

REPORT FOR: CABINET

Date of Meeting: 13 December 2012

Subject: Tree Maintenance Access Agreement and Contract

Key Decision: Yes
[May result in the local authority incurring expenditure which is, significant having regard to the local authority's budget for the service or function to which the decision relates]

Responsible Officer: Caroline Bruce, Corporate Director
Environment and Enterprise

Portfolio Holder: Councillor Phillip O'Dell, Portfolio Holder for
Environment and Community Safety

Councillor Thaya Idaikkadar, Portfolio Holder
for Property and Major Contracts

Exempt: No, except Appendix 2 which is exempt as it contains information specified in paragraph 3, Schedule 12A of the Local Government Act 1972, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

Decision subject to Call-in: Yes

Enclosures: Appendix 1 – Tender Evaluation Sheet
Appendix 2 – Tender Bid Prices (Exempt – Part II)

Section 1 – Summary and Recommendations

This report sets out an overview of the competitive tendering process undertaken to seek a new contract for the provision of Tree Maintenance (Arboricultural Services).

This report requests authority to enter into Access Agreement with Brent Council and Call-off contract for the provision of Tree Maintenance (Arboricultural Services).

Recommendations:

Cabinet is requested to delegate authority to the Corporate Director Environment and Enterprise, in liaison with the Portfolio Holders, to enter into an Access Agreement with Brent Council for Arboricultural Services and a call-off contract under the Framework Agreement referred to in 2.1 with Gristwood and Toms Ltd for a term of 3.5 years with a possible 2 year extension.

Reason:

Harrow Council undertakes £400,000 of tree work per year to ensure the Borough's tree stock is maintained in a safe condition and to maintain levels of street tree provision. A cost effective well provisioned contractual arrangement is essential to enable us to fulfil our statutory obligations to maintain the Borough's trees in a safe condition.

Section 2 – Report

Introductory paragraph

Tree Maintenance (Arboricultural Services) for the Borough's tree stock has historically been area of low spend in relation to other London Boroughs, which fulfils the Council's duty of care to maintain a healthy tree stock. Remedial pruning spend has been reduced to the value of £250k pa for Public Realm trees and an additional £75K on behalf of other internal clients. Works are restricted to targeted essential, emergency and safety works together with a planting programme to replace dead or dying trees. In addition the contract allows for the planting of suitable trees to replace dead or old stock

Options considered

The options available to the Council were as follows:

- Access the Brent Council Arboricultural Framework Agreement to call off a 3 year contract with Gristwood and Toms.
- Undertake an independent OJEU tender process
- Obtain individual Batch Quotations

Evaluation of Options:

Early in the re-procurement process, Officers became aware of the opportunities in joining with Brent as a part of their framework contract. Following a review of options in March with procurement and legal the advice from Corporate Procurement was that the option to enter an access agreement through the Brent led contract was considered to be the most advantageous because :-

a) Due to the relatively small marketplace and limited numbers of suppliers that have the capacity to undertake the Harrow Arboricultural contract in its current form, the likelihood of us achieving better value and significant savings compared to the Brent framework was very small.

b) The Brent Framework has only recently been let (Feb 2012) and the specification is largely suitable for Harrow's requirements with a couple of minor amendments

c) The Council would save the procurement costs and officer time by not needing to tender the requirement.

d) The Brent Framework has been tendered in line with the Public Contract Regulations with due diligence to cost and quality of service.

It is therefore proposed that the Brent Framework Agreement represented the best re-procurement option.

Current situation

The Brent Council Arboricultural Framework Agreement is available to all members of the West London Alliance (WLA) to access at no charge. Harrow Council has expressed an interest in accessing the framework and Brent Council have actively promoted the Framework Agreement following their procurement exercise.

The new contract will be let using the Brent Framework terms and conditions which have been assessed and approved by Harrow legal services. Harrow will be creating a call-off contract from the framework agreement for a period of 3.5 years with the option of a 2 year extension

Tender Process

The Brent Framework tender was conducted as a two stage restricted tendering process.

Adverts seeking initial Expressions of Interest appeared in an early May issue of Arboricultural Weekly and also the Wembley Observer. As this service is deemed a Part B service under the Public Contract Regulations 2006 there was no requirement to post a Contract Notice in OJEU, however an Award Notice was posted following the award of the Framework Agreement.

Pre-Qualification Questionnaires (PQQ) were available for download via the council's website. In total, 11 companies expressed an initial interest and 10 completed PQQs were returned within the time limit.

The 10 returned PQQs were evaluated on the basis of:

- Business Probity
- Economic and Financial Standing
- Ability and Technical Capacity including:
 - Staff and Training
 - Health and Safety
 - Quality Assurance
 - Relevant Experience and References
 - Equal Opportunities
- Environment and Sustainability

5 companies were shortlisted in June 2011 to receive Invitations to Tender (ITT).

