delivery model:

- Has the Authority already determined the delivery model it wishes to use?
- Are there functions that it is essential for the authority to retain?

### 6.1.3 Political aspiration:

- Public perception - is public satisfaction politically sensitive? If public perception of the service is critical then emphasis needs to be placed on those contractual methodologies which will support customer-centric services
- Local supply chain - are there any extraneous outcomes desired from the procurement process, for example in regions of low unemployment is there a desire to influence the work directed to, and delivered, by the local supply chain?
- Is there a need for the local supply chain to be up skilled?
- Is the incumbent service provider performing poorly such that public perception of the service is low?
- Is there a need to create apprenticeships for young unemployed, a need to retrain a large workforce or a need to address long term unemployment?
- By retaining control the authority is trading potential efficiency improvements and innovations driven by commercial imperative against

its ability to directly influence outcomes. This is a key question as it determines whether an authority wishes to outsource responsibility for delivery of the service, or whether it wishes to retain certain functions or responsibilities.

- Localism / Big Society - is there a political will to engage other stakeholders in delivery of public service? This may include or to the third sector.
- Is there a political will to pursue prudential borrowing?
- Is there a political will to seek private investment?
- The service to be procured may well change in terms of requirements over time and the need for change may vary from changing political climate, changing demographics, service enhancements, desire for continual improvement or need for transformational change
- Is public engagement critical to maintaining public satisfaction? (i.e. is there a need to tune the service that is provided to meet the needs of different communities within the authority, i.e. spend needs to be finely tuned/carefully planned in order to satisfy most of the people most of the time).

#### 6.1.4 Is access to funding required?

- Is capital investment required? - this question seeks to differentiate between the desire and the imperative to resolve the backlog of capital funded work typically following sustained periods of underinvestment
- Does the authority have assets that are underdeveloped and which could be used to generate income, e.g. depots, workshops, etc.?
- Is additional funding needed to meet operational costs?
- Can additional capital funding be obtained through prudential borrowing?
- Is there opportunity to make use of developer funding or TIF?
- Need for external income - opportunities to generate income always seem attractive but there are consequences. Creation of a new contractual relationship provides opportunities to create value. These questions seek to ascertain the degree to which the additional revenue is desired / needed.

#### 6.1.5 Business case defining strategic requirements, approach, targets and affordability:

- Is the budget stable or declining?
- Is the local supply chain capable of delivering efficiently and effectively?
- Is the network investment backlog severe?
- Is the authority's overhead higher than its peer group e.g. using NHT benchmarking as a guide?

- Does the authority need to make significant change to internal processes in order to reduce cost?

### 6.1.6 New ideas tested with market:

- Is there an opportunity for the service to do different things or to do things differently?

### 6.1.7 Value for money – cost effective:

- Need to know costs - this is an enabling activity as a route to delivering value for money
- Need to minimise overheads - this question ascertains the degree to which the authority itself wishes to change. If it does then the type of outsource provider and the relationship with the outsourced provider moves from technical ability to more sophisticated alliance and cultural competence to understand, provide and develop the service in line with the needs of the council
- Is there a complete asset management plan?
- Does the authority need to make significant internal change to reduce overhead?

### 6.1.8 Contract break point/When the existing contract finishes:

- Is performance such that termination of the existing arrangement is justified sooner rather than later? Is a convenient break point in the contract to be considered to suit all parties?

### 6.1.9 Politics:

- Political givens such as retain control, must be collaborative and must reduce costs
- Political influences such as funding, localism, timescale, risk, carbon, Member Champion
- Political outcomes/aspirations such as enhancing reputation, improving contract performance, getting better value for money

### 6.1.10 Opportunity for more integrated service, sharing services and/or collaboration with others;

- Is there a political will to engage the wider society in delivering public services?
- Does the authority desire alliance or partnership relationship?
- Are there other authorities going to market at the same time and if so can you collaborate on procurement or share services? If procuring independently and there are more than 3 major procurements happening at the same time can procurement be deferred?

- Do you wish to provide control through management of input or specification of outcome?
- Does the authority want project management or project sponsor role? Are there market trends in terms of procurement models that are delivering consistent results, if so what are the aspects of these trends and models? Do these aspects match with the authority's circumstances and objectives?

### 6.1.11 Volume/value of work to be included:

- Scope of work needs to be considered and hence both volume and value. This will define "attractiveness" to the bidders and could dictate contract term
- Is the scope of the service to be procured defined and fixed?
- Resource flexibility - is the network small or geography remote such that resources need to multi-task?

### 6.1.12 Timescale for getting asset data up to date:

- Is there a need to bring asset data (including condition data) up to date and how pressing is this?

### 6.1.13 Identify risks:

- Value for money / affordability - identify whether the available budget is a significant influence on the procurement decision
- Are the relevant stakeholders/interested parties already engaged? it is a risk to use a new contract to generate this interest, a new contractor could well exploit existing interest generated by the authority in discussion with stakeholder groups, but there would need to be confidence that this was acceptable politically and culturally
- Do you have a strong existing commercial capability?
- Is a step change in performance required in either service or network condition?

### 6.1.14 Identify benefits:

- Establish the benefits to the authority of the proposed procurement choice.

## 7 ASSESS INFLUENCES

### INTRODUCTION

- 7.1 The “influences” are those issues that currently affect highway maintenance services such as low levels of customer satisfaction or constrained budgets. Some influences may be local whilst others are at a national level. This section describes the core influences to give background on the issues that need to be taken into account when identifying the need for change from the current service delivery model. Each core influence has a variety of comments assigned to it in this guidance document and these have been used to generate specific challenges in undertaking the “Need for Change Assessment”. This then forms the basis for the Need for Change Assessment Tool and its use is clearly explained together with a description of the output in the next section.

