

Wiltshire Council

Cabinet

30 April 2019

Subject: Extension of the idVerde novated Grounds and Streetscene Contract

Cabinet Member: Councillor Bridget Wayman – Cabinet Member for Highways, Transport and Waste

Key Decision: Key

Executive Summary

To realise savings from economies of scale in 2013 all the highway and street scene services were grouped together. They were tendered as in one contract and this was awarded to Balfour Beatty Living Places (BBLP).

The contract was for an initial five-year period, with an option for up to two-year extension for good performance. The maximum duration for the BBLP Highway and Streetscene Contract was to the 31 May 2020.

In 2014 Balfour Beatty Living Places subcontracted the litter collection and grounds maintenance provision to idVerde with the permission of Wiltshire Council.

In 2015 the idVerde subcontract was novated to the Council.

The idVerde subcontract was extended by the Council to 30 November 2020, to avoid the demobilisation and mobilisation of grounds services in the peak of the grass growing season which would have occurred with a 31 May 2020 expiry date.

A further two-year extension is now sought to the contract as there is significant financial risk to the Council if a new contract was to be awarded in 2020, due to the unknown implications resulting from the Council's new Asset Transfer and Service Delegation Programme.

In 2018 the Council agreed a new 'time limited' Community Asset and Service Delegation Programme.

The Programme aims to transfer the idVerde services in the towns to the local councils, removing the work from the novated idVerde contract.

The Programme commenced on 1 April 2019 and finishes on 31 January 2022.

Council resources are provided for the Programme period.

Local councils have a window of opportunity to take on the services.

There is considerable interest from the towns to run the Council's idVerde services and it is anticipated that most of the towns will take on the services.

The Programme will cause large changes to the idVerde contract areas over the next two and a half years. However, until the programme is completed the Council will not understand the full extent of any change. Currently, the: volumes; location of areas; type of provision of service (own delivery/through a Wiltshire Council contract etc.); client management; depot requirement, etc. are all unknown.

Extending the current contract to 30 November 2022 will allow these issues to be understood and avoid the significant inconvenience and the associate costs that a change in contractor would cause if the Council awarded a new contract on 30 November 2020.

A Notice in compliance with the Official Journal of the European Union (OJEU) will be issued on approval of the decision to extend.

The value of the exemption will not exceed 50% of the total contract value.

A further 6% saving, on top of the Service Delegation savings, on the core budget spend has been agreed with idVerde.

The Environment Select Committee has approved a new suite of contract Key Performance Indicators for the extension period.

During the extension period any area that is subject to a service delegation can be removed from the Council's contract if this is the wish of the receiving local council.

New back office processes have been approved allowing real time access to idVerde's management and performance data.

Proposal

That Cabinet approves the extension of the idVerde novated subcontract to 30 November 2022.

Reason for Proposal

Extending the current idVerde sub-contract to 30 November 2022 will mitigate the financial risk that tendering a new Street Cleansing and Grounds Maintenance Contract in 2020 would create due to the unknown changes in: volumes, processes and requirements caused by the Service Delegation Programme which will run until January 2022.

Alistair Cunningham
Executive Director – Growth, Investment and Place

Wiltshire Council

Cabinet

30 April 2019

Subject: Extension of the idVerde novated Grounds and Streetscene Contract

Cabinet Member: Councillor Bridget Wayman – Cabinet Member for Highways, Transport and Waste

Key Decision: Key

Purpose of Report

1. This report seeks approval from Cabinet to extend the novated idVerde Grounds and Streetscene Maintenance Services contract from 30 November 2020 to 30 November 2022.

Relevance to the Council's Business Plan

2. The Council's Street and Grounds contract helps meet the priorities of the Council's Business Plan, including:
 - Outcome 2 – People in Wiltshire work together to solve problems locally and participate in decisions that affect them
 - Outcome 6 – People are as protected from harm as possible and feel safe

Background

3. To realise savings from economies of scale in 2013 all the highway and street scene services were grouped together. They were tendered as in one contract and this was awarded to Balfour Beatty Living Places (BBLP).
4. The BBLP Highway and Streetscene Contract was for an initial five-year period, with an option for up to two-year extension for good performance. The expiry date for the seven-year period was 31 May 2020.
5. In 2014 BBLP subcontracted the litter collection and grounds maintenance provision to idVerde.
6. In 2015 the idVerde subcontract was novated to the Council from BBLP.
7. The two-year good performance extension was awarded to idVerde the novated contract now expiring on 31 May 2020.
8. The idVerde subcontract was extended for extenuating circumstances by the Council to 30 November 2020, to avoid the demobilisation and mobilisation of

grounds services in the peak of the grass growing season which would have occurred with a 31 May 2020 expiry date.

