

Report to:	CABINET
Report of:	ACTING STRATEGIC DIRECTOR OF PLACE
Date of Decision:	20th SEPTEMBER 2016
SUBJECT:	TENDER STRATEGY FOR ARBORICULTURE SERVICES (NON-HIGHWAY) FRAMEWORK AGREEMENT 2017 – 2022
Key Decision: Yes	Relevant Forward Plan Ref: 000606/2015
If not in the Forward Plan: (please "tick" box)	Chief Executive Approval <input type="checkbox"/> O&S Chair Approval <input type="checkbox"/>
Type of decision:	Executive
Relevant Cabinet Member(s):	Councillor Lisa Trickett, Cabinet Member for Clean Streets, Recycling and Environment Cllr Majid Mahmood, Cabinet Member for Value for Money and Efficiency
Relevant O&S Chairman:	Councillor Mohammed Aikhlaq, Corporate Resources and Governance Councillor John Cotton, Health, Wellbeing and the Environment Committee
Wards affected:	All

1. Purpose of report:

- 1.1 To provide details of the tender strategy and of the procurement process for the provision of the Arboriculture Services (Non-Highway) Framework Agreement 2017 - 2022 for a five year period to commence 1st April 2017 for an estimated total value of £5.0m
- 1.2 It is proposed to undertake a procurement exercise using the Restricted Tendering procedure.

2. Decision(s) recommended:

That Cabinet:

- 2.1 Approves the strategy and the commencement of tendering activity for the Arboriculture Services (Non-Highway) Framework Agreement 2017 - 2022 in accordance with the requirements and approach outlined in Section 5 of this report.
- 2.2 Delegates authority to the Acting Strategic Director of Place in conjunction with the Assistant Director of Procurement, the Strategic Director of Finance and Legal (or their delegate) and the City Solicitor (or their delegate) to award the Arboriculture Services (Non-Highway) Framework Agreement 2017 - 2022 following the completion of the tendering process.

Lead Contact Officers:	
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3. Consultation

3.1 Internal

3.1.1 Officers from Legal and Democratic Services, Procurement and City Finance have been involved with the preparation of this report.

3.2 External

3.2.1 Consultation has been conducted with the Birmingham Open Spaces Forum (BOSF) on behalf of the Friends of Parks groups. The Council was approached by BOSF to explore whether there was an opportunity for Friends of Parks groups being able to perform minor tree work on Council owned park land. The option identified by the Council that would legally enable Friends of Parks groups to carry out this work was turned down by BOSF as it wouldn't satisfy the requirement they were seeking. The option would have included an extra Lot within this tender and established a set of providers that could be accessed by Friends of Parks through the Parks, Nature and Conservation team on this contract. Further discussion has been held between the Parks, Nature and Conservation team and Birmingham Open Spaces Forum and a mutually agreeable solution outside of this tender strategy has been agreed. Therefore an extra Lot will no longer be required within this tender.

3.2.2 The Parks Service has a strong working relationship with BOSF and the 150 Friends of Parks Groups working within the Birmingham Parks. The Friends of Groups provide invaluable volunteering to give real added value to the parks of Birmingham by tackling maintenance that is not on the Grounds maintenance programme. The Friends of Parks Groups also work closely with the Ranger Service to work on projects to improve the visitor experience for all parks users. The Friends of Parks Groups contribute upto 15,000 hours per annum in volunteering time.. Without the Friends of Groups taking on the added value maintenance projects within the Birmingham Parks, areas of the parks sites would not be maintained and could become litter traps. The Friends of Parks members deserve a huge amount of praise for the hard work they contribute to keeping the park sites so well maintained. There are regular local meetings with BOSF and Friends Of groups to agree strategy in maintaining the Park Sites with BOSF contributing many good ideas and working with the local community to promote the benefits of the Parks Service.

3.2.3 During consultation the Council and BOSF discussed a working model within the new tree contract. BOSF accepted that a workable balance moving forward would require that the Council continue to manage duty holder matters, ensuring we apply a consistent approach in meeting all our liabilities.

