

Executive Member	Councillor James Friend
Strategic Management Team Lead Officer	Steve Ruddy
Author	Paul Anderson
Telephone	01306 870613
Email	Paul.anderson@molevalley.gov.uk
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Ward (s) affected	All	Key Decision	Yes
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Subject	Community Partnership approach to Procurement Process for the Grounds Maintenance and Arboricultural Contracts
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RECOMMENDATIONS

1. That Option 1 be approved in order to provide Grounds Maintenance and Arboricultural services to Mole Valley that are in line with the needs of the community.
2. That the initial procurement timetable and process be approved and permission to commence the procurement process be granted.
3. That the focus of the procurement process should be to optimise Council expenditure and deliver Value for Money.

EXECUTIVE SUMMARY

The Council's Grounds Maintenance and Arboricultural contracts have significant benefits for the quality of life in Mole Valley. Both contracts expire at the end of December 2014 and this report sets out the framework for engaging with the community to develop the service delivery model(s), contract specification and the statutory process of tendering the contract.

The Council is proposing to use the re-procurement of the Grounds Maintenance and Arboricultural contracts as an opportunity to provide local communities the opportunity to take local control of service delivery and/or contract monitoring.

In accordance with the 'Community Right to Challenge' process introduced by the Localism Act 2011, the Council will invite expressions of interest to be submitted by eligible organisations such as Parish Councils and Residents' Associations during the contract pre-procurement phase. This will enable interested organisations to have sufficient time to plan how to deliver the services within their communities and to prepare a bid to the Council.

Alternatively, community organisations who choose not to submit expressions of interest may choose to work directly and constructively with the successful bidder(s) on behalf of the Council to ensure the services and standards specified in the tender specification are delivered in practice.

Other options and contract structures or terms for enabling communities to take responsibility for service delivery in a specific geographical area, and the impact on bidder interest and contract pricing implications will be explored with commercial suppliers during the pre-procurement phase.

The process outlined in this Report will ensure compliance with the Public Contracts Regulations 2006, is aligned with the Government's agenda of decentralising public service delivery, supports fair and transparent decision-making and enables the Council to get best value from contracts awarded to its delivery partners.

CORPORATE PRIORITIES

Delivery of the Grounds Maintenance and Arboricultural Contracts supports the delivery of the following Corporate Priorities:

Access to Services

The procurement strategy is designed to proactively engage with local communities, both in terms of setting appropriate contract standards and in enabling a community-led service delivery model.

The Grounds Maintenance contract will ensure that the community has access to and enjoyment of our recreation grounds and open spaces. The contract will ensure they are maintained to an acceptable quality of service although the method of service delivery may change.

The Arboricultural contract will ensure that an appropriate contractor is available to ensure such works can be carried out that the community can enjoy recreation grounds, open spaces and other areas in appropriate safety and that the Council can fulfil its statutory requirements in relation to the trees for which it is responsible.

Environment

The contracts do not contribute directly towards the specified priorities for 2013/14. However, both contracts are fundamental towards maintaining and developing the character and environment of Mole Valley.

Environmental and wider sustainability considerations, such as the standards of efficiency in the vehicles and plant used to deliver the services, which contribute towards minimising carbon emissions in the performance of the services, amongst others identified as a result of consultation and engagement with the market place, may be integrated into the procurement process where appropriate.

Value for Money

We will review the way in which we provide these services to ensure that it is focused on what matters and delivering against our priorities.

Furthermore, in procuring this contract, a key focus will be on maintaining acceptable service quality whilst reducing cost to the Council. The project will identify the Most Economically Advantageous Tender (MEAT) to ensure Value for Money in any new contract.

The process will be designed in a way which specifies standards and/or outcomes whilst allowing bidders scope to propose how they can most efficiently deliver those standards. This approach will

encourage innovation and seek to maximise any cost benefits whilst protecting the acceptable quality of service standards.

