

TREE MAINTENANCE AND INSPECTION PROGRAMME; CONTRACT AWARD

Head of Service:	Victoria Potts; Head of Place Development
Wards affected:	(All Wards);
Urgent Decision? (yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1 – Commercially sensitive financial breakdown

Summary

This report seeks approval to award the Tree Maintenance and Inspection Programme contract to Advanced Tree Services Ltd (ATS).

Recommendation (s)

The Committee is asked to:

- (1) **Agree to award a 3-year contract, with the option to extend for a further two periods of 3-years, to Advanced Tree Services Ltd (ATS) based on the commercially sensitive financial breakdown set out in Appendix 1.**
- (2) **Authorise the Head of Place Development, in consultation with the Director of Environment, Housing and Regeneration and Chief Finance Officer, to progress and complete the legal documentation.**
- (3) **Agree that the Director of Environment, Housing and Regeneration in consultation with the Chief Finance Officer and the relevant Committee Chair is tasked with identifying the £39,500 of savings from within existing budgets required to meet the budget shortfall.**

1 Reason for Recommendation

- 1.1 Following a compliant procurement procedure, ATS can offer the Council firm reassurance that they have the experience and capacity to successfully deliver this contract and continue to minimise the Council's risk to insurance claims.

2 Background

- 2.1 The Council is responsible for the trees on its land and managing the risk they pose to the public and minimising insurance claims. The Council is required by the Occupiers Liability Act 1984 to take reasonable care to "maintain its land in such a condition that it does not harm any person or damage any property." This

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requirement is reinforced in certain circumstances by the Health and Safety at Work Act 1974.

- 2.2 The Tree Maintenance and Inspection Programme (TMP) is critical to the Council, and it is imperative that an experienced supplier is in place to deliver this service. Tree care can be dangerous and lead to damage therefore only fully competent suppliers should be utilised to reduce the risks and ensure high safety standards.
- 2.3 The Council therefore has a legal duty of care to reasonably inspect and maintain its trees in order to keep people and property safe: This contact enables the Council to target this duty.
- 2.4 There are approximately 32,000 trees within the borough that are inspected through the TMP.
- 2.5 The current supplier is ATS. The original contract ran from 1st June 2012 until 31st May 2020. Two 12-month contracts, using waivers, were subsequently awarded to ATS following the expiration of the original contract. The first waiver was approved due to Covid, the second due to insufficient resources within the Team and ongoing impact of Covid.

3 Benchmarking

- 3.1 In early 2021 a benchmarking exercise was undertaken to ascertain market appetite, potential costs and explore the types of contracts neighbouring authorities were utilising.
- 3.2 While the market is flooded with suppliers able to perform this contract range from large national to small firms local to Epsom, the market is experiencing high levels of demand predominantly from private work, leaving smaller local authority contracts less desirable.
- 3.3 There is a nationwide shortage of tree surgeons impacting suppliers. In turn, suppliers are offering higher wages to attract employees.
- 3.4 In late 2019 Surrey County Council (SCC) established a Countryside Framework with a designated Epsom and Ewell Arboricultural 'Lot' that the Council is able to utilise. Suppliers awarded to this 'Lot' have set out their pricing for specific items of work based on a direct award basis. From initial analysis, there appears to be a 26% increase in price. This increase does not include Surveying, OPM control, cyclical pruning of amenity verge trees and some ancillary items as these were not priced within the framework. It is therefore anticipated that the 26% cost increase would increase further to include these items and yearly RPI increases awarded to suppliers.

4 Procurement

- 4.1 An options appraisal was conducted exploring the options available including utilising frameworks, in-house service delivery, collaborating with neighbouring authorities and tendering.