Agreement was reached that the city continues to procure our main tree works to deal with day to day matters, such as regular qualified inspections, tree works as a result of such inspections and ad-hoc/emergency works that require action within 2 hours. However, to further enhance local influence and added value, Friends of Groups will be able to identify potential additional funding for tree works in Parks, mainly in support of the provision of planting new trees and woodland management. This work is agreed and priced using the competitive contract rates through the Council's Tree Officer. To facilitate and encourage a closer working relationship between Friends and the Tree Service an approved sub-contractor will be assigned to carry out works for Friends groups, at the same time meeting all responsibilities under the Health & Safety at Work etc Act 1974.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

4.1.1 This contract will support the following objectives of the Council in the Council Business Plan and Budget 2016+:

- A Happy, Healthy City – through the provision of, and improved access to, outdoor recreational facilities and the creation of clean, green and safe open spaces. Public spaces will be physically improved for use by all.
- A Strong Economy – the contracts improve the health of the city's trees to ensure safe and green environments in parks, housing, school grounds, cemeteries and crematoria and other public open spaces. The timber is recycled so contributes to the Council's sustainability agenda whilst the trees contribute to the green Infrastructure of the city and to reduce the impact of climate change.
- A Democratic City – by involving local people in decisions that affect their local spaces.

4.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of the contracts called off from the proposed Framework Agreement. Tenderers will submit an action plan that supports the local economy and creates much needed jobs including the development of an apprenticeship scheme relevant to arboriculture services with their tender. This will be evaluated in accordance with paragraph 5.8.5.4 and action plans of the successful tenderers will be implemented and monitored during the contract period.

4.2 Financial Implications

- 4.2.1 The proposed Framework Agreement will not result in any specific contractual liabilities for the Council. However, this is unlikely to exceed £5m over the 5 year period of the contract period based on the historical expenditure on these services over the life of the previous Framework Agreement.
- 4.2.2 The expenditure that is incurred will be funded from within the annual approved budgets of the Council Directorates that utilise this Framework Agreement (these budget allocations will be subject to the annual approval through the City Council Budget process and will need to take into account any approved savings that are allocated for these services).
- 4.2.3 Any work undertaken to make safe dangerous trees on privately-owned land is recharged to the land owner.
- 4.2.4 The Framework Agreement will be made available for other public sector bodies to use and an access fee will be levied. The level of fee proposed to be charged will be detailed in the Contract Award Report

4.3 Legal Implications

- 4.3.1 Section 164 of the Public Health Act 1875 gives the Council power to plant and maintain trees on land it is responsible for. The Council must maintain the trees on its land in order to avoid harm being caused to people and property which could result in claims for damages under the laws of negligence or an offence being committed under the Corporate Manslaughter and Corporate Homicide Act 2007. Section 23 of the Local Government (Miscellaneous Provisions) Act 1976 also gives the Council powers to make safe dangerous trees on privately-owned land.

4.3.2 Information Management

As this contract is primarily works based there are no significant information management requirements.

4.3.3 Pre-Procurement Duty under the Public Service (Social Value) Act 2012

Consideration of how this project might contribute to achieving the Council's priorities and improve the economic, social and environmental well-being of the relevant area was discussed by the project team and this is reflected in the requirements, being relevant and proportionate to the overall contract. Additional stakeholder consultation was not required with regard to social value outcomes as it is detailed in the output specifications that have been drawn up by the Council and partner organisations.

The process for securing this social value during the procurement exercise will be through the Birmingham Business Charter for Social Responsibility.

4.4 Public Sector Equality Duty

- 4.4.1 A relevance test to decide whether the planned procurement for the Arboriculture Services Non-Highways has any relevance to the equality duty contained in Section 149

of the Equality Act 2010 of eliminating unfair/unlawful discrimination and to promoting equality and human rights was conducted on 12th August 2016. The screening identified there was no requirement for the completion of an Equality Assessment form – **see Appendix 1.**

5. Relevant background/chronology of key events:

5.1 Service Requirements:

- 5.1.1 The Council has approximately 736,000 trees within its tree stock on land which it is responsible for. All of the trees require periodic surveys to determine the required level of maintenance and to ensure that any emergency works are carried out to ensure that the Council adheres to its legal obligations.
- 5.1.2 This proposed Framework Agreement does not cover those trees located on or near to the highways or streets. These are maintained by Amey Birmingham Highways Ltd under the Highways Maintenance and Management Private Finance Initiative contract.
- 5.1.3 On 13 October 2010 Cabinet Committee (Procurement) approved the award of contracts to Blythe Valley Ltd for the north of the City and Gristwood and Toms Ltd for the south of the City for a 5 year period ending on 12th December 2015. It was necessary to extend these contracts to allow sufficient time for an options appraisal for the future delivery of the service to be completed.
- 5.1.4 Gristwood and Toms Ltd declined the offer to extend their contract. Blythe Valley Ltd agreed to take over the south contract and to continue with the north contracts until March 2017 as they had the capacity to do so using the same schedule of rates. This was authorised by the Acting Strategic Director of Place on 24th November 2015.