The Executive has the authority to determine the Recommendations

1.0 INTRODUCTION

- 1.1 The Council is responsible for the management and maintenance of 309 hectares of land, and is responsible for around 50,000 trees in Mole Valley. The Council works with partner organisations to provide these services, currently with GM Burley & Sons (Grounds Maintenance) and Collis Tree Services (Arboriculture). We know that both of these contracts have a significant impact on the quality of life in Mole Valley and therefore it is crucial that the tender specification meets the needs of our communities and is undertaken in line with legislative requirements.
- 1.2 Since January 2005 the contracts for the provision of both services have been let on a five year contract term with a five year extension. No further extension is available under the existing contracts. The current contracts for the provision of these services will expire on 31 December 2014. In order to meet the required timeframes and allow for the completion of an EU compliant tender process, it is necessary to commence the procurement for the provision of the Grounds Maintenance and Arboricultural Services.
- 1.3 Subject to the outcome of soft market testing, community consultation and acceptable expressions of interest being received, it is anticipated that the tender will be issued as a minimum of two separate lots. This will give greater scope for firms to bid for one or both of the contracts, as with the Arboricultural contract we will require bidders to be members of the Arboricultural Association (or equivalent), and only a small number of the larger companies who would be expected to bid for the Grounds Maintenance contract are members of that Association.
- 1.4 Consideration has been given to further disaggregating the Council's contract requirements into additional lots. Soft-market testing will enable the Council to obtain feedback from potential suppliers as to the pricing implications of enabling the Council to substitute community organisations such as a Parish Council or a Residents' Association as the contract delivery partner for its local area. The Council will also explore opportunities for sub-contracting or for voluntary agreements to be entered post award of contracts to encourage successful bidders to sub-contract to SMEs or to voluntary organisations.
- 1.5 When considering contract disaggregation and/or alternative service delivery models, the cost-benefits and practical implications such as whether the Council has the resources and capabilities to successfully support this approach will also be assessed as part of the development of the tender specification and contract.
- 1.6 Consideration will be given to opportunities for increasing the value of the contract by allowing (but not requiring) other organisations to contract with the successful contractor on the same terms and conditions as procured by the Council, if following soft-market testing, this would enable the Council to achieve better Value for Money.
- 1.7 Whilst it is not recommended that the Council prepare an in-house bid for the procurement, it is possible that other in-house local authority teams may choose to participate in the

procurement alongside other contractors.

Engaging with Communities

1.8 In addition to proactively inviting expressions of interest, exploring alternative service delivery models and an enhanced role for Parish Councils and Residents' Associations, the Council will engage with residents to understand the views of our communities about what is important to them in delivering these services. Initial consultation will be undertaken by December to help shape the tender specification.

1.9 The Council will also discuss options for management of the contract(s) at a local level with parish councils, which could include the opportunity for parishes to take on more of a contract management/monitoring role. The benefits and practical implications of this will also be assessed as part of the development of the tender specification.

1.10 Local communities may be able to work with other authorities to add further service delivery aspects such as highways verge maintenance to these contracts where value creation can be demonstrated and where there is no additional cost to Mole Valley.

Key Dates

1.11 The table below highlights the key dates for the tender process. The Council is required to comply with full EU procurement regulations (See legal implications below). Officers have identified the restricted procedure as best practice in this instance (there are no additional resource implications as a result of this).

Date	Action
Nov '13	Soft market testing will be completed to ensure the Council has fully engaged with and listened to what the market has to offer and to ensure that we act as intelligent customers. The Council will publicise its intention to invite expressions of interest and the periods during which such expressions of interest should be submitted.
Dec '13	Community engagement will take place and be completed to ensure that the view of the community are considered in the preparation of our specification and to support the Council to fulfil its duties under the Public Services (Social Value) Act 2012
Jan '14	An Official Journal of the European Union contract notice/advert will be issued inviting expressions of interest from potential suppliers. A Pre Qualification Questionnaire (PQQ) will be issued to interested parties.
Feb '14	A specification and outline scoring criteria will be drafted and agreed with the Portfolio Holder.
March '14	Details of the specification and scoring criteria will be reported to the Executive for approval.

April '14	Officers will evaluate the submitted Pre Qualification Questionnaires and the Expressions of Interest. Organisations whose Expressions of Interest have been accepted, together with a list of the top 5 scoring suppliers at the PQQ stage shall be shortlisted to invite to Tender. This list will be sent to SMT for approval as required by the Council's Contract Standing Orders.
	Invitations to Tender along with full specification and contract and other ancillary documents will be finalised and issued to shortlisted suppliers by end April 2014.
June '14	Suppliers will return Tenders
Aug '14	Officers will evaluate and clarify Tenders against the criteria agreed by the Executive.
Sept '14	The Most Economically Advantageous Tender (MEAT) against the criteria agreed by the Executive will be reported to the Executive for approval.
	If Executive approval is granted the Council will complete the procurement process and enter into a contractual arrangement with the successful supplier
1 Jan '15	The new contracts will commence on 1 January 2015

Financial Implications

It is envisaged that through conducting a competitive tendering process that the cost to the Council of these functions can be reduced. The priority within this project to maintain acceptable service quality and reducing cost.

Legal Implications

The Council intends to tender this contract by using the restricted procedure as set out in the Public Contracts Regulations 2006 (the Regulations). The restricted procedure is appropriate to this procurement as given the breadth and depth of the potential supplier base interested in this procurement, an open procedure is likely to result in an unmanageable number of tender responses, each of which would require evaluation, and this would take up a disproportionate amount of resource. The alternative procurement procedures available under the Regulations are not appropriate as the procurement is not considered to be a complex or complicated, in that the Council will be in a position to specify in sufficient detail its requirements of the contract and of the services to be provided under it and is not dependent on the market to shape or develop the specification.