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- 4.2 It was agreed approaching the market through an open tender would foster effective competition, allow local suppliers not listed on the framework to bid, demonstrate best value and frame the tender documentation and terms & conditions to our requirements. An in-house service would not be cost effective nor offer sufficient resilience. Collaboration with a neighbouring District and Boroughs would also not be viable as they all procure their tree services independently and contract dates do not align to enable a joint procurement.
- 4.3 The contract was tendered for 3-year period with the option to extend for two periods of 3-years. The optional extension allows for:
- Aligning the contract with tree surveying cycles
 - Consider opportunities to collaborate with other council's in the future
 - Enabling a degree of flexibility for mutual contract termination if circumstances change (on both sides).
 - Provides ample time to continue working with an effective supplier
 - Allow suppliers a longer-term commitment for improved security and resource planning.
 - Enabling the Council to plan resources more effectively over a longer period.
 - Enabling continuity of service at a time when Ash Dieback Management (ADM) could create additional demands.
- 4.4 On the 14th October 2021, the TMP tender was formally published on the Councils eSourcing platform, In-Tend. This platform alone advertised the tender opportunity to 470 registered suppliers.
- 4.5 The Council has a further obligation to advertise this tender on both Contracts Finder (CF) and Find a Tender Service (FTS). CF and FTS are platforms set up by Central Government to advertise public sector contract opportunities to ensure maximum market exposure.
- 4.6 The tender was live within In-tend for 47 calendar days which is 12 days longer than statutorily obligated. Considering the complexity and nature of this contract the additional days ensured high-quality bids were received.
- 4.7 During this time, the Council received twenty (20) Expressions of Interest (Eoi). An Eoi is a bidder's decision to look at and review the Council's tender documentation.
- 4.8 The tender closed on Tuesday 30th November 2021 and four (4) bids were received. Several other authorities received similar interest in their tree contracts.
- 4.9 The Transfer of Undertakings (Protection of Employment) (TUPE) was considered to be in scope for this procurement. However, the incumbent operator confirmed in writing that they would not be transferring staff once the contract expired in May 2022.
- 4.10 Under the Social Value Act 2012, contracting authorities are required to have regard to economic, social and environmental well-being in connection with public services contracts. Within the quality section of the tender, bidders were asked and subsequently scored on the response to their commitment on environmental suitability, reducing their carbon footprint and engaging with the local tree warden groups.

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4.11 These questions were worth 10% of the total 35% marks available. Generally, this type of question receives 2-3% of the marks therefore demonstrating the Council's commitment to sustainable procurement.

5 Bid Offering

5.1 ATS will undertake the full range of arboriculture inspections and maintenance works detailed below. The works are to be performed to trees located within the borough on the Council's landholding and co-managed sites - Nonsuch Park and the Downs:

- Tree inspections programme
- Tree planting and aftercare
- Tree maintenance
- Emergency call out
- Oak Processionary Moth (OPM) control

5.2 From the 1st June 2022, it is anticipated that ATS will transition seamlessly into the new contract continuing to protect the Council, the public and property.

5.3 ATS have a proven track record working with the council and have established a positive working relationship with Officers.

5.4 Bid criteria included

5.4.1 Relevant experience – proven track record in successfully delivering this type and scale of contract

5.4.2 Resource and operation – active personnel assigned to the contract and technical competencies.

5.4.3 Health and Safety and Training – protecting its employees with an emphasis on continuing development.

5.4.4 Social Value and Sustainable procurement - Supporting the Council's commitment to reduce its carbon footprint and increase environmental sustainability.

5.5 Due to commercial sensitivity, a confidential financial breakdown of this contract is detailed within Appendix 1.

5.6 During the evaluation process, ATS scored highly and achieved 91.4% of the possible 100% marks available. This should provide considerable comfort to Committee that we're awarding to a supplier who is able to offer a high-quality service at a competitive price.

5.7 Overall ATS are able to offer best value, were scored high in terms of quality during evaluation and were significantly cheaper than the three other bidders.

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- 5.8 Each commercial bid was scrutinised for anomalies and abnormally high or low prices. ATS have been able to offer the most competitive price based on (but not limited to) previous experience, knowledge of the council & its contract and have the appropriate infrastructure in place to continue delivering the contract.

6 Risk Assessment

Legal or other duties

- 6.1 Equality Impact Assessment

6.1.1 No specific impact identified from EIA

- 6.2 Crime & Disorder

6.2.1 No specific issues

- 6.3 Safeguarding

6.3.1 No specific issues

- 6.4 Dependencies

6.4.1 The significant cost increase will put additional pressure on the Councils budget.

6.4.2 The possibility of OPM and ADB becoming a greater problem than expected is also considered a risk.

6.4.3 Working in partnership to deliver the Climate Change Action Plan (CCAP) and reduce impact on the environment and work towards carbon neutral by 2035.

