



**Executive
11 April 2011**

**Report from the
Director of Environment &
Neighbourhood Services**

Wards Affected:
ALL

Authority to invite tenders for an Arboricultural Services

1.0 Summary

- 1.1 This Report seeks authority to invite tenders for an Arboricultural Services Framework Agreement to commence on 1st April 2012 as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

- 2.1 That the Executive gives approval to the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 4.1 of this Report.
- 2.2 That the Executive gives approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 2.1 above.

3.0 Detail

- 3.1 There are currently three separate arrangements for maintaining the Council's tree stock.
- 3.2 The three separate arrangements respectively cover:
- Highways Trees
 - Trees in Brent Parks
 - Trees on land managed by Brent Housing Partnership (BHP)

3.3 Current maintenance services and indicative budgets are set out here:

Highways Trees

The service is currently provided through an external contract with Gristwood & Toms, with an annual contract value in 2011-12 of over £500k. The contract commenced on 1 April 2004 for a period of 5 years with the possibility of it being extended for a further 3 year period. The contract has been extended and is due to expire on 31 March 2012.

Trees in Brent Parks

Some routine maintenance is carried out by directly employed Parks Service staff, with other work allocated to Gristwood & Toms using tendered rates for the Highways Arboricultural Services Contract. The estimated value of arboricultural services carried out by Gristwood and Toms in relation to trees in Brent parks is in the region of £50k per annum in 2011-12.

Trees on land managed by BHP

Tree maintenance is carried out through an external contract that BHP has with City Suburban Tree Surgeons Ltd., with an estimated annual value of £100k approximately.

- 3.4 At this point in time, BHP is considering a two year extension of the current arrangements with City Suburban. However, BHP has indicated that in future it may wish to access services that the Council arranges.
- 3.5 In addition to BHP indicating that it may wish to access services that the Council arranges, there have also been outline discussions with the London Borough of Harrow regarding the possibility of it accessing Brent's arrangements for arboricultural services. Officers consider that the possibility of other organisations accessing Brent's arrangements may have a positive impact on any procurement as contractors may be willing to put in more competitive bids given the prospect of winning larger contracts. In the circumstances Officers consider that establishing a single provider framework agreement from which it and other organisations can call-off contracts is the most appropriate way forward.
- 3.6 It is clear that even with a relatively short contract term, the value of a new framework and call-off contract for arboricultural services is above the threshold for High Value contracts and thus the procurement will need to be tendered in accordance with the Council's relevant Standing Orders and Financial Regulations.

- 3.7 It should also be noted that from time to time, external funding may be available (e.g. from TfL, section 106 planning gain, or the Mayor of London) for additional tree planting, and this would increase the annual value of arboricultural services still further.

The Process - Important Additional Information

- 3.8 As part of the preparatory process for new contractual arrangements, officers in Environment & Neighbourhood Services have conducted interviews with a number of major suppliers in the arboricultural market to gauge views on certain issues that will form part of the pre-tender considerations.

- 3.9 A total of 5 major suppliers were interviewed and their detailed responses to a series of pre-determined common questions are shown at Appendix A to this report. These are summarised as follows.

A. Preferred contract length

Responses ranged from 4/5 to 12 years with suitable breaks. Any link with investment in vehicles and plant pointed towards multiples of 5 years.

B. Packaging of work

All interviewees were happy with packaging highways based works with parks based works.

C. Recommended maintenance regime for Brent

Despite some unfamiliarity with Brent for some of the parties, fixed maintenance cycles plus some ad-hoc works were a favoured approach, and considered likely to represent good value for money.

D. Other successful contracts held

The most successful contracts were thought to contain a strong proactive approach (which should result in less demand for costly emergency or ad-hoc works), with some support for a zonal-based approach.

E. Responsiveness to changing budgets

All interviewees recognised that local authority finances were under severe pressure and accepted that during the life of a contract, savings and efficiencies would be sought. Whilst there would be an impact on the company, forward planning and sufficient notice of changes would minimise the adverse impact. The importance of establishing a good relationship with the client was fully recognised.

F. Attitude towards making annual efficiency savings

This was accepted as a common requirement in the current economic climate.

G. Impact on Brent not having depot provision

None of the interviewees felt that Brent not being able to offer or provide depot facilities would hamper their interest, or their opportunity to bid, and would either secure local facilities or service the Brent contract from their other existing operational bases.

H. Other comments

There were various comments offered and these are shown at Appendix A.

- 3.10 Based on market testing together with Officer's own knowledge of the arboricultural services market and the needs of the Council, Officers would recommend the establishment of a framework agreement and call-off contract in accordance with the pre-tender consideration set out in paragraph 4.1 below.