### THE CORE INFLUENCES

- 7.2 In assessing the influences that are deemed key to determining the need for change, 9 core influences have been established as follows:

#### 7.2.1 Procurement, Contracting and Standardisation:

- a) Are you content that your existing delivery model makes the most of current market conditions?
- b) Do new procurement methodologies exist which are likely to result in a better deal for the authority?
- c) Are more flexible contracting arrangements available that are likely to result in a better deal for the authority?
- d) Would your authority benefit financially from greater standardisation of the service requirements in line with other industry clients?
- e) Are you aware of the impact of your current contract on the supply chain community?
- f) Does your current model get the best out of the wider supply chain?
- g) How can you best deliver the following:
  - routine/reactive maintenance
  - preventative/structural
  - integrated transport schemes
  - Network management including street works
  - Public interface including crossovers and claims
- h) How much duplication of effort do you wish to retain or afford to ensure quality of output?
- i) How will innovation and “new” be introduced?

- j) What level of contract flexibility or change mechanism do you require in the contract?
- k) Are you aware of the timescale for procurement?
- l) Are you aware of the requirements of European Procurement Directives; Official Journal of the European Union procedures; Local Standing orders?
- m) Have you considered the contract duration? Would you consider a longer term contract to allow an investment return to be realised?

### 7.2.2 Collaboration and Shared Services:

- a) To what extent do you currently benefit from collaborating or sharing services with other clients for the procurement of highways maintenance?
- b) To what extent do you currently benefit from collaborating or sharing services with other clients for the delivery of highways maintenance?
- c) Do opportunities exist to join or form collaborative alliances or to share services?
- d) Are you currently part of a collaborative alliance?
- e) Can systems, contracts, processes be shared?
- f) Can the team be widened to include other authorities?
- g) How does the supply chain fit into the team?
- h) Have you considered working with others to determine the best solution to reflect market trends? Use peer reviews to evaluate the potential for:
  - alliance
  - joint venture
  - own contract but joint management
  - working with adjacent authorities

### 7.2.3 Asset Management:

- a) Do you have the inventory and condition data to manage the key assets in accordance with the Highways Asset Management Plan (HAMP) to define your approach to highways maintenance?
- b) Can you share information technology systems?
- c) Is there anything additional that needs to be collected?
- d) Will the client or the service provider manage the data?
- e) Will the asset be managed based on strategic asset management and maintenance prioritisation hence proactive (preventative) or reactive?
- f) Who is responsible for supplying depreciated replacement costs in Whole of Government Accounting?
- g) Do asset plans transcend the contract timescale providing clients with the long term view?

- h) Does your contract address the issues raised by the principles of "Going the Distance" (Reference 7) and the Pothole Review (Reference 8)?

## 7.2.4 Benchmarking and Performance Improvement:

- a) Have you reviewed current contract performance?
- Does it offer value for money?
  - Does it fulfil your objectives?
  - Do client constraints impact on your ability to achieve your targets?
  - What do the contract key performance indicators deliver for you?
- b) Level of service:
- Is the level of service required formulated and set down as approved policy?
  - Do you require this level of service to continue or is it likely to change in the future?
  - Will level of service be traded against affordability?
- c) Measurement:
- Do you measure performance, level of service, inputs, and outcomes?
  - Is the difference between contract and operational performance recognised, measured appropriately and reported at the right level/
- d) Do you benchmark your performance to compare your achievements?
- Do you use local variants and could they be changed?
  - Does the contractor benchmark nationally e.g. through Highways Term Maintenance Association?

## 7.2.5 Corporate strategy and objectives:

- a) Have your corporate strategy and goals changed since you last let a contract where the change must be reflected in the new contract?
- b) Does the service being delivered through the current contract meet current and future expectations?
- c) Has the shape of the authority changed such that the new contract needs to be aligned differently?
- d) Is there evidence that the current contract delivers the required outcomes?
- e) Is the new contract an opportunity for a step change in delivery?
- f) Is localism a priority such that the involvement of small medium enterprises; local labour market; apprenticeships; Parish Council is key to acceptability and success?

- g) Is identity important or is a fully integrated team the ideal?
- h) Is carbon accounting and sustainability important or nice to have?
- i) Do you want to reflect market trends?
- j) Will the contract proposal meet your objectives?

### 7.2.6 Public Perception

- a) Does the authority participate in the National Highway Survey?
- b) Is the authority in the top quartile of the National Highway Survey?
- c) Is public satisfaction with the service a priority issue that is currently at an acceptable level? Does it enhance the reputation of your authority?
- d) What is your Members perception of the existing contract, be it good as it works or bad as it appears not to work
- e) Is it acceptable to simply retain existing service as you do not need change?
- f) Do you need to reduce external or internal involvement?
- g) Do you need to reduce internal costs?
- h) Do you need to reduce external costs?
- i) Have you considered working with others to determine the best solution to reflect market trends? Use peer reviews to evaluate the potential for:
  - Alliance
  - joint venture
  - own contract but joint management
  - working with adjacent authorities
- j) How much do you wish to retain control of delivery?
- k) Would the future election timescale or the term of office of your Council be a time constraint of your procurement process?
- l) Will restrictions in legislation, procurement processes or local standing orders be a constraint on your contract procurement?

### 7.2.7 Value for Money/Affordability/Finance

- a) Value for money:
  - Do you understand what value for money means to your Authority?
  - Does your current contract provide value for money?
  - In what areas do you not get value for money?
- b) Costs:
  - Are the costs clearly identified and understood by all parties?