- 6.5 Other

6.5.1 Award of this contract will support the delivery of Tree Planting Scheme (TPS) and agreed programme of tree planting 22/23 as outline in the Annual plan for 22/23.

7 Financial Implications

- 7.1 The annual cost of the previous tree contract was c.£81,000 plus a budget of £5,000 to address Oak Processionary Moth. Therefore, a total available budget of £86,000.

- 7.2 The indicative cost of the new contract is c.£185,000 per annum, an increase of £104,000 compared to the previous contract.

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- 7.3 Of this £104,000 increase, £59,500 can be linked to industry inflation as the contract has not been re-tendered for a number of years. The remaining £44,500 increase is due to additional growth items (i.e. service enhancements) that were included within the specification and bidders were subsequently asked to price. This has significantly impacted on the cost of this contract.
- 7.4 These additional items included inspections that the Tree Officer currently undertakes, work on verges belonging to EEBC and planting of young trees to meet some of the tree planting commitments set out in the Council's Annual Plan and Climate Change Action Plan. Due to new standards, it is also expected that a third man will be required within the 24-hour response team. An additional cost for OPM is also included. Currently OPM work is funded from relevant park/open space budget.
- 7.5 The council has an £81,000 per annum budget for the tree maintenance contract plus a separate £5,000 budget to manage Oak Processionary Moth, taking the total budget to £86,000. The tree maintenance budget has remained at a similar level for 5-years as it was sufficient to cover the previous contract. However, it no longer reflects incremental inflation costs nor the additional growth items.
- 7.6 The £185,000 cost of the new contract exceeds the Council's existing budget by £99,000.
- 7.7 It is proposed that the £59,500 increase due to industry inflation can be funded by the Council's budgeted contingency for contract inflation. However, the unbudgeted £39,500 increase attributable to growth items/service enhancements will need to be found within the tree maintenance service's existing budget envelope, or from alternative service areas.
- 7.8 Pricing was submitted by bidders based on quantities of work expected on a yearly basis. These quantities were based on the average over the past three years and could increase or decrease over the life of the contract.
- 7.9 The tree officer will take samples of tree orders regularly to monitor the contracts cost and performance.
- 7.4 The bid from ATS demonstrates good value for money that benchmarking supports. ATS were able to offer the most economically advantageous bid with the second cheapest bid being 14.7% more expensive.
- 7.5 **Section 151 Officer's comments:**
- 7.6 Financial implications are set-out in the body of the report. The £39,500 unbudgeted contract increase attributable to service enhancements will either need to be funded within the tree maintenance service's existing budget envelope, or from alternative service areas.
- 7.7 It is recommended that the Director of Environment, Housing and Regeneration in consultation with the Chief Finance Officer and the Committee Chair is tasked with identifying the necessary level of savings from within existing budgets required to meet the £39,500 budget shortfall.

8 Legal Implications

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- 8.1 The council has conducted a compliant open procurement process selecting a supplier based on the evaluation criteria set out in the tender documentation.
- 8.2 The terms and conditions were drafted by external solicitors, SLLP and permit a 3-year contract to deliver the TMP with the option to extend for two periods of 3-years based on supplier performance and the discretion of the Council.
- 8.3 **Monitoring Officer's comments:** none arising from the content of this report

9 Policies, Plans & Partnerships

- 9.1 **Council's Key Priorities:** The following key priorities are engaged:
 - 9.1.1 Effective Council
 - 9.1.2 Green and Vibrant
- 9.2 **Service Plans:** This contract is included within the Service Delivery Plan 2022-23.
- 9.3 **Climate & Environmental Impact of recommendations:** This contract enables effective tree management and tree planting in line with the Climate Change Action Plan (CCAP).
- 9.4 **Sustainability Policy & Community Safety Implications:** There are no specific concerns.
- 9.5 **Partnerships:** Partnership opportunities were explored during the options appraisal stage but were not viable. The D&B's have a varied approach to their contracting arrangements.

10 Background papers

- 10.1 The documents referred to in compiling this report are as follows:
 - Previous reports:**
None