Main Considerations for the Council

9. In 2018 the Council agreed a new Community Asset and Service Delegation Programme. The Programme is time limited and aims to transfer the idVerde services in the towns and larger villages. The Programme commenced on 1 April 2019 and finishes on 31 January 2022.
10. Legal, Property, Streetscene etc. additional resources have been provided for the Programme period, after which time they will be removed. Local councils have a window of opportunity to take on the services.
11. There is considerable interest from the town councils to run this Council's idVerde services and it is anticipated that the majority of the town councils will take on the services.
12. This will result in large changes to the idVerde contract areas over the next two and a half years. Until the programme has been completed the Council will not understand the full extent of the changes.
13. Over fifty percent of the Council's asset is in the towns, the Programme could result in most of this work being removed from this Council's maintenance contract.
14. The Council maintains much of its rural amenity grass on a 'drive by' provision. When grass cutting in towns the contractor drives through many villages, allowing efficiencies for a greater number of cuts in those rural areas. If neighbouring towns are no longer within this Council's contract, these efficiencies are lost. Rural cuts are normally annually with urban areas receiving nine cuts a year.
15. Different equipment is needed for monthly cuts (ride on mowers) compared to annual cuts (tractor and flail). As this Council does not know the future town provision it is not possible to identify those rural amenity areas that the Council should consider amending to annual cut in any future contract.
16. The Council currently provides four depots for grounds services: Devizes, Chippenham, Salisbury and Trowbridge. On 1 June 2020 (six months before the current contract expiry) Salisbury City Council, Devizes Town Council and Chippenham Town Council are all taking their work in-house and out of this Council's contract. With the other local towns under consideration future depot provision needs to be understood. With the uncertainty of provision, the Council's consideration on the depot provision it will offer is unclear.
17. The Council needs to understand the local town councils' future provision. They may wish to work in partnership with this Council, through a Framework type provision, or they may wish to provide the services direct. Until the negotiations have been concluded with the towns the content or offer to be contained within any future contract is unclear.
18. As the Service Delegation Programme is time limited, with the resources being removed at the end of the programme, this small extension to the current contract to 30 November 2022 will allow these issues to be better understood

and mitigating the significant inconvenience and associated costs that a change in contractor would cause if we awarded a new contract on 30 November 2020.

19. Due to the limited time offer of service delegation this is likely to increase the demand for transfers and increase risk of greater changes within the Service Delegation Programme period.
20. The value of the exemption will not exceed 50% of the total contract value.
21. A Notice in compliance with the Official Journal of the European Community (OJEU) will be issued on approval of the decision.
22. A further 6% saving, on top of the Service Delegation savings, on the core budget spend has been agreed with idVerde.
23. The Environment Select Committee has approved a new suit of contract Key Performance Indicators for the extension period.
24. Any area service delegated during the extension period can be removed from the Council's contract to a time that suits the town concerned.
25. New back office processes have been approved allowing real time access to idVerde's management and performance data.

Overview and Scrutiny Engagement

26. The Environment Select Committee (ESC) has been engaged and new Key Performance Indicators (KPIs) have been agreed for the extension period. The Scope of Words for those KPIs were also detailed to ESC at their 12 March 2019 meeting

Safeguarding Implications

27. There are no direct safeguarding implications with the proposals put forward in this report.

Public Health Implications

28. The condition of cleanliness and up keep of the Council's assets can have serious reputational implication to the Council and there are links to anti-social behaviour if areas appear neglected.
29. The arrangements for the extension ensure continuing delivery of services in these key areas and ensure the Council's limited resources are maximised.