- Does each party know its costs so that totality of contract cost can be determined?
- As with performance have you compared your costs with similar authorities on an end to end basis?
- Do you operate your contract as a lump sum, schedule of rates, actual cost or a mixture of all?
- How is risk costed?
- Are prices, especially oil based commodities, indexed in an equitable manner?
- Do you want to seek an additional income stream to reduce costs?

c) Spend/Budget:

- Is there certainty of future budget or just anticipated spend levels and is there a minimum spend level available?
- How are contingencies covered?
- Do your suppliers understand budget provision and contract affects?
- Do you apply asset management principles to establish a longer term works programme, say 5 to 10 years, with approved funding?
- Does your proposed spend level enable delivery of the required level of service?

d) Investment:

- Is capital investment required through the life of the contract?
- Has a contract period been considered?
- Is major investment in the network required?

e) Affordability:

- How will affordability be viewed and managed?

## 7.2.8 Governance:

- a) Have you defined the scope of the client function to be retained in managing the contract?
- b) Have you declared the roles and responsibilities of the client team in ensuring that the correct level of competence is applied?
- c) Do you wish to determine at which level the client will retain control of service delivery?

- d) Do you wish to consider the level of contract flexibility required hence translate that into a change mechanism in the new contract?
- e) How will innovation and “new” be introduced?
- f) Is brand identity important or is a fully integrated team the ideal?
- g) How does the supply chain fit into the team?
- h) Can the Team be widened to include other authorities?
- i) Do you wish to reduce review the level of duplication of effort applied in ensuring quality of output?
- j) Are small medium enterprises (SMEs) a key consideration in drive for value within the local economy?
- k) Has any legislation been introduced that will require change to your existing contract?

### 7.2.9 Scope

- a) What developments have occurred nationally that should be considered e.g. HMEP outputs?
- b) Do you want to reflect market trends?
- c) Have reviewed the current contract content and determined if it is configured in line with your requirements?
- d) Do you need to improve public satisfaction?
- e) You need to determine how best to deliver
  - i) Routine/reactive – generally revenue funded
  - ii) Preventative/structural – generally capital funded
  - iii) Integrated transport schemes - generally capital funded
  - iv) Network management including street works
  - v) Public interface including crossovers and claims
- f) Do you have any financial cut-off points that need to be taken into account?
- g) Does the authority own plant and depots that should be updated or direct labour organisation resources that are to be retained?
- h) Is the new contract an opportunity for a step change in delivery?

## 8 NEED FOR CHANGE

### HOW TO USE THE NEED FOR CHANGE ASSESSMENT TOOL

8.1 For each of the 9 core influences described above there is a set of questions /statements for the user to address. The user is required to consider how their experience of the current service delivery aligns with current thinking and indicate current state by answering the question against one of three categories:

1. Yes
2. Some/maybe
3. No

The software will total the individual core influences and determine the percentage fully, partially or not aligned with current thinking. Similarly it will produce an overall total for all core influences giving a composite percentage. During this phase there is opportunity for the user to add their own description against any of the 9 core influences and to mark accordingly.

The fully, partially or not aligned output gives a measure of the need for change based on the current delivery model.

8.2 There is further opportunity for interaction as the user can select to weight the scores of the output by adding their own weighting to the 9 core influences. If all influences are considered of equal importance the user will do nothing, however if the user considers some are more important than others they can add a weighting from 1 to 10 with 10 being very important. The output is then calculated based on the weightings given and provides a measure of the need for change based on the current delivery model and level of importance of the core influences to the user.

8.3 The output from above therefore provides:

- a) Summary showing overall position
- b) Weighted summary if the user selects this option
- c) Ability to review where need for change has been highlighted

## 9 EXPLORE OPTIONS

### EXPLORE OPTIONS

- 9.1 Having identified the need for change in relation to the current service delivery model the user can now explore the options that are available and most likely to suit user requirements.

The software will provide a series of questions against each of the core influences and the user is required to mark on a scale from 1 to 10 using the slider bar. The scale is described for each question and the user simply considers where they wish to be in relation to the new service delivery model and to select the number using the slider. As the slider is used, pop up boxes will appear against certain questions giving more advice or describing a constraint. There is a box for free text entitled „justification“ and the user is advised to state why they have selected this number. This will allow the user to review at a later date particularly with regard to preparation of a committee report.

### SELECT OPTIONS

- 9.2 The software behind the Tool takes the user inputs to detailed questions/statements in the 9 core influences and generates delivery model options in the most advantageous order to affect the inputs provided by the user based on advantages and disadvantages of the models and the users scoring input.

Each service delivery model on the web based Toolkit has been awarded a score on the basis of how much each model satisfies the individual criteria. These scores can be seen against each question by clicking on the ‘compare delivery models’ box.

The preference order is based upon those models that are more likely to address user requirements by the model score being equal to or more than the user score against each question/statement. This will be output as a preference order from which the user can select those options to be progressed to the next stage.

Having completed this exercise it is likely that certain models will now be excluded from the list of options for a number of different reasons such as time constraints, funding needs etc. Further refinement of those models that demonstrate alignment with meeting those requirements that are more important to the authority, will therefore be required.

## 10 EVALUATE OPTIONS

10.1 The final section requiring user input is totally user driven and will enable evaluation of the options selected through use of the Toolkit against a number of criteria/key drivers that the authority believes will deliver their needs for future service delivery.

These can be based on the authority's strategic (corporate) objectives, a set of key core drivers/influences or use of any other desired criteria.

The best way to conduct this exercise is to engage with a senior team of officers from the Authority in order to both determine the evaluation criteria and agree via consensus the score to be awarded to each model. Where possible the senior team would include the Chief Executive, the director of the service and Member involvement via the portfolio holder. It will be necessary to limit the number of participants to approximately 6 people otherwise consensus becomes too problematic. Conducting such a workshop will guarantee buy-in at a senior level to the final model selection.