There were two main reasons for the other 5 companies not being selected for Invite to Tender, firstly the size of the contract meant that any company to be considered had turnover well in excess of £1m per annum and also extensive experience in Arboriculture was required and not just garden or parks maintenance.

The tendering instructions stated that the Framework Agreement would be awarded on the basis of the most economically advantageous offer to the Council and that, in evaluating tenders, the Council would have regard to the following:

- Price - weighting 60%
- Quality - weighting 40%

These criteria were further sub-divided as follows:

Price

3%	Emergency Works
8%	Ground Works
2%	Reinstatements
4%	Tree Inspections
38%	Programme Works
3%	Tree Planting
2%	Miscellaneous

Quality

20%	Demonstrated ability to provide the services required for this Contract
10%	Proposed systems and working methods
5%	Approach to customer care, client care and equalities
4%	Approach to Environmental issues

Tenderers were required to submit a detailed pricing document for each of the seven elements for Price and additionally information in the form of Method Statements providing details of their proposed arrangements for performing the services covering each of the above Quality aspects.

Tender packs were sent out 29 July 2011 to the five shortlisted companies.

Evaluation process

Tenders were due for return at midday 12 September 2011 and were opened the same day. Four of the five companies invited to tender returned bids, the one company not to return cited a lack of time despite additional days being permitted for return of tenders.

The tender evaluation was undertaken in isolation by a panel of officers from within Brent Council including the Arboricultural Officers, Parks Services and Brent Housing Partnership. The process was overseen by representatives from Finance, Legal and Procurement, and Health and Safety.

The panel met to agree a consolidated score for each of the four quality sub criteria for each of the four suppliers and the results are contained within the table below in accordance with the marking scheme contained in Appendix 1.

The names of each of the tenderers are detailed in Appendix 2.

Tenderer	Ability	Systems/Working Methods	Care and Equalities	Environment	Weighted Total
1	1	2	2	3	16.25
2	1	2	2	1	13.75
3	2	2	2	2	20.00
4	3	3	3	3	30.00

Tenderers 1 and 2 scored adequate in 2 of the 4 elements, however they scored poorly on demonstrated ability to provide the services required for this Contract which was the highest weighted element. This sub criterion looked at the proposals for the Programmed Works, how they would be scheduled, the flexibility of the programme and the methodology for ad hoc works such as reinstatements as well as reporting on finished works and meeting legislative requirements.

Sub criteria 2 reviewed the proposed systems and working methods which included approach to ensuring the Health and Safety of the general public and the workforce, this was generally well responded to by all 4 bidders.

The third method statement examined customer service proposals and details of complaints and/or prosecutions in previous years. All responses to this were considered to be at least adequate.

The last section reviewed approach to Environmental Issues and only tenderer 2 scored less than adequate. Tenderer 4 scored consistently 'good' in four sections whilst tenderer 3 responses were deemed adequate in all four sections.

Cost Evaluation

The evaluation of prices was slightly more complex as there were 32 separate prices for the Programme Works alone. The table below shows the relative score by each tenderer against the corresponding sub criteria:-

	1	2	3	4	Total Weighting
Emergency Works	1.97	3.00	1.47	1.97	3%
Ground Works	4.87	8.00	5.32	4.08	8%
Reinstatements	0.60	0.68	0.59	2.00	2%
Tree Inspections	1.81	1.48	1.42	4.00	4%
Programme Works	17.82	17.35	17.35	33.04	38%
Tree Planting	1.84	1.87	1.17	3.00	3%
Miscellaneous	1.40	0.10	1.19	2.00	2%

Prices submitted were generally perceived as competitive but tenderer 4 scored highest in 5 of the 7 elements including Programme Works which was the highest weighted element.

The final consolidated scores for both Price and Quality are detailed below and clearly demonstrate that Tenderer 4, Gristwood & Toms provide the most economically advantageous tender, however it is worth noting that they in fact scored highest in both Price and Quality elements.

Tenderer	Price	Quality	Final	Position
1	34.31	16.25	50.56	2
2	34.36	13.75	48.11	4
3	30.29	20.00	50.29	3
4	53.00	30.00	83.00	1

The Council will also attach its own Service Specification to the call-off contract and include any special conditions and clarifications etc

Implications of the Recommendation

Considerations

Resources, costs

The evaluation criteria was designed in a way to identify bids that offered value for money. Striking a measurable balance between Price and Quality (see evaluation criteria attached). The creation of the contract was to mitigate “reactive” spending of much higher values by introducing controls and processes to manage the problem effectively and efficiently.

Staffing/workforce

Due to the fact that the Council’s incumbent contractor is Gristwood & Toms TUPE is unlikely to have any practical application in this instance as there is no change in supplier or in the scope of the services.