5.2 Outcomes Sought.

- 5.2.1 The following outcomes are anticipated as a result of the procurement process for this Framework Agreement:
- Ensure that the Council complies with the legal obligations and to ensure the safety of the trees in the city.
 - Greater value for money through updated pricing and contractual arrangements.
 - Additional Social Value to improve the economic, social and environmental well-being of Birmingham citizens.
 - Consistency in the implementation and delivery of works.
 - Full visibility of spend against this category in the Council and an integrated contract management activity to realise value through efficiencies and improvements.
 - Reduced risk in the engagement of contractors.
 - Maximising purchasing power by making the Framework Agreement available to other public sector bodies in the region.
 - The possibility of the service providers carrying out works on land not owned by the Council on our behalf.

5.3 Market Analysis.

5.3.1 The arboriculture service is a mature market with contractors ranging from small and medium enterprises up to larger national organisations.

5.3.2 Market consultation has indicated that a contract period of 5 years is required for suppliers to be able to secure economies of scale on the lease of equipment that is specialist for the work to be completed.

5.4 Strategic Procurement Approach

5.4.1 An options appraisal of service delivery options was undertaken and the results detailed below:

To provide the service in house

It was concluded that this was not the best option due to the lack of in-house resource or expertise to deliver this with an additional cost of approximately £370k per annum over and above the current costs. The basis of this was calculated using the numbers of employees, vehicles, equipment and premises required to deliver the service.

To commission the market to deliver the service

Commissioning the market via a tender exercise to deliver the service is the only option suitable to deliver value for money and the outcomes for the service. Further to paragraphs 5.3.1 and 5.3.2, soft market testing has indicated that there is sufficient capacity in the market place of suppliers capable of undertaking the service.

5.5 Procurement Approach.

5.5.1 Duration and Advertising Route

5.5.2 The proposed Framework Agreement will be for a period of five years. This will allow companies to realise a reasonable return on investment as significant capital investment is required to deliver the contract.

5.5.3 The tender will be advertised via www.finditinbirmingham.com, Contracts Finder and the Official Journal of the European Union (OJEU).

5.6 Procurement Route

5.6.1 The requirement will be tendered using the 'restricted' route on the basis that:

- The service can be clearly defined.
- Tenderers' prices will be based on discounts of pre-priced schedules of rates that reflect each piece of work required.
- There are a large number of organisations in the market place likely to tender for this Framework Agreement and therefore the carrying out of a pre-qualification process will ensure the short-listed organisations meet the Council's requirements.
- Tendering through the restricted route will allow more emphasis on the experience of providers through conducting site visits as part of the process.

This will allow an assessment of safety and quality of delivery and an assurance that those providers taken through to the ITT stage will have the necessary ability to fulfil the requirements.

5.6.2 Procurement Options

- 5.6.2.1 Tender as a Council only Framework Agreement. There are more benefits from opening up the Framework Agreement to other public sector bodies than by tendering on a Birmingham only basis. These benefits are detailed below in 5.6.2.2.
- 5.6.2.2 Tender for a collaborative Framework Agreement with the Council acting as lead authority – the benefits include increased purchasing power, better collaboration and shared knowledge between authorities, reduced tendering time and resources for both authorities and suppliers. This is the recommended option to tender for a collaborative Framework Agreement, available for access to other public sector bodies, primarily in the West Midlands region.
- 5.6.2.3 To opt in to a collaborative Framework Agreement. There are currently no suitable Framework Agreements available.

5.7 Scope and Specification

5.7.1 The list below is an indicative list of some or all of the services that will be required under the Framework Agreement. Actual work will be dependent on tree inspections carried out by the Council's tree officers and the subsequent issue of a work order.