An example of such criteria is shown below:

1. To promote the local economy and be visible
2. To deliver value for money
3. To deliver flexibility and minimise the impact of change
4. To enhance the authority's capability and capacity
5. To meet performance requirements for the assets
6. To promote regional collaboration at all levels

There is no set number of criteria however it is likely that between 5 and 8 is a manageable number. The options can be assessed against the set criteria using the following suggested scoring mechanism:

Score	Will the criteria be met
1	Not at all
1	Partially only
2	In some respects
3	In most respects
4	In all but minor respects
5	In all respects

10.2 On line the user can:

- Download an Evaluate Options template as an Excel spread sheet together with the example in 10.6 below as an Excel spread sheet.

- Use and amend an interactive on line version of this example to carry out the evaluation of options for the route and then save it.
- 10.3 It should be noted that the specific risk allocation and operation of any one model will be determined by the contract structures that underpin each.
- 10.4 The options are evaluated against the criteria set by the authority and not through the Toolkit software provided. A simple example tabular format is shown below as to how each of the models is evaluated against the criteria established above then the scores are summarised below and total calculated.
- 10.5 Further advice on Options Appraisal can be found for example in: The Guide to procuring local authority transport Schemes and services by CIHT/4Ps (Reference 4).
- 10.6 The following Tables are examples based on the web based Toolkit identifying a strong preference towards the retention of an in-house service – „in-house“ or in- house plus top up“ . However, in each example the user has refined the „top up“ element by considering „top up“ via a single provider or by multiple providers based on either geography or function. The User must complete each column in order to establish a preferred option.

Model: In-House Provisions		
Criteria	How Model Meets Criteria	Score
Promote local economy	Council employs local people, thereby contributing to local employment opportunities. However, extent of opportunity limited due to reducing budgets and workload.	2
Deliver value for money	No requirement to pay profit or contribute to corporate office overheads. However, less commercial tension and ability to access private sector skills transfer and commercial focus.	3
Flexibility and impact of change	Council takes the risk of fluctuations in workload and other change e.g. legislation.	2
Build Council capability & capacity	Provides for strong in-house team but less opportunity for innovative thinking / new techniques and skills transfer from the private sector.	3
Meets performance requirement of the asset	Able to meet most performance requirements but some limitations around specialist services.	3
Regional collaboration opportunities	The Council has identified the potential for sharing in-house skills with neighbouring authorities on a specialism by specialism basis.	4

**Table 1 Model: In-House Provisions**

Model: In-House plus Single Top-Up		
Criteria	How Model Meets Criteria	Score
Promote local economy	Maintains significant element of work in-house thereby providing local employment opportunities but a larger single service provider may result in an increased proportion of work being delivered out of the region.	1
Deliver value for money	Enables the Council to access top-up services when required thereby reducing element of idle time for its own staff. Less ability to benchmark and access other providers.	3
Flexibility and impact of change	Top-up arrangements enable the Council to resource up to base workloads and access external resources as required. Single provider may provide less flexibility than multiple providers.	3
Build Council capability & capacity	Builds a strong in-house team with access to some external provider skills enabling an element of knowledge sharing and skills transfer.	4
Meets performance requirement of the asset	Able to meet virtually all performance requirements but some limitations around specialist services likely to remain as scope unlikely to attract „large “providers.	4
Regional collaboration opportunities	Whilst regional collaboration opportunities exist the service provider likely to push for work to be delivered by their own teams as opposed to neighbouring authorities.	3

**Table 2 Model: In-House plus Single Top-Up**

<b>Model: In-House plus Multiple Top-Ups</b>		
<b>Criteria</b>	<b>How Model Meets Criteria</b>	<b>Score</b>
Promote local economy	Maintains significant element of work in-house thereby providing local employment opportunities. Multiple providers also likely to be local due to scale of opportunity.	3
Deliver value for money	Enables the Council to access top-up services when required thereby reducing element of idle time for its own staff. Ability to benchmark and compare with other providers.	4
Flexibility and impact of change	Top-up arrangements enable the Council to resource up to base workload levels and for external providers to take risk of fluctuations.	4
Build Council capability & capacity	Builds a strong in-house team with access to some external provider skills enabling an element of knowledge sharing and skills transfer.	4
Meets performance requirement of the asset	Able to meet all performance requirements through direct engagement with specialist providers where needed.	4
Regional collaboration opportunities	Whilst regional collaboration opportunities exist the service provider likely to push for work to be delivered by their own teams as opposed to neighbouring authorities.	3

**Table 3 Model: In-House plus Multiple Top-Ups**

As a result the authority will rank the options available as shown in Table 4 below and generate a preferred delivery model having reviewed risks and benefits. In some circumstances it may produce multiple options of equal status and further evaluation will be required.

Delivery model options	Promote local economy	Deliver value for money	Flexibility and minimise impact of change	Enhance authority's capability & capacity	Meets performance requirement for assets	Promote regional collaboration at all levels	TOTAL
In-house	2	3	2	3	3	4	<b>17</b>
In-house + single top-up	1	3	3	4	4	3	<b>18</b>
In-house + multiple top up	3	4	4	4	4	3	<b>22</b>

**Table 4 Summary Table ranking options**

The authority may also wish to undertake a sensitivity assessment by weighting each assessment criteria from 1 to 10 and entering the agreed weighting for each criterion into 5 below:

Criteria	Weighting (1 to 10)
1. to promote the local economy	4
2. to deliver value for money	6
3. to deliver flexibility and minimise the impact of change	7
4. to enhance the authority's capability and capacity	3
5. to meet performance requirements for the assets	10
6. to promote regional collaboration at all levels	

**Table 5 Weighting of Criteria**

In the above example criteria 4 has a weighting of 3 and criteria 2 a weighting of 6; therefore the need to "deliver flexibility and minimise the impact of change" is considered twice as important as the ability "to enhance the authority's capability and capacity".