Legal Implications

The Council has a statutory obligation to maintain the Borough’s trees in a safe condition.

By accessing the Framework Agreement and signing the call-off contract the Council automatically complies with public procurement rules because Brent has complied with public procurement rules in procuring the Framework Agreement, and the Council is a member of the WLA, which was specifically named in the Framework tender documents, as a potential contracting authority.

However the procurement and award of the contract is subject to the Council’s Contract Standing Orders in respect of High Value contracts and Financial Regulations.

As the Framework Agreement and Call-off contracts are classified as ‘High Value’ contracts under the Council’s Contract Standing Orders, Cabinet approval is required to access both the Framework Agreement and the call-off contract.

Financial Implications

The Council’s Contract Standing Orders state that contracts for supplies and services exceeding £100k shall be referred to Cabinet for approval of the award of the contract.

The Access Agreement and the Call-off contract will not commit the Council to any expenditure. The estimated value of the call-off contract is £2.9m during the maximum 5.5. year life of the contract. Following budget reductions in 2009 the annual spend on Council trees is currently 350k. The Council will not incur penalties due to increases or decreases to the estimated contract value.

Rates are broadly in line with current costs and implications remain cost neutral in relation to current revenue expenditure. As a result of the Access

agreement, it is envisaged that a similar level of works as in 2012-13 will be undertaken..

Performance Issues

The procurement strategy adopted aimed to produce a result that would both deliver both a cost effective tree maintenance service and support the local economy.

There is evidence from the tender submission that Gristwood and Toms has a track record in maintaining local authority tree stock over a number of years As an organisation it has strong commitment to employing local labour increasing efficacy in operating in a built-up high traffic density environment

This contract will help to achieve safer streets and Open Spaces for the London Borough of Harrow enabling LBH to take full responsibility if its Duty of Care to the public's health and safety in Council land.

KPIs have been reviewed and the following are incorporated into the new contractual arrangements.

1. Accuracy of Invoices
2. Emergency Call Outs - within 2 hours of notification except in cases of extreme weather.
3. Stump Clearance - removed within 10 working days of the tree being felled.
4. Damage - Reported damage not exceeding two separate incidents.
5. Complaints by members of the public – no more than 1 upheld complaint in any one month and no more than 3 upheld complaints in any one year.
6. Minimum of 90% of all scheduled works be undertaken in any one Period
7. All Ad-Hoc works must be completed within 6 weeks
8. Details of all temporary reinstatements must be passed to our Highways Team for inspection and action within 48 hours of the job being completed.

Environmental Impact

Continuation of a Tree Maintenance Contract enables the Authority to retain its' tree stock in a safe manner, maintaining biodiversity and minimising losses of diversity.

Replacement tree planting enables continuation of a programme of re-stocking of older trees with tree stock with a lower environmental impact in terms of water extraction and infrastructure damage.

Gristwood and Tom's commitment to the green agenda means that the council will be working with a partner with a track record of delivering environmental improvements and green recycling.

Gristwood and Toms are a local company based on Boreham Wood employing local staff. This has an effect on minimising transport and travelling costs with a effect in reducing their carbon footprint.

Risk Management Implications

Risk included on Directorate risk register? Yes

Separate risk register in place? Yes

There is evidence from the tender submission that Gristwood & Toms has a track record in managing local authority tree management contracts.

A significant part of the evaluation concentrated on quality and ability to undertake works.

Key risks during the course of the contract are :-

1. Not having a contract in place
2. Sudden demise of contractor:
3. Deterioration of contract relationship:
4. Serious injury Health & Safety accident/incident

Equalities implications

Was an Equality Impact Assessment carried out? Yes

There are no equalities implications from the proposal.

Corporate Priorities

The decision to award this contract will support the council to achieve it's Corporate priorities to:

- **Keeping neighbourhoods clean, green and safe**
This contract will help to achieve safer streets and Open Spaces for the London Borough of Harrow enabling LBH to take full responsibility if its Duty of Care to the public's health and safety in Council land.
- **Supporting our town centre, our local shopping centres and businesses.**
Tree maintenance in primary and secondary shopping centres will ensure a safe environment in terms of trees and enhance aesthetics of the Public realm, making the centres a more attractive place to visit

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 23 November 2012		
Name: Stephen Dorian	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 7 November 2012		

Section 4 – Performance Officer Clearance

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Partnership, Development and Performance
Date: 12 November 2012		

Section 5 – Environmental Impact Officer Clearance

Name: John Edwards	<input checked="" type="checkbox"/>	Divisional Director (Environmental Services)
Date: 23 November 2012		

Section 6 - Contact Details and Background Papers

Contact: David Corby, Service Manager, Public Realm Services
Tel: 0208 424 1758

Background Papers: None

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

[Call-in applies]