- Young Tree Maintenance
- Formative Pruning
- Maintenance of Guarding, Support & Irrigation Systems
- Epicormic Growth Removal
- Crown Lifting
- Crown Thinning
- Crown Reduction
- Crown Reduction – Obstacles
- Conservation Deadwood
- Deadwood
- Crown Clean
- Pollard
- Aerial Inspection
- Ivy - sever at base
- Cable Brace
- Tree Felling
- Silvicultural Felling
- Trees in Close Proximity to Watercourses
- Extraction
- Coppicing
- Re-coppicing
- Stumps Removal
- Habitat Sticks
- Stump Treatment
- Root Pruning
- Lamp Column/Sign Clearance
- Hedge Reduction
- Tree Surveys
- Tree Planting

5.7.2 The arboriculture services (non-highways) will be split into two geographical areas, one for the north and the other for the south. This split is based on constituency boundaries as follows:

Lot 1 South: Edgbaston, Yardley, Northfield, Hall Green and Selly Oak constituencies.

Lot 2 North: Perry Barr, Hodge Hill, Ladywood, Sutton Coldfield and Erdington constituencies.

- 5.7.3 The geographical split was determined by reviewing the number of trees to be maintained within each constituency and grouping adjoining constituencies to achieve a broadly equal split of potential work and value.
- 5.7.4 In order to explore economies of scale we will retain the option to award both Lots 1 and 2 to a single supplier. The tenderers will be expected to offer a discount should both Lots be awarded to one service provider.
- 5.8 Tender Structure (Framework Agreement)
- 5.8.1 Evaluation and Selection Criteria
- 5.8.2 **Pre-Qualification Stage**
- The evaluation of the PQQ stage will be based on the following criteria
- Section 1 Supplier Information (pass / fail)
 - Section 2 Grounds for Mandatory Exclusion (pass / fail)
 - Section 3 Grounds for Discretionary Exclusion Section (pass / fail)
 - Section 4 Economic and Financial Standing (pass / fail)
 - Section 5 Technical and Professional Ability (pass / fail)
 - Section 6 Additional PQQ Criteria
 - Environmental Management (pass/fail)
 - Insurance (pass/fail)
 - Compliance with Equalities Duties (pass/fail)
 - Health and Safety (pass/fail)
 - Compliance with the Birmingham Business Charter for Social Responsibility (pass/fail)
 - Section 7 Experience (pass/fail)
 - Section 8 Site Visits (pass/fail)
 - Section 9 Declaration (signed)
- 5.8.3 Those organisations that pass the PQQ criteria in Sections 1 to 7 will have their technical competence and implementation of health and safety assessed through a site visit as per Section 8.
- 5.8.4 Those organisations that pass Section 8 will progress to the Invitation to Tender stage.
- 5.8.5 **Invitation to Tender (ITT) Stage**
- 5.8.5.1 Those organisations that meet the criteria in 5.8.1 Sections 1-7 and pass the site visit in Section 8, will be invited to tender and sent the tender documentation for completion and return.
- 5.8.5.2 The ITT will be evaluated using the quality/ social value/ price balances below that were established having due regard to the corporate document 'Advice and Guidance on Evaluating Tenders on Quality and Price' which considers the complexity of the services to be provided.

5.8.5.3 Tenders will be evaluated against the specification in accordance with a pre-determined evaluation model.

5.8.5.4 Tenders for the Framework Agreement will be evaluated using a quality / social value / price split as follows:

Assessment A – Quality (Written Proposals) (40%)

Criteria	Overall Weighting	Sub-Weighting
Organisation and Resources	100%	20%
Environmental		20%
Customer Care		15%
Quality Systems		15%
Health and Safety		30%

Tenderers who score less than the quality threshold of 60% i.e. a score of 300 out of a maximum quality score of 500 may not take any further part in the process.

Assessment B – Social Value (10%)

Criteria	Overall Weighting	Sub-weighting
Local Employment	100%	35%
Buy Birmingham First		15%
Partners in Communities		15%
Good Employer		15%
Green and Sustainable		10%
Ethical Procurement		10%

Tenderers who score less than 40% of the social value threshold may not take any further part in the process.

Supplier presentations and interviews may take place to clarify their understanding of the requirements and the scoring adjusted accordingly, if appropriate.

Assessment C – Pricing (50%)

Tenderers will be expected to state their rates against a schedule of works. The completed tender prices will then be assessed using model schemes containing an accurate representation of the work items and quantities that are likely to be found on typical arboricultural schemes. This enables each tender to be assessed in a way which reflects the actual work to be carried out under a contract.