Applying the weightings as shown above would have the following effect on the total scores:

Delivery model options	Promote local economy	Deliver value for money	Flexibility and minimise impact of change	Enhance authority's capability & capacity	Meets performance requirement for assets	Promote regional collaboration at all levels	TOTAL
<b>In-house</b>	8	18	14	9	30	20	<b>99</b>
<b>In-house + single top up</b>	4	18	21	12	40	15	<b>110</b>
<b>In-house + multiple top up</b>	12	24	28	12	40	15	<b>131</b>

**Table 6 Weighted Scores of Selected Options**

In this particular example the sensitivity analysis has no effect on the preferred model to be selected.

**CASE STUDY 12 – Hertfordshire County Council (HCC)**

**Background**

Hertfordshire is responsible for about 5000 km of roads. It is one of the most intensively trafficked networks in the UK; stakeholders agree that it is a fundamental driver of local prosperity, needing both investment and a rigorous approach to value for money.

In early 2008, HCC extended its main highways contracts to their maximum extent (30 September 2012), on the basis of guaranteed efficiency savings. In autumn 2008, the financial crisis hit, and by spring 2009 it was clear that long term financial prospects had worsened radically. Allowing 21 months for procurement and 6 months for mobilisation, HCC's highways team had about eight months to get approval for a service design and contract strategy.

**What was done and why:**

HCC searched for contract strategies being used or proposed for highways services. An initial evaluation of each one's key features against HCC fundamental values reduced 17 options to four. These were assessed against their effect on fixed costs and risk cost, assigning cost impacts by budget area to six main differentiating features: economies of scale, contract duration, exposure to competition, client staff numbers, number of internal interfaces, and service risk. A parallel exercise evaluated the service features of each model.

At this point, a strategic workshop with leading Members and interested Chief Officers was used to test the evaluated consequences of choosing each of these four options – for example, how much cost could be devoted to supporting local Members and communities, and how fixed in stone that decision should be. The structural options which favoured either side of these choices were not disclosed to the workshop. The workshop output comprised six critical success factors for the future service: 20% cost savings, cost and performance management, flexibility, customer expectations, reliable systems, and fewer people. These CSFs have become universal shorthand for what the new service is about.

Post-workshop work involved devising two variants – a core-contract-with-frameworks model and a form of MAC – which, with the original four, underwent a fuller financial and service evaluation – including assessments of the cost of procurement itself, and of implementation risks. The result was a narrow but clear decision in favour of a flexible core contract with frameworks to provide competition, and an option to either convert to a MAC, or change more radically, at various stages in the contract life cycle.

### **What was achieved**

The work shaped the procurement of six contracts and frameworks – two by Competitive Dialogue, four by Restricted Procedure – and a major restructure of the HCC team from approximately 230 people on five fixed sites to 121 working flexibly from one main site. The new service was inaugurated on time on 1<sup>st</sup> October 2012. CSF targets, including cost, will be met.

### **What is planned next**

- Complete implementation and iron out the inevitable bugs in the system
- Review performance against the CSFs, and against changing financial and service conditions: formal review at 3 years to decide whether major adjustment is needed

### **Who to contact**

Vince Gilbert, Head of Highways: [vince.gilbert@hertfordshire.gov.uk](mailto:vince.gilbert@hertfordshire.gov.uk)

## 11 POLITICAL ACCEPTABILITY

- 11.1 It is vital for any authority that they gain political acceptability to the chosen delivery model and at this stage it is anticipated that the authority (officers) will have a Member briefing. The purpose of the briefing is to obtain approval to inform and determine the market appetite for the delivery model and procurement route that has been selected. The value of justifying responses to both the “need for change” and “explore options” is the ease of generating the reasons and rationale for the choices made and their presentation to Members.

## 12 MARKET APPETITE

- 12.1 It can be assumed that the “market” has an appetite for any contract that has to be procured however the parties involved will be driven by scope, length of contract, value, other opportunities and investment/benefit ratio of procurement. Authorities should determine market appetite through “soft market testing”. This can be achieved by discussing procurement and delivery proposals with the current service provider and other known industry contacts that are likely to be deemed interested. An imperative at this stage is to be clear on the risks and benefits that will accrue to each party if the preferred model is pursued.

### CASE STUDY 13 – Gloucestershire County Council (GCC)

#### Background

The existing contract has no further opportunity of extension however some of the key facts related to the contract are as follows:

- Partnership established on 1st April 2006
- Budget average to date £38m pa
- 5 Year Contract now extended to 8 years
- 300 staff (1/3 GCC – 2/3 Atkins) based in:
  - 1 Central office
  - 3 Area offices
- All schemes up to £500k included
- Design and supervise schemes over £500k

#### What was done and why

To test the interest and appetite of the market GCC went through:

- An invitation to dialogue through a question and answer along with 1 to 1 meetings.
- Interaction through an industry day and through individual contacts.
- Interaction through discussion and visits with fellow clients to learn their experiences.
- Interaction with learned societies such as CIHT, HMEP etc.

All this provided GCC with an understanding of risk appetite, scope of services, form of contract and type of payment mechanism.

### What was achieved

Through interaction with industry GCC were able to get a better understanding of what industry could deliver. As a result GCC could determine how best to package the works and the most suitable contract type.

