

Notice of Non-key Executive Decision

Subject Heading:	Procurement of Highways Tree Maintenance services
Cabinet Member:	Cllr Osman Dervish
SLT Lead:	Barry Francis, Director of Neighbourhoods
Report Author and contact details:	Jacki Ager, Ext. 3363 Jacki.ager@havering.gov.uk
Policy context:	Ensure Havering is kept Clean and Safe, by ensuring the Council's tree stock continues to be maintained in a safe and visibly appealing manner thus enhancing the environment.
Financial summary:	The price element of the contract is evaluated by providing a list of works orders and the frequencies that these tasks were carried out in a financial year. Bidders will be required to provide a cost per unit for each works item. Work will be commissioned on the basis of a schedule of rates (supplied as part of the Tenderer's bid) with orders being raised monthly. The contract costs can therefore be managed within the available budgets, split between Highways tree works (A27004 £0.350m), Housing (A29125 £0.07m as part of annual recharge) and Parks (A20500 £0.06m), plus additional works recharged to other departments.

Non-key Executive Decision

Relevant OSC:	Environment
Is this decision exempt from being called-in?	No

Non-key Executive Decision

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The current contract for tree maintenance was awarded to City Suburban Tree Surgeons Ltd on 1 April 2016. The contract was five years in length with the option to extend for a further year subject to satisfactory completion of the initial term. This extension was applied and the contract ends on 31 March 2022. It is proposed that the Council looks to procure the same length contract, but with a further extension option of 1 or 2 years to test whether better value for money can be achieved on the bidders' schedule of rates.

The Council has a statutory duty to ensure the Highway is kept safe for its users. The liability rests with the Council to ensure its tree stock does not injure or cause damage to road users and property. It is therefore recommended to go out to the market and tender for a new service, or otherwise procure through an appropriate framework.

AUTHORITY UNDER WHICH DECISION IS MADE

3.4 Powers of Second Tier Managers

Contract powers

(a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.

STATEMENT OF THE REASONS FOR THE DECISION

The current contract ends on 31 March 2022 and to ensure the Council's trees continue to be maintained in safe and visually pleasing condition a new contract is required. It was originally intended to include tree maintenance in an integrated public realm contract, however soft market testing revealed little appetite for this within the marketplace. Therefore, it is recommended to go out to the market as an individual contract.

OTHER OPTIONS CONSIDERED AND REJECTED

Following a one-year extension to the existing contract, the Council is now required to re-tender for this Contract. As above, consideration was given to including tree maintenance within a larger integrated public realm contract, however soft market testing showed there to be little appetite for this type of service within a predominantly waste-related contract.

Non-key Executive Decision

PRE-DECISION CONSULTATION

No consultation has taken place.

Non-key Executive Decision

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Jacki Ager

Designation: Waste and External Contracts Manager

Signature: J. Ager

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

European legislation sets out specific procedure which must be followed for procurements above certain values. Where the estimated value of a proposed contract intended to be let by the Council (or on its behalf) exceeds or is likely to exceed EU procurement, the contract must be procured in accordance with the EU Procurement Directive (2014/24/EU) as included in the Public Contracts Regulations 2015.

The Checkpoint procedure should be undertaken for Supply, Services, Concessions and Light Touch contracts over the £189,330 threshold and for Works over £500,000.

The CPAs set out that tenders should be evaluated on the basis of a ratio of 70% price and 30% quality.

The approval being sought to proceed with the procurement is in accordance with the Council's scheme of delegation.

The procurement team will be fully engaged in the procurement, legal will be consulted on contract documentation and alongside the HR TUPE specialist will be asked to advise on possible TUPE implications.

In order to mitigate inherent risks to the Council during the procurement process, mainly a potential challenge by unsuccessful bidders, the Council must take appropriate action during the key stages of the process, including:

- Assuring an award decision notice is issued to bidders as soon as possible following the decision to award the contract.
- Ensuring a mandatory standstill period of at least ten calendar days between the dispatch of the decision notice and the entry into the contract with the selected bidder is observed before the Council enters into the contract with the successful bidder.

FINANCIAL IMPLICATIONS AND RISKS

The maximum joint revenue budget for this service in 2021/22 is £0.480m, with the remaining works being recharged to other Council and Schools budgets upon request, as has been the case previously.

Work will be commissioned on the basis of a schedule of rates with orders being raised monthly. The contract costs can therefore be managed within the available budgets. It is proposed that the Council looks to procure the same length contract, but with a further extension option of 1 or 2 years to test whether better value for money can be achieved on the bidders' schedule of rates.

Non-key Executive Decision

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There is no impact on any directly employed Council employees. Contractor to contractor TUPE implications will be appropriately investigated, should this be required.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Due to the nature of the contract, it will have a potential to impact all residents living in the Borough. An Equality Impact Assessment is attached. The tendering process will comply with EU and Council procurement procedures and therefore comply with Equality legislation.

BACKGROUND PAPERS

None

Non-key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed

Nicolina Cooper

Name: Nicolina Cooper

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title: Assistant Director - Environment

Date: 26/10/21

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____