

# Forest Heath District Council

(This report is not a key decision. The report has been subject to appropriate notice of publication under the Council's Access to Information Rules)

## Report of the Cabinet Members for Environment and Waste and for Health, Leisure and Culture

**CABINET**

**4 SEPTEMBER 2012**

**CAB12/027**

### **HORTICULTURAL AND ARBORICULTURAL SERVICES CONTRACTS** (Forward Plan Reference: SEP12/10)

#### **Summary and Reasons for Recommendation(s)**

This report outlines the procurement process of the Council's Horticultural and Arboricultural Services.

The current Horticultural and Arboricultural Services contracts are due to expire on 31 October 2012 and the procurement process and timetable has been developed to enable the Council to be in a position to award the new 5 year contracts, with a commencement date of 1 November 2012.

The procurement process has been overseen by the Horticultural and Arboricultural Services Project Board which was established in December 2011 under the recommendation of the Community Services Committee of 8 November 2011 (Report No COM11/349).

#### **Recommendation(s)**

**That:-**

- 1. To note the procurement process undertaken.**
- 2. To note that the contracts for Horticultural and Arboricultural Services Lots 1, 2 and 3 will be awarded to the successful bidders, as identified in the exempt Appendix 1 (to follow, consequent to the Horticultural & Arboricultural Project Board on 4 September 2012).**

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## How will the recommendations help us meet our strategic priorities?

1. The delivery of core services in the most efficient and effective way is a key aspect of the “Being an Efficient and Effective Council” and delivering value for money.

## Wards affected

2. All – the Horticultural Services Contract encompasses the whole district and the Arboricultural Contract is split into two Lots (North and South) which combined encompass the whole district.

## Key Issues

3. The Horticultural and Arboricultural Services Project Board appointed an Officer Project Team to work on the procurement process. This Team has operated under the direction of specialist procurement support and advice from the Principal Service Manager (Procurement and Commercial Partnerships) at Waveney District Council, Ian Purdom.
4. The Project Team includes representatives from the relevant sections within the Council including, Policy, Legal, Health and Safety, Human Resources, Finance, Environmental Protection, and Countryside. The Project Team has been involved in the procurement process and documentation assimilation, including evaluating the appropriate stages of the procurement process.
5. The combined value of the horticultural and arboricultural works is between £1,040,000 and £1,355,000 over the five years of the contract. As a result, the Public Contract Regulations 2006 and Consolidated Directive 2004/18/EC Regulations stipulate that the procurement process undertaken needs to be fully compliant with the Regulations which govern specific legal rules and timescales.

## The Procurement Process

6. The financial value of the services required, under the Public Contract Regulations 2006 and Directive the procurement process that was undertaken was a Services “Restricted” Official Journal European Union (OJEU) Tender.
7. The process was undertaken in three stages:
  - Stage One - **PQQ** – Pre-Qualification Question Stage - January – May 2012
  - Stage Two – **ITT** – Invitation to Tender Stage - May – September 2012
  - Stage Three – **Award** – Award Contract Stage - September – October 2012

## **Project Board and Project Team**

8. The Council established a Horticultural and Arboricultural Services Project Board and a Project Team. The Project Board was established with Member and Officer Representation as set out below:

<b>Project Board</b>	
Sponsor:	Chief Executive - Ian Gallin
Lead Member:	Cllr Nigel Roman – Environment & Waste (Joint Portfolio Holder)
Board Member	Cllr Warwick Hirst – Health, Leisure & Culture (Joint Portfolio Holder)
Board Member:	Cllr Stephen Edwards
Board Member:	Cllr Neil Williams
Head of Service (Senior Supplier):	Lynda Pope
Head of Service (Senior Customer):	Simon Phelan
Procurement Lead:	Ian Purdom (Waveney District Council)
Legal:	Jo Hooley
Project Manager	Nigel McCurdy
Project Support	Tanya Sturman

9. The Board was originally established with Member Representation of Cllr Nigel Roman as the Chair of Community Services Committee, Cllr Stephen Edwards as the Chair of Corporate Services Committee and Cllr Ben Williams as an Independent Member. Following the introduction of the Cabinet Structure in May 2012, the Project Board was expanded to include Cllr Warwick Hirst, whose portfolio encompasses the Arboricultural Services.
10. The Project Team included representatives from Policy, Procurement (WDC), Health and Safety, Human Resources, Finance, Environmental Protection, Legal and Countryside, this team was involved in developing the procurement documentation at Pre Qualification Questionnaire and Invitation to Tender Stage. All project documentation was approved by the Board. It should be noted that the scoring methodology has not materially been altered throughout each of the tender exercises so as not to prejudice the procurement process. The Project Team have then evaluated the Pre Qualification Question responses and Invitation to Tender Bids in line with the specific guidance.