### What is planned next

As GCC move ahead along the procurement route GCC will:

- Issue the OJEU notice
- Issue the PQQ
- Draft the ITT

### Who to contact

Mark Darlow-Joy, Gloucestershire County Council  
email: [mark.darlow-joy@gloucestershire.gov.uk](mailto:mark.darlow-joy@gloucestershire.gov.uk)

## 13 PRODUCE COMMITTEE REPORT (POLITICAL OUTPUT)

- 13.1 Having undertaken all of the above the client should have all the background information and process data available to produce a report for the appropriate committee. A key element of this process in using the Toolkit is for the user to complete the “justification” box as to why a particular score was given against a question/statement. This input together with the advantages and disadvantages of the delivery models will facilitate writing of the committee report.
- 13.2 The report will be tailored to suit individual authorities and their standard report format however it is likely to include the following:
- Introduction
  - Approach – use of Toolkit; assumptions made for the authority and local circumstances: any initial considerations
  - Options considered based on Toolkit output – use justification statements made by user to explain rationale
  - Benefits – refer to advantages of the delivery model selected
  - Risks – relate this to the disadvantages of the delivery model selected
  - Financial considerations
  - Legal considerations – reference to standing orders and Official Journal of the European Union
  - Recommendation – proposed delivery model and procurement process
  - The way forward – inform market and start procurement

Assuming that Member approval is given to the recommendation then the authority can proceed with procurement.

Examples of reports to Cabinet on the procurement process can be found on the Gloucestershire County Council website as [www.gloucestershire.gov.uk](http://www.gloucestershire.gov.uk) as follows:

- About the Council
- Councillors & Committees
- Meetings, minutes and agendas
- Browse the agenda/minutes
- Cabinet
- 12 September 2012 and 6 February 2013

## 14 INFORM MARKET

14.1 It is essential that whichever delivery model is selected the market is made fully aware of the proposal so that the right, most appropriate service providers can be involved in the process. The authority must consider the most appropriate method to obtain maximum benefit to both authority and industry. This is very much an authority led process as industry will respond but will be reluctant to share in any depth at this stage. Any of the following could be the right methodology:

- a) Advert in the press/website
- b) Bidders document explaining what is required in terms of scope and process
- c) Bidders conference to explain in person the scope and process. Comments can be received from industry providing feedback on information given

14.2 Early supplier engagement is considered in more detail in the Treasury publication; Infrastructure Procurement Route Map (Reference 5) and even though this relates more to projects and programmes, the client is advised to think about the role that all levels of the supply chain can play in the opportunity.

### CASE STUDY 14– Oxfordshire County Council (OCC)

#### Background

Oxfordshire County Council awarded its contract for highways maintenance, design and construction services in February 2010. This was the closure to an intensive two year project in redesigning how the council delivered its highways services. Recognition of delivering better cost effective services for its citizens was paramount and the council could recollect numerous past experiences where standards fell short. This was not necessarily the fault of the existing providers nor the council, however the way services were structured presented constraints which needed to be addressed in a future contract.

#### What was done and why

Firstly, the council embarked on an analysis of itself, in recognising that to deliver its objectives was not solely down to the provider the council needed to understand where its weaknesses were. During this analysis the council concluded it wasn't 'fit' to contract with and dealing with this issue formed a feature of the market engagement.

Key to engaging effectively with the market is to make yourself available. Prior Information Notices (PIN) were issued about six months before the main call for competition notice. The intended purpose was not solely to notify the market of OCC intentions but also to give the market time to mobilise its resources and assemble its bid team.

The notice invited the market to contact the council to discuss aspects of the proposed competition and gave the market an opportunity to understand more about the council requirements. This also gave the council a forum to discuss how the council may need to adapt/change in order to engage with the market more effectively e.g. providing clarity of requirements and appropriate timescales for delivery. The council was also conscious

that the market can be more open in an individual setting therefore when requested arranged face to face or telephone discussions with interested market players. The same information was provided to all parties that expressed interest.

This was an invaluable stage as it gave a „heads up“ to the market on whether it was interested in bidding for this opportunity and the council found it received more valuable feedback from the market in terms of lessons learnt from other procurements.

Recognising the pressures on bid teams the council sought to find a spot in the market where procurement activity was relatively light and tried to align timetables with other authorities so OCC were not all calling for tenders at the same time.

As the council was using the competitive dialogue procedure it tried to obtain as much feedback as it could to structure the dialogue in the most effective way.

The outcome of this was four key things:

- Senior Officer / member engagement
- Clarity of requirement and identification of any issues
- Appropriate timescales to complete submissions
- Dialogue not monologue – good communication

The council did the usual things such as bidders conferences which hopefully gave the right impression to the market. The council also considered it needed to go beyond what the regulations said at the time (2008) in terms of debriefing. The council considered that if any bidder has bothered to put pen to paper during this procurement the council would provide a debrief on how they could improve their submission be that at PQQ, or any other stage during the procurement. An extensive amount of time was put into the debrief feedback and the evaluating team would take time out to give the feedback to the bidder personally. This was received universally well, obviously there was disappointment however at least the bidder had learned something from the process.

Whilst many authorities use e-tendering systems to manage communication during the tendering process the council decided against this for size and complexity reasons. Allowing tenderers to pick up the phone and talk through their issue which may result in a clarification question (to be shared by all) proved to be more effective at getting to the nub of the matter than endless email correspondence. This was probably the simplest yet the most effective thing that helped the council and all tenderers get to the point of being able to submit their bid with confidence.

### **What was achieved**

The council benefited greatly from this general approach, it helped to form good relationships with the provider from the start of the dialogue rather than from the beginning of the contract. Encouraging an environment where views could be expressed freely enabled the bidders and the council to highlight issues and resolve them quickly. Beneficially the council found itself with three very good bidders and could have contracted with anyone of them as they all understood what the council was seeking to achieve and had a solution to deliver this.