Corporate Procurement Implications

30. The extension will deliver street cleansing and grounds maintenance operations.
31. A relevant OJEU notice will be undertaken, and the appropriate Regulation 72 procedures followed to modify the contract.
32. The scope and details of the extension consider a number of factors, including revenue funding pressures, public expectations, local community desire to fund

maintenance requirements and legal obligations to maintain the Council's assets.

33. The Council's Strategic Procurement Hub has been actively involved in the process and will monitor the extension to ensure it is carried out properly and to mitigate the risk of a legal challenge.

Equalities Impact of the Proposal

34. Extending the current cleansing and grounds maintenance contract will result in no change to existing employees and sub-contractors' rights.
35. The current contractor is required to demonstrate good practice in terms of employment policies and practices and conform to the Council's standards and behaviours framework. The tenderers' employment policies have been considered.

Environmental and Climate Change Considerations

36. The extension considers the environmental policies and the contractor is required to report back monthly at Service Delivery Team Meetings on environmental issues.

Risks that may arise if the proposed decision and related work is not taken

37. If the proposed extension (from 30 November 2020 to 30 November 2022) is not approved, there will be significant inconvenience and associated costs due to the unknown specification and volumes resulting from the outcomes and implications of the Service Delegation Programme. As detailed above paragraphs 13 – 19.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

38. There is a risk that following the OJEU Notice a challenge to the extension is made, because there are no further extension periods within the current contract.
39. However, due to the exceptional circumstances created by the Service Delegation Programme (with the effect this would have on tendering a service in 2020 with unknown quantities and specification) there is a strong commercial argument to extend the current idVerde novated contract to 2022, rather than tender a new service at this time with the considerable financial risk this would create.
40. The Council would justify the extension on the grounds of avoiding the significant inconvenience and associated costs.

Financial Implications

41. The proposal mitigates the significant inconvenience tendering would cause with the associated costs due to the unknown locations of work, possible volume changes, inability to currently identify the rural grounds requirements etc. resulting from the outcomes and implications of the Service Delegation Programme. As detailed above in paragraphs 13 – 19.
42. The forecasted core spend on Streetscene and Grounds Services for December 2020, following the Devizes, Salisbury and Chippenham transfers is £3,787,893.

43. idVerde has committed savings of £226,746 or a 6% saving. This is a mixture of procurement, efficiency and additional savings linked to historic asset transfers and service delegations.

Legal Implications

44. Regulation 72 of the Public Contract Regulations (2015) allows for the unadvertised extension of a contract in certain circumstances. The particular regulation that is to be considered here is Reg 72 (b). This Reg 72 (b) says that “contract may be modified without a new procurement procedure ... where a change in contractor ... would cause significant inconvenience or substantial duplication of costs for the contracting authority.” This is provided that the price increase does not exceed 50% of the value of the original contract.
45. While there is a risk that a competitor of idVerde may challenge a Reg 72 extension on the grounds that a new procurement procedure to the contract would not cause any unexpected inconvenience or extra costs, let alone significant ones, for the reasons set out elsewhere in this report extending rather than re-procuring under the exceptional circumstances of the Service Delegation Programme (and the effect this would have on tendering a service with unknown quantities and specification) avoids significant inconvenience and extra costs. The risk of challenge is considered by officers to be low.
46. The Council has a duty to maintain the highways network and related infrastructure. The contract will deliver important aspects of the service and help ensure that the Council meets its obligations under the Environmental Protection Act and other legislation. The contract helps ensure that the services are provided to the standard necessary for the Council to fulfil its statutory duties.

Options Considered

47. **Extend the current contract from 30 November 2020 to November 2022 –** An extension would continue the current service provision. It would mitigate the financial risk caused by the changes to the service delivery between now and January 2022. The agreed new Key Performance Indicators (KPI) will refocus service delivery and further savings of 6%, on top of the Service Delegation savings, on the core budget spend has been agreed with idVerde. There is a risk of a challenge to the extension, however, due to the significant financial risk of tendering with so much unknown, there is justification for the extension. This is the Council’s preferred option.
48. **Tender the service for commencement in December 2020 –** The Council could tender the service in 2020 detailing the known work and the possible work that could be removed. This would allow the service to be market tested. However, this option is not preferred as this carries significant financial risk due to tendering a service where over fifty percent of the volume of work could be removed, with the town locations for maintenance being unknown and with a grounds specification that could change just as any new contract would commence.
49. **Tender with a number of town and parish councils -** Wiltshire Council has considerable experience of this type of provision with the novated contract with Salisbury City Council. This option allows greater economies of scale. It allows local town and parish councils access to: competitively tender rates; a robust

contract specification; an approved contractor which can quickly and easily top up amenity and streetscene services. However, this option to commission works with other local councils is not preferred. The three local councils (Salisbury, Devizes and Chippenham), currently in the process of transferring services, have all decided to provide the service in-house from 2020. General requests to other town councils on their interest in undertaking a joint provision has had no take up.