## **Pre Qualification Questionnaire (PQQ) Stage**

11. At PQQ Stage the Council received submissions from 12 companies in respect of Lot 1 – Horticultural Services and submissions from 10 companies in respect of Lots 2 and 3 – Arboricultural Services.
12. Following evaluations by the Project Team and consideration by the Project Board, all of these companies were invited to submit Bids at the Invitation to Tender Stage.

## **Invitation to Tender (ITT) Stage**

13. Following submission of Bids in line with the deadline of 5 July 2012, each of the Bids were evaluated for compliance and then individual sections were scored by the relevant professionals, individually in the Project Team and then checked for comparison and consistency. These scores have now been assimilated into an "Evaluation Report" by Waveney District Council (to be circulated at the Meeting). This Report highlights the successful bidder(s) for each Lot on the basis of their total score.
14. The Evaluation Report - Appendix 1 (to follow) will be received and scrutinised by the Horticultural and Arboricultural Services Project Board on 4 September 2012, where the successful Tenders for Lots 1, 2 and 3, will be identified, based on the scoring mechanism which prescribes that the highest scoring bid for each Lot will be the successful candidate.
- 15. The Evaluation Report (Appendix 1) is an Exempt Item and the Cabinet will need to move into an exempt session to consider and note this process and outcomes.**

## **Award of Contract**

16. Following the subsequent Call-In period, the successful and unsuccessful bidders will be notified and the official procurement standstill period (Alcatel) will be entered into.
17. Following the end of the standstill period, subject to any legal challenge, the Council will be in a position to finalise the legal documentation and award the contracts in line with the timetable, ready for mobilisation on 1 November 2012.

Board Meeting	4 September (10.00 am)
Cabinet Meeting	4 September (6.00 pm)
Call In Period for O&S	6 September - 5.00pm 12 September
Notify Successful Bidders	13 September
Standstill period	14 September – Midnight 28 September
Brief unsuccessful candidates	13 – 28 September
Finalise Contract	2 October
Award Contract	3 October
Submit Award Notice in OJEC	4 October

### **Other options considered**

18. The Council considered a number of other options, from in house service delivery, partnership delivery, through to a year on year contract. It was however agreed that the current proposal of a 5 year contract, with a potential two one year extensions at the Council's request, was the most effective and efficient way of securing service value and delivery continuity in these areas.

### **Community impact**

19. Environmental Impacts is a key aspect of the Evaluation Criteria in the Invitation to Tender documentation for the Horticultural and Arboricultural Services.

20. There are no specific Diversity and Equality implications. The service delivery applies within the public domain and across the entire District.

### **What consultation has been undertaken and what were the outcomes?**

21. All necessary teams within the Council were involved in the assimilation of the Invitation to Tender Documentation. There was no need for specific external consultation.

### **Financial and resource implications**

22. The value of the Horticultural and Arboricultural Services for the five year life of the contracts are likely to be in the region of:

- Lot One – Horticultural Services – £1,040,000
- Lot Two – Arboricultural Services (South) - £220,000
- Lot Three – Arboricultural Services (North) - £95,000

23. Budgetary provision has been made for these amounts in the Council's budgets. The Invitation to Tender included a Pass/Fail section which provided that any Bids received in excess of the budgetary amount would be rejected on the grounds of unaffordability.

24. The precise cost of providing these services will be dependant on the successful Bid. Due to the timing of the procurement process and the need to award the contract in time for commencement on 1 November 2012, Members will be advised of the successful Bid for each of the three Lots and the relevant cost via the Evaluation Report (Appendix 1) at the meeting, following the Board meeting earlier that day (4 September 2012).

### **Risk management implications**

25. Members may be aware that there have been issues with previous procurement processes in respect of the Horticultural and Arboricultural Services. These issues have been in relation to fundamental flaws in the procurement process that may have lead to, and were identified as, potential legal challenges from Bidders. As a result both previous procurement processes were terminated, during the Alcatel

periods, before award of contract and subsequently reported to Community Services.

26. In order to minimise the risk of a legal challenge to this further procurement process, the Council adopted a different approach to the procurement process. The Council has commissioned external advice and support from Waveney District Council's Principal Service Manager (Procurement and Commercial Partnerships), (in line with the recommendation from Community Services Committee - COM11/349 – 8 November 2011).

27. The Council also established a Horticultural and Arboricultural Services Project Board and Project Team as detailed in paragraphs 8 to 11. Whilst there is always a potential risk of a legal challenge, the current process expects to minimise any such risk and to place the Council in the most robust position to response to any formal legal challenge and be able to successfully award the new contracts .

### **Legal/Policy implications**

28. The procurement process has been conducted in line with the relevant Public Contract Regulations 2006 and Directives UK Law and the Council's Constitution.

### **Documents attached**

Appendix 1 – Evaluation Report (**Exempt (para 3) – To Follow**)

### **Background Papers**

Published procurement/tender documentation  
Horticultural and Arboricultural Services Board Report  
Community Services Committee Reports 8 November 2011