Prices will be fixed for a period of 12 months from the date of award but will be subject to an annual price review thereafter using a specified price fluctuation formula based upon the Schedule of Rates - Ground Maintenance 1987 produced by the Royal Institute of Chartered of Surveyors. A cap in line with the index will be applied to create a maximum increase with reference to market conditions to manage and limit any increases.

5.8.6 Overall Evaluation

5.8.6.1 The evaluation process will result in comparative quality, social value and price scores for each tenderer. The maximum score will be awarded to the bid that demonstrates the highest for quality and social value. Similarly the maximum price score will be awarded to the lowest acceptable price. Other tenderers will be scored in proportion to the maximum scores in order to ensure value for money.

5.8.7 Sourcing Strategy

5.8.7.1 One provider will be appointed to each Lot. Appointing more than one provider in each Lot is not considered a viable option due to the volume of work in contrast to the cost of equipment required to complete the work.

5.8.7.2 In order to explore economies of scale there is no restriction on one provider being awarded both Lots. The tenderers will be able to offer a volume discount when tendering rates for providing the service across both lots.

5.8.8 Evaluation Team

The evaluation of the tenders will be undertaken by officers from the Parks and Nature Conservation, Place Directorate, supported by Corporate Procurement Services.

5.8.9 Risk

5.8.9.1 The CPS approach is to follow the Council Risk Management Methodology and the Category Team is responsible for local risk management. CPS maintains a risk management register and documentation relevant for each contract. The risk register for this Framework Agreement has been jointly produced and owned by CPS and Parks and Nature Conservation with arrangements being put in place to ensure operational risks are mitigated.

5.8.10 Indicative Implementation Plan

Cabinet Approval (Strategy)	20/09/2016
OJEU Notice Issued	26/09/2016
Pre-Qualification Deadline (PQQ)	28/10/2016
Site Visits (PQQ)	11/11/2016 – 25/11/2016
Evaluation and Shortlisting	28/11/2016 – 02/12/2016
Issue Invitation to Tender	05/12/2016
ITT Deadline Submission	16/01/2017
Completion of Evaluation	30/01/2017
Contract Award	February 2017
Contract Start	01/04/2017

5.8.11 Service Delivery and Contract Management

5.8.11.1 The Framework Agreement will be managed operationally by the Parks and Nature Conservation, Tree and Recycling Manager and supported by the Contract Management Team within Corporate Procurement Services.

- 5.8.11.2 A performance monitoring and service payment mechanism will form part of the resulting Framework Agreement. The performance monitoring and service payment mechanism will incentivise the Service Provider(s) to deliver against the required service standards, meaning that achievement of these standards will be linked to payment. Delivery of this will be through the Council's IT system 'POPI'. Failure to maintain performance standards will result in no payment or deductions being made. Default points and service credits (both based on a genuine pre-estimate of loss) are applied if works are not completed to standard or safely.
- 5.8.11.3 In addition performance will be measured through a set of key performance indicators that will measure / monitor the service provider's performance under the following broad headings:
- Cost e.g. invoice accuracy
 - Quality e.g. Health & Safety, damage to property, timeliness
 - Customer satisfaction.
- 5.8.11.4 Works will be ordered as required by the relevant officer within delegated thresholds under the Framework Agreement following tree surveys and inspections carried out by the Council's Tree Officers and the portfolio budgets will be monitored to ensure that the total works orders do not exceed the available budgets.

- 6. Evaluation of alternative options:**
- 6.1 Do nothing - The Council has a legal duty to ensure public safety as outlined in paragraph 4.3.1. For this reason the option to not provide a service was not considered.
- 6.2 Alternative service delivery option are detailed in paragraph 5.4.1 and alternative procurement options are detailed in paragraph 5.6.2

- 7. Reasons for Decision(s):**
- 7.1 To enable the commencement of the tendering activities for the provision of Arboriculture Services (Non-Highway) Framework Agreement.

Signatures

Councillor Lisa Trickett.....Date.....
Cabinet Member for Clean Streets, Recycling and Environment

Councillor Majid Mahmood,.....Date.....
Cabinet Member for Value for Money and Efficiency

Jacqui Kennedy.....Date.....
Acting Strategic Director for Place

List of Background Documents used to compile this Report:

None

List of Appendices accompanying this Report :

1. Equality Analysis Report