

CABINET

17 January 2017

Title: Procurement of Framework Agreement for Arboricultural and Horticultural Services	
Report of the Cabinet Member for Environment and Street Scene	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Strategic Director: Claire Symonds, Strategic Director of Customer, Commercial and Service Delivery	
Summary <p>This report sets out proposals relating to the procurement of a new framework agreement for Arboricultural and Horticultural services for a four-year term commencing 1 May 2017.</p> <p>The framework will address several current issues:</p> <ul style="list-style-type: none">• It will ensure that all arboricultural and horticultural services are purchased in a complaint manner for the four-year duration of the contract.• Services are currently purchased from suppliers, across various services and intervals with differing expiry dates. This means several procurement exercises need to be conducted. Officers will spend less time on the procurement of these services as the framework will result in a one-off procurement exercise.• Currently, not all suppliers go through a pre-qualification process, and although prices are regularly benchmarked, the framework will produce a list of qualified suppliers, delivering goods and services which demonstrate best value for money to the Council and its residents.• As the service already regularly compares and demonstrates best value, the introduction of a framework agreement is for the authority to be compliant rather than to reduce costs.• It is intended that other public organisations and education bodies be able to call-off the resultant framework, via an access agreement. The access agreement will enable possible financial benefits to the Council by means of a 1% rebate from suppliers each time additional public organisations draw down.	
Recommendation(s) <p>The Cabinet is recommended to:</p> <p>(i) Agree that the Council proceeds with the procurement of a framework agreement, accessible to other public bodies and schools, for arboricultural and horticultural services in accordance with the strategy set out in this report; and</p>	

- (ii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Environment and Street Scene and the Director of Law and Governance, to conduct the procurement and award and enter into the contracts and all other necessary or ancillary agreements with the successful bidder(s) in accordance with the strategy set out in the report.

Reason(s)

The Council has a statutory duty to maintain its Arboricultural and Horticultural stock borough wide and to keep it in a safe condition. The duty extends to protecting the borough from insurance claims made against the council in respect of both indirect and direct damage.

The proposals also support the Council priority of a well-run organisation'.

1. Introduction and Background

- 1.1 There are several services currently performed by a number of suppliers, with each tendered separately or procured via separate agreements. Historic spend on these services is approximately £365,000 per annum.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured.

The Framework will be split into the following lots;

1. Tree Pruning
2. Supply of Nursery Trees
3. Landscaping Services
4. Nursery Plant Supplies
5. Other Materials and Planting Supplies

Some lots will be service based elements with some elements being classified as goods.

The service based lots (Tree Pruning), shall be set up so that mini competitions can be undertaken on a yearly basis depending on the councils changing requirements.

The lots for goods (Nursery plants), will have pricing schedules which can be called from, when required. These lots will also either have, agreed volume discounts, or the ability to run mini competitions for larger orders.

Lots will have a minimum of 3 and maximum of 5 listed providers, to provide a good range of options and to ensure competitive bids for the mini competitions.

The framework will be accessible to the following boroughs;

Havering - Redbridge - Newham - Waltham Forest
Hackney - Tower Hamlets - Enfield - Haringey

2.2 Estimated Contract Value, including the value of any uplift or extension period.

In total (and based on historic spend), across all lots the anticipated value of the framework stands at £1,400,000 over the four-year term.

Estimated spend based on these neighboring boroughs procuring similar supplies and services based on matching urban challenges. Barking and Dagenham annual projections are around 400k and using an estimated guess, the authority could have around 20% interest in these services resulting in the 8 authorities adding an additional spend of £640k per annum if cost benefits are evident.

The precise total contract value will be dependent upon client budgets and requirement. This will give the Council further benefits of economies of scale.

2.3 Duration of the contract, including any options for extension

The framework shall be over a four-year duration.

2.4 Is the contract subject to the (EU) Public Contracts Regulations 2015

Yes. Therefore, there is a requirement for this tender to be advertised in accordance with the legislation and be advertised in OJEU and Contracts Finder.

2.5 Recommended procurement procedure and reasons for the recommendation.

This Framework contract shall be let as an open procedure.

Suppliers will have to have sufficient accreditation and H&S policies relevant to the services and have a sufficient financial standing.

The open process will allow for the maximum number of suppliers to respond, will encourage SMEs and will be likely to produce the best value for money.

2.6 The contract delivery methodology and documentation to be adopted.

Stage	Estimated Date
Procurement Strategy Report to Procurement Board	19 December 2016
Procurement Strategy Report to Cabinet	17 January 2017
Publish OJEU advert	January 2017
Publish Procurements on Contract Finder	January 2017
Tenders returned and evaluation	March 2017
Award of Contract	April 2017
Implementation	May 2017
Contract Commencement	May 2017

2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

The framework will provide a compliant route to market for all goods and services required by the Horticultural and Arboricultural team to deliver their services. This

will reduce the chance of a legal challenge and will be fully compliant with EU and UK regulations.

The framework will simplify the purchase of goods and services, they will either be directly purchased using agreed framework rates or they will be sought via mini competitions between framework providers. This will reduce the time spent by staff in relation to tendering and quotes excises.

The framework will deliver qualified, high quality providers for council services and shall ensure that the prices are competitive and market tested. As the services already market test and benchmark, there are not likely to be savings achieved through the tender process.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

Each lot will be awarded through a scoring matrix on the basis of **80%** price and **20%** quality.