4.0 Pre Tender Considerations

- 4.1 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	A single provider framework agreement for the maintenance of tree stock, to include tree removal and new tree planting.
(ii)	The estimated value of services purchased by Brent	Up to £ 650,000 (per annum) over a potential six year call-off contract period (including extensions). Estimated total value over this period up to £3,900,000.
(iii)	The contract term	A framework agreement of four year duration from 1 st April 2012, but allowing call-off contracts for a four year term with an option to extend term of the call-off contract for a further two years.
(iv)	The tender procedure to be	A two stage tender process in accordance

	adopted.	with the Council's Standing Orders.
(v)	The procurement timetable	<p>Adverts placed - April 2011.</p> <p>Expressions of interest returned – 23 May 2011.</p> <p>Shortlist drawn up in accordance with the Council's approved criteria – by 9 June 2011.</p> <p>Invitation to tender – 16 June 2011.</p> <p>Deadline for tender submissions -11 August 2011.</p> <p>Panel evaluation and shortlist for interviews (if necessary) – by 16 September 2011.</p> <p>Interviews and contract decision – by 14 October 2011.</p> <p>Report recommending contract award circulated internally for comment - October 2011.</p> <p>Executive approval - December 2011.</p> <p>Framework agreement and call-off contract start date - 1st April 2012.</p>
(vi)	The evaluation criteria and process	<p>The shortlist will be drawn up in accordance with the Council's Contract Management and Procurement Guidelines namely the prequalification questionnaire and thereby meeting the Council's financial standing requirements, health, safety and environmental standards and technical expertise. The panel will evaluate the tenders to establish the Most Economic Advantageous Offer based upon the following criteria:</p> <ul style="list-style-type: none"> ❖ the appropriateness and effectiveness of the Tenderer's proposed systems and working methods as set out in its method statements and tender submission generally ❖ demonstrated ability to provide the services required for this Contract ❖ proposed systems and working methods ❖ approach to customer care, client care and equalities ❖ approach to environmental issues ❖ quality of service proposals

		❖ price
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed framework agreement and call-off contract, although if the contractor performs poorly this could cause delays and possible costs to the Council. These risks will be reduced by employing a carefully managed and full procurement process, as set out in this Report.
(viii)	The Council's Best Value duties	The Council has a duty under Best Value to secure cost-effective and efficient services that meet the needs of the Borough's customers.
(ix)	Any staffing implications, including TUPE and pensions.	See section 8 of this Report.
(x)	The relevant financial, legal and other considerations.	See sections 5, 6 and 7 of this Report.

5.0 Financial Implications

- 5.1 The Council currently spends around £650,000 per annum through the three existing separate maintenance arrangements. Whilst it is anticipated that available funding will be lower over the next five years or so, this tendering exercise seeks to accommodate opportunities for additional external funding, as has been obtained in recent years through TfL and the GLA Mayor's Trees for Cities Initiative.
- 5.2 The Director of Finance comments that the link between reduced maintenance and the increase in insurance claims should be clarified, i.e. what is the minimum work/cost per annum that will be required if the insurance claims are to remain at the current level. Work will be undertaken prior to issuing the invitation to tender to try to establish this.
- 5.3 The notice period that will be required by the contractor to change the level of work required should be specified, without the Authority incurring any penalty.

6.0 Legal Implications

- 6.1 The estimated value of the framework agreement over its lifetime is in excess of £500,000 and therefore the procurement and award of the framework agreement is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts.

- 6.2 As the framework is for the provision of arboricultural services, it falls within Part B of Schedule 3 of the Public Contracts Regulations 2006 (“EU Procurement Regulations”) and is not therefore subject to the full application of the EU Procurement Regulations. The EU Procurement Regulations are of residual application only (the need to issue a contract award notice, etc.) and do not determine the procurement process to be followed. However, the overriding principles of EU law (equality of treatment, fairness and transparency in the award process) continue to apply and should be upheld at all times in relation to the procurement and award of the framework agreement. Despite the fact that the EU Procurement Regulations do not determine the procurement process to be followed, officers have decided to follow a full restricted procurement process.
- 6.3 Under the Council’s Standing Orders, as the framework agreement is classed as a “High Value Contract”, approval of the Executive is required for authority to tender. Approval of the Executive is also required by Contracts Standing Orders for the award of such framework agreement and any call-off contract under it once the tendering process is undertaken, Officers will report back to the Executive explaining the process undertaken in tendering the framework agreement and recommending award.

7.0 Diversity Implications

- 7.1 Officers have screened the proposals set out in this Report and consider that there are no significant diversity implications.

8.0 Staffing/Accommodation Implications (if appropriate)

- 8.1 The majority of arboricultural services provided to the Council are provided by Gristwood and Toms. If an alternate provider is chosen this may require staff to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 from the current contractor to a successor contractor.
- 8.2 Whilst some routine maintenance of trees in Brent parks is carried out by directly employed Parks staff, Officers do not consider the award of a framework agreement and call-off contract would have any direct implications for Brent staff.
- 8.3 A subsequent report to the Executive seeking authority to award the framework agreement and call-off contract will advise further on potential staffing or accommodation implications in the future.

Background Papers

None

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