As above threshold Part A services contracts with an estimated combined contract value of over £1million, the contracts must be tendered in accordance with the Regulations, as a Strategic Procurement and in accordance with CSO 17 of the Council's Contract Standing Orders. Since 31 January 2013, following the coming into force of the Public Services (Social Value) Act 2012, the Council is required to consider, as part of the pre-procurement process which ends on the issuance of the OJEU notice, the following:

- How what is being proposed to be procured may improve the economic, environmental

- and social wellbeing of the 'relevant area';
- How the Council may act with a view to securing that improvement in conducting the procurement process; and
- whether it should consult on its proposals,

unless the urgency of the procurement requirement means it is impractical to do so.

The pre-procurement stage is the stage at which services are conceived and designed, and specifications developed, and engagement with partners, stakeholders and current and potential providers takes place. When considering, and linked to, the subject matter of the contract, the Council should identify any non-commercial considerations which are relevant and appropriate to take into account when scoping the procurement and contract structure.

Such non-commercial considerations could include: resourcing the performance of the contract in part through an apprentice, or offering work experience on performing the contract to long-term unemployed, or environmentally responsible approaches to service delivery.

Only those non-commercial considerations which are linked to the services to be procured under the contract (as opposed to linked to the supplier generally), and which are proportionate to the size of the contract and non-discriminatory, are taken into account in any specification or contractual terms and conditions, otherwise these could be unlawful.

This will be the first procurement in which the Council proposes to invite Expressions of Interest (EOI) under the Community Right to Challenge provisions of the Localism Act 2011 (sections 81 to 86), the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 (SI 2012/1313) and the statutory guidance issued by DCLG.

Sufficient time will need to be given to community organisations to enable them to plan and submit a compliant EOI during the pre-procurement phase and subsequently a fair, reasonable and realistic opportunity to submit a compliant bid during the procurement phase. It should be noted that whilst an accepted EOI gives the community organisation an opportunity to participate in the procurement alongside those suppliers selected at PQQ stage, it does not confer a preference on such bidders. An EOI may be withdrawn at any time.

When considering an EOI, the Council must consider how it might promote or improve the social, economic or environmental well-being of its area.

The Community Right to Challenge provisions of the Localism Act and the supporting Regulations will require the Council to publish on its website certain information relating to the timescales under which EOIs should be submitted, the deadline by which the Council will notify the submitter of its decision as to accept, accept with modifications (where the alternative is rejection) or reject the EOI, and the procurement timetable that will apply.

2.0 OPTIONS

2.1 Option 1 - The initial contract period has been extended by the maximum amount permissible under the contract and procurement legislation. Therefore it is recommended that the Council undertake a procurement exercise as set out in this report. The Executive resolve to grant permission for officers to commence a procurement process for Grounds Maintenance and Arboreal Horticulture with a focus on reducing Council expenditure whilst maintaining an acceptable service standard.

2.2 Option 2 – That officers examine options to bring services in house or partner with other local authorities for the delivery of these services. It is noted that this option would involve significant additional costs in terms of both management and administration of services but most significantly in terms of operational staffing costs as local authorities would be required to offer staff access to the Local Government Pension Scheme. Therefore this option is not recommended.

3.0 CORPORATE IMPLICATIONS

Monitoring Officer Commentary

All relevant legal implications have been taken into account.

S151 Officer commentary – There are no substantial financial issues to be considered at this stage.

Risk Implications – A risk assessment has been undertaken for the procurement process and plans developed to manage those risks. The risk register will be regularly reviewed by the project team throughout the project to ensure that risks continue to be identified, managed and mitigated.

Equalities Implications – An Equality Impact Assessment for the procurement has been undertaken. It uses the Equality Impact Assessment of the Parks function as a basis, which identified no significant equalities issues in the delivery of these functions. All contractors who are invited to tender will have in place, and actively promote, an Equalities Policy which is based around the requirements and statutory duties in the Equality Act (2010).

Employment Issues – Transfer of Undertaking (Protection of Employment) (TUPE) is likely to apply between suppliers and although not the direct responsibility of the Council will need to be monitored and managed.

Sustainability Issues – There are no specific sustainability issues as a consequence of this report, although both the Grounds Maintenance and Arboricultural contracts support the environment and sustainability of Mole Valley.

Consultation - Consultation on the design and content of the specifications will be carried out with Members. We will also conduct community consultation and take on board the views of residents in developing the contract specifications.

Communications - Community consultation will be required in Q4 2013 to allow residents to feed into the specification for the contracts – to tell us what matters to them. Once the contracts have been awarded communication will be undertaken with the successful bidder(s).

BACKGROUND PAPERS

Project Team Papers