50. **Tender with Swindon Borough Council** - A Wiltshire Council contract could be tendered with Swindon Borough Council. Wiltshire Council has considerable experience of this type of provision with the contract Highway Contract with Swindon Borough Council. It allowed the greater economies of scale when the Highway Service was tendered in 2016. A meeting was held with Swindon Borough Council to discuss this option. Swindon Borough Council is interested in providing the Wiltshire Council grounds and street cleaning service direct, rather than joining Wiltshire Council in a joint tender.
51. **Tender with a major partner** - A Wiltshire Council contract could be tendered with a major partner. Wiltshire Council has considerable experience of this type of provision with the contract Highway Contract with Swindon Borough Council and Salisbury City Council. It allows the greater economies of scale. A meeting was held with Selwood Housing. Whilst services appear to have synergies, the different cutting frequencies require different equipment. There are opportunities for greater joint working, but a joint tender was not the preferred provision following the discussions.

Conclusions

52. The current street cleansing and grounds services was awarded in 2013 to Balfour Beatty Living Places Highway Contract for an initial five-year period, with an option for up to two-year extension for good performance. The contract expires on 31 May 2020.
53. In 2014 Balfour Beatty Living Places subcontracted the litter collection and grounds maintenance provision to idVerde.
54. In 2015 the idVerde subcontract was novated to the Council.
55. The idVerde subcontract was extended by the Council to 30 November 2020, to avoid the demobilisation and mobilisation of grounds services in the peak of the grass growing season which would have occurred with a 31 May 2020 expiry date.
56. A further two-year extension is now sought to the contract as there is risk of significant inconvenience and the associate costs if we awarded a new contract in 2020. The Council in 2018 agreed a Community Asset and Service Delegation Programme. The programme is time limited and aims to transfer the idVerde services in the towns to the local councils. The programme commenced on 1 April 2019 and finishes on 31 January 2022.
57. Service Delegation and Asset Transfer resources are provided for the Service Delegation and Asset Transfer Programme period for the next two and a half years, after which time they will be removed. Local councils have a window of opportunity to take on the services. There is considerable interest from the

towns to run the Council's idVerde service and it is anticipated that the majority of the towns will take on the services within the current Programme timetable.

58. Until the programme is completed we will not fully understand the extent of any change. Currently, the: volumes; location of areas; type of provision of service (own delivery/through a Wiltshire Council contract etc.); client management; depot requirement are all unknown.
59. Extending the current contract to 30 November 2022 will allow these issues to be understood and avoid the significant inconvenience and the associate costs that a change in contractor would cause if we awarded a new contract on 30 November 2020.
60. A further 6% saving, on top of the Service Delegation savings, on the core budget spend, has been agreed with idVerde.
61. The Environment Select Committee has approved a new suit of contract Key Performance Indicators for the extension period.
62. Any Service Delegation during the extension period can be removed from the Council's contract to a time that suits the town concerned.
63. New back office processes have been approved allowing real time access to idVerde's performance and management data.
64. There is a risk of a challenge to the extension; however, due to the significant financial risk of tendering in 2020 with so much unknown, there is justification for the extension.

Recommendation

65. Cabinet is requested to approve the extension of the novated idVerde Grounds and Streetscene Contract to November 2022.

Parvis Khansari
Director Highways and Transport

Report Author:

Adrian Hampton

Head of Streetscene, Local Highways and Parking Services

1 April 2019

The following unpublished documents have been relied on in the preparation of this report:

None

Appendices

Appendix A – Draft Asset Transfer and Service Delegation Programme

Appendix B - Environment Select Committee Approval of Key Performance Indicators