**What is planned next**

Thinking about how OCC engage with the market proved effective in this procurement, the goodwill of the market players supported this and yet there were many lessons learnt on how the council could further improve. Inappropriate timescales and clarity of requirements were still a factor in this procurement and this will be something the council will endeavour to improve on when OCC come to market again. Bid costs are significant and the price of this is reflected back in the prices contracting authorities pay for the goods and services it procures, therefore it is in everyone's interest to consider how to effectively engage with the market.

**Who to contact**

Grant Cawte, Oxfordshire County Council

Contact details [grant.cawte@oxfordshire.gov.uk](mailto:grant.cawte@oxfordshire.gov.uk) Tel: 01865 810305 or Mob: 07900 406553

## 15 DATA FOR THE CONTRACT

15.1 This guidance document relates to Procurement Route Choices for Highway Maintenance Services however it is recognised that part of procurement is collating data for the contract. The following aspects should be considered and some have been the subject of other HMEP products:

- Use of a standard Pre-Qualification Questionnaire – the HMEP project has produced a standard Pre-Qualification Questionnaire under the HMEP Standard Contract for ease of use by all concerned. It will address all the standard issues and authorities should only add questions related to specific local issues
- The New Engineering Contract 3 has been adopted as the preferred contract type for highway maintenance services as covered by HMEP
- Use of standard specification – the HMEP project has produced updated specification for highway works clauses to create a standard specification for use on local roads
- It is essential that the length of the contract is determined before commencing procurement
- If the contract is to include “extension” criteria then the length and evaluation mechanism should be determined before commencing procurement
- Performance indicators are being considered by HMEP. It is recommended that contract performance is based on no more than 8-12 performance indicators although it is recognised that there will be substantially more operational indicators used to manage the contract
- Payment methodology – this could be lump sum, cost reimbursable, target cost, unit rates or actual cost or a combination for different activities
- Mobilisation – the requirements for mobilisation must be considered as data for the contract so that all parties realise what is involved particularly if there are Transfer of Undertakings (Protection of Employment) Regulations, plant or land (depot) issues

## 16 END OF PROCESS – START PROCUREMENT

- 16.1 Having determined the procurement process and the delivery model plus obtaining appropriate approvals and commitment with the knowledge that it will be acceptable to the market the actual procurement process can start.

## ACKNOWLEDGEMENTS

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### PROJECT BOARD

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Andy Warrington/Peter Higgins	Institution of Civil Engineers (ICE)
Kevin Melling	Association for Public Service Excellence (APSE)
Peter Hyde	Highways Term Maintenance Association (HTMA)
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## REFERENCES

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2. Good Procurement Themes HTMA Procurement Working Group
3. Client Best Practice Guide ICE
4. Guide to procuring local authority transport schemes and services CIHT/4Ps
5. Treasury publication; Infrastructure Procurement Route Map – a guidance note to public and private sector infrastructure 2010
6. Local Highway Authorities Collaborative Alliances Toolkit HMEP July 2012
7. Going the Distance, Achieving better value for money in road maintenance Audit Commission, May 2011
8. Prevention and a Better Cure, Potholes Review HMEP April 2012

## CASE STUDIES

Summary list of Case Studies within the Guidance Document

- |  |  |
|--|--|
| 1. Private funding   | Portsmouth City Council  |
| 2. Single Provider   | Bedfordshire County Council  |
| 3. Framework   | Midlands Highway Alliance  |
| 4. Joint Venture   | Staffordshire County Council                                       |
| 5. Multiple Provider                                       | Not Used   |
| 6. In-House + top up                                       | Dorset County Council  |
| 7. Public/public partnership<br>under a Teckal arrangement | Cornwall Council and CORMAC Solutions Ltd                          |
| 8. In-House  | Northumberland County Council                                      |
| 9. Restricted procedure                                    | Warwickshire County Council  |
| 10. Competitive Dialogue                                   | Kent County Council  |
| 11. Procurement Collaboration                              | Cheshire West and Chester Council and<br>Shropshire County Council |
| 12. Evaluate Options                                       | Hertfordshire County Council                                       |
| 13. Market Appetite  | Gloucestershire County Council                                     |
| 14. Inform Market  | Oxfordshire County Council   |

# APPENDIX A – SUPPLEMENTARY INFORMATION

A number of documents support this project and these are located on the HMEP website at the following address:

[www.dft.gov.uk/hmep](http://www.dft.gov.uk/hmep)

Examples of such documents include the following:

- Collaborative Alliance Toolkit
- Shared Services Toolkit for Highway Maintenance Services
- Standard Specification and Standard Details
- Standard Form of Highway Maintenance Contract
- Term Maintenance Contract Documentation Hosting Platform and Compiler
- Creating the Culture to Deliver Toolkit
- LEAN Toolkit for Highway Maintenance Services
- Client-Provider Collaboration Toolkit
- Supply Chain Review

## A1 – CASE STUDIES

A range of historic case studies that will provide a further useful resource are included at the link below:

[http://hmep.pixl8-hosting.co.uk/filemanager/root/site\\_assets/my\\_route/case\\_study\\_details\\_29\\_nov\\_11.xls](http://hmep.pixl8-hosting.co.uk/filemanager/root/site_assets/my_route/case_study_details_29_nov_11.xls)

**A2 – USEFUL DOCUMENTS**

Background information that supports the variety of procurement and delivery choices that can be made has been listed as an additional resource for users.