Due to the nature of the (seasonal) services required, the framework call off process will be based on mini competitions.

2.9 How the procurement will address and implement the Council's Social Value policies.

It is important to maintain sustainable procurement, by engaging with local and regional suppliers to promote the local economy and taking account of the social and environmental impact of spending decisions.

The council, along with its policies, is committed to ensuring that services are delivered in a way that protects the quality of the environment and minimises any adverse impact on community well-being.

The council plans to approach competition positively, taking full account of the opportunities for innovation and genuine partnerships which are available from working with others in the public, private and voluntary sectors.

3. Options Appraisal

3.1 Option 1: Do Nothing - This option was rejected as this would not meet the requirements under the council contract rules or the PCR 2015 regulations.

3.2 Option 2: Access an existing framework - Considered but rejected as no existing framework matches our requirements. There are frameworks that can offer some of the services but this would involve several separate procurements and would not guarantee the same results that letting our own framework would. Existing frameworks could possibly exclude local suppliers who would be interested.

3.3 Option 3: Procure a new framework - This is the recommended option for the reasons set out in the report.

4. Waiver

- 4.1 Services are currently being provided under an approved waiver, authorised on 5 August 2016 by the relevant Director, for the period up to 31 March 2017.

5 Equalities and other Customer Impact

- 5.1 The authority has a statutory duty to maintain its arboriculture and horticulture stock borough wide and to keep it in a safe condition. The duty extends to protect the borough from insurance claims made against the council in respect of both indirect and direct damages.

6. Other Considerations and Implications

6.1 Risk and Risk Management

Current Risks

1. Disaggregation of spend could leave the Council open to challenge through FOI requests or internal audit.
2. Divisional budgetary overspend due to non-contracted activity (costs can increase without prior agreement), which may result in cheaper goods/services being purchased (possibly not fit for purpose).

How these risks are managed;

1. The contract will be managed in accordance with the Council's requirements.
2. The use of the proposed framework will enable the Council to accurately manage and forecast all of the associated costs in Arboriculture and Horticulture.
3. Single procurement exercise every 4 years will ensure best use of the council's resources.
4. Call of prices and mini competitions will ensure the Council takes advantage of best prices available on the market for its acquired goods/services.

6.2 TUPE, other staffing and trade union implications-

There are no TUPE implications to the Council.

- 6.3 **Crime and Disorder Issues** – The specification will include a new clause in the contract which will highlight the issue of possible vandalism and/or neglect of products delivered (i.e. planting).

7. Consultation

- 7.1 Consultation for these procurement proposals has taken place through circulation of this report to relevant Members and officers. The report was also considered and endorsed by the Corporate Procurement Board representatives.

8. Corporate Procurement

Implications completed by: Francis Parker – Senior Procurement Manager

- 8.1 Letting this Framework will consolidate a number of currently non-compliant contracts. It will allow the arboriculture team to work in the flexible manner that they are used to but in a manageable and compliant way.
- 8.2 A full OJEU process will be conducted which will be compliant with the Councils Contract rules and the Procurement Contracts Regulations 2015. An open one stage process may mean that the number of tenders received is quite high, but it will guarantee that a number of best value suppliers are awarded a place on the framework. This will provide the best Value for money over the next 4 years.
- 8.3 An 80/20 Price/Quality split will mean that the specification has to be as detailed as possible to ensure the correct level of service and quality. The focus on price is likely to deliver the best value bids and reduce costs.

9. Financial Implications

Implications completed by: Katherine Heffernan, Finance Group Manager

- 9.1 The report seeks approval to begin a procurement exercise for a framework for term contracts for Arboriculture and Horticulture.
- 9.2 There will be no fixed charge because of this framework. The total value contract/spend value will be dependent on individual service budgets and requirement.
- 9.3 Spend will be managed within existing individual service budgets.

10. Legal Implications

Implications completed by: Bimpe Onafuwa, Contracts and Procurement Solicitor

- 10.1 This report is seeking approval to procure a framework agreement for the provision of Arboricultural and Horticultural Services. The procurement will be led by LB Barking & Dagenham (the Council) and it is intended that other public organisations and education bodies be able to call-off the resultant framework, via an access agreement. The access agreement will be subject to a 1% rebate from suppliers each time additional public organisations draw down from the framework.
- 10.2 Due to the potential value of contracts to be called off the framework agreement, this procurement is subject to the Public Contracts Regulations 2015 (PCR 2015). Regulation 33 of the PCR 2015 permits the setting up of framework agreements for a period of four years, and allows the call-off of contracts from framework agreements by organisations clearly identified in the advertisement notice.
- 10.3 This procurement is also subject to the EU procurement principles and the Council's Contract Rules. There is therefore a requirement that it be tendered competitively and that the process be transparent, non-discriminatory and ensures the equal treatment of bidders. In compliance with the principles, there is also the expectation

that the procurement will be advertised widely enough for interested bidders to be aware of the contract.

- 10.4 This report sets out the procurement strategy for this framework agreement in clause 2 and states (in clause 2.6) that it will be advertised in both the OJEU and Contracts Finder, in accordance with the PCR 2015. The report also gives details of the procurement procedure, evaluation criteria, award criteria (for both the framework and call-off contracts) and the timetable for the procurement exercise. All the above show evidence of a fair tender exercise in accordance with the PCR 2015.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None