Title	Commentary	Availability/reference	Date
A guide to procuring local authority transport schemes and services		CIHT & 4Ps	2004
Client best practice guide	Definitive guidance to clients on the many ways in which they can positively influence the success of their projects - both during the planning, development and implementation stages, as well as during operation and final decommissioning.	ICE Best Practice Panel	2009
BS11000 Collaborative Business Relationships		BSI	2011
Obtaining best value from constrained budgets		HTMA Procurement Working Group	
Price Adjustment Indexation		HTMA Procurement Working Group	
Procurement Processes		HTMA Procurement Working Group	
Commercial relationships and understanding the risk		Transportation Professional Magazine	June 2011
Partnership brings benefits to North Lanarkshire Council		Transportation Professional Magazine	March 2012
Achieving Excellence Procurement Guides <ul style="list-style-type: none"> <li>• 03 Project procurement lifecycle</li> <li>• 06 Procurement and contract strategies</li> </ul>		Office of Government Commerce	
Making competition work for you – A guide for public sector procurers of construction	To help achieve value for money by making the most of competition	Office of Government Commerce	2006
Competitive Dialogue Procedure	OGC guidance on the CD Procedure in the new Procurement Regulations	Office of Government Commerce	2006

Improving the PFI tendering process	Examination of all PFI projects in England between April 2004 and June 2006	National Audit Office	2007
Competitive Dialogue in 2008	OGC/HMT joint guidance on using the CD procedure	H M Treasury	2008
Never Waste a Good Crisis	A review of progress since Rethinking Construction and thoughts for our future	Constructing Excellence	2009
Contracting for Highways Maintenance	Review of how well the HA designed and managed MAC contracts	National Audit Office	Oct 2009
Construction Management frameworks: 10 years of experience	Reviews the initiatives identified and practiced during the framework	Ansell, M and Smith, S ICE Proceedings	Feb 2010
Members Guide 4	Top tips for making savings through better procurement in construction	Regional and Improvement Efficiency Partnership, IDeA	Oct 2009
Trends in the Procurement Models for Highway Maintenance	Paper discusses various procurement models and the trend to outcome bases contracts	Porter, T M, Opus International Consultants	
The harder parts of partnering	Partnering is not a soft option and this article highlights key issues and concerns	March, D, Manches LLP, Construction Law Review	2004
Managing Reality Book 2 – Procuring an Engineering and Construction contract	This manual is aimed at those who need to know how to procure an NEC contract. It covers in practical detail the various processes and steps which need to be gone through	NEC neccontract.com ISBN 9780727733931	Dec 2005
Collaborative, Innovative, Local: A local government procurement casebook	A range of case studies and identification of themes and learning points	ACE	April 2009
Infrastructure in the New Era		Constructing Excellence and Pinsent Masons LLP	June 2011
National Road Maintenance Review Phase 1 Report	Reports on delivery models (best practice and innovation), collaboration and procurement	Transport for Scotland	Sept 2011
Selecting an Appropriate UK Procurement Strategy	Relates to buildings however useful advice on procurement	Royal Institution of Chartered Surveyors	2010

Infrastructure Procurement Routemap: a guide to improving delivery capability		Infrastructure UK	Jan 2013
Collaboration, why, what and how		Highways Efficiency Liaison Group	Feb 2007
Communities for collaboration		Highways Efficiency Liaison Group	May 2007
Achieving Efficient Delivery of Local Highway Services		HA (Happold)	June 2006
Transforming Government Procurement		HM Treasury	Jan 2007
Risk – Aide memoir		Transportation Professional Magazine	Feb 2011

## APPENDIX B – HMEP SURVEY RESULTS

HMEP Workstream Group 1 for Operational Service Delivery produced the following:

Report on the Survey findings for Briefs 1 to 5  
Stage 1 Final Report  
January 2012

This report summarises the responses to a survey undertaken of all the English local highway authorities to inform on the current state of the sector and its desirability for the products offered under the Operational Service Delivery Workstream of the Programme.

Questions related to the following Workstreams under this Group comprising:

- Standardisation – concentrating around the Form of Contract used, Specifications and Standard Details to determine the format for drafting new examples to improve standardisation across the sector
- Collaborative Alliances – to determine how many exist, how they operate and which practices could be brought out to showcase within the Programme so as to guide other authorities in forming their own collaborative alliances
- Shared Services Arrangements – to determine which services are presently shared, how the arrangements operate and which aspects could be brought out to showcase within the Programme so as to guide other authorities in forming their own shared service arrangements
- Procurement Route Choices** – to determine the various mechanisms and route choices available to authorities when procuring highway maintenance services and to incorporate these into a toolkit to inform other authorities with showcased examples to guide authorities on their procurement strategies

The report contains 8 findings for Brief 5 – Procurement Route Choices and can be found at <http://www.dft.gov.uk/hmep/docs/12013-survey-report.pdf>

## APPENDIX C – CONTRIBUTORS AND CONSULTEES

Atkins

Central Bedfordshire Council and Bedford Borough Council (previously Bedfordshire County Council)

Buro Happold

Chartered Institution of Highways and Transportation

Cheshire West and Chester Council

Cornwall Council

CORMAC Solutions Ltd

Derby City Council

Dorset County Council

East Sussex County Council

Gloucestershire County Council

Hertfordshire County Council

Highways Agency

Highways Maintenance Efficiency Programme Project Board

Highways Term Maintenance Association

Institution of Civil Engineers

Kent County Council

Leicestershire County Council

London Technical Advisors Group

Midlands Highways Alliance

Mouchel

Nottinghamshire County Council

Norfolk County Council

Northumberland County Council

Oxfordshire County Council

Peterborough City Council

Portsmouth City Council

Southend Borough Council

Staffordshire County Council

Surrey County Council

Warwickshire County Council

Wiltshire County Council

Worcestershire County Council