

CABINET – 11TH APRIL 2013

Draft Report of the Head of Cleansing and Open Spaces

Lead Member: Councillor Hilary Fryer

ITEM 9 OUTSOURCING GREEN SPACES & ENGINEERING

Part A

Purpose of the Report

To consider the options for future service delivery following the soft market testing of Green Spaces and Engineering and seek approval for the procurement procedures being recommended for the future delivery of these services

Recommendation

1. That the Head of Cleansing & Open Spaces be authorised to commence a competitive dialogue procurement route for identifying options for the provision of Green Spaces and Engineering Services over a period of up to ten years, with similar extension option periods, commencing April 2014;
2. That the Head of Cleansing & Open Spaces, in consultation with the Contract Compliance Officer and the Project Board (comprising the Lead Member and Strategic Director for Neighbourhoods & Community Wellbeing), be given delegated authority to issue the appropriate OJEU Notice, draw up the potential tender list, undertake dialogue process, finalise and issue the tender specification and evaluate tender returns.
3. That a budget of up to £50K be established for this procurement exercise, to support specialist procurement and legal advice for the contract referred to in (1) above from the Reinvestment Reserve in 2013/14.
4. That in the event of an Employee Mutual model emerging through the process, the Head of Cleansing & Open Spaces, in consultation with the Contract Compliance Officer and the Project Board (comprising the Lead Member and Strategic Director for Neighbourhoods & Community Wellbeing), be given delegated authority to consider the model and report back to Cabinet on a way forward, or , if not viable to proceed with a procurement route.

Reasons

1. To provide a route for delivering Green Spaces and Engineering with effect from 1st April 2014 and provide the potential for savings identified in the

report. The procurement route chosen follows advice from the Council's procurement officer.

2. To maximise efficiency in the way the service is procured and that the Council maximises value for money in the services it is providing by providing a benchmark against which bidders will be evaluated.
3. To recognise lessons learned from previous procurement exercises and to acknowledge the level of resource required to progress the procurement process.
4. To ensure all options for future service delivery are properly considered.

Policy Context

The Council's Corporate Plan states that "We will seek ways to run the Council more efficiently and creatively so residents get even greater value for money."

In September 2011 Cabinet endorsed an approach to future service delivery that built on existing internal good practice in service delivery methods and looked outwards to embrace emerging good practice in the public and private sectors.

Cabinet also agreed that an active review of all of the Council's services would be undertaken to consider alternative methods of service delivery and a further report would be submitted setting out the service delivery methods to be considered for each service area.

In August 2012 Cabinet endorsed a service delivery options review that agreed a proposal for further investigatory work in a number of areas including Green Spaces.

Implementation Timetable including Scrutiny and Future Decisions

If approved by Cabinet, the Project Board envisage the procurement process commencing immediately with a detailed timetable being agreed in April 2013. The contract specification would be agreed in the summer of 2013 with tenders being received in late 2013 and a start date of April 2014.

Scrutiny of the process would be welcomed through the usual process i.e. Policy Scrutiny Group with a view that Cabinet's future decision would be to agree the award of the contract in late 2013/early 2014.

Financial Implications

At this stage it is envisaged that the procurement process will have financial implications of up to £50k. This sum may be used to gain legal, technical or procurement advice as well as providing the potential for support where the

project team may leave temporary gaps in the delivery of services in Cleansing and Open Spaces.

This figure is considerably smaller than that agreed for previous procurement projects e.g. the Leisure Centers Contract that agreed a sum of £100k however, it is envisaged that the level of resource, expertise and experience within the Council's Procurement Team and Cleansing & Open Spaces Team will provide a good foundation on which to develop a procurement process and deliver a contract within the timescales outlined.

The soft market testing exercise suggest operational savings in the region of a 5% (minimum) which equates to approximately £92,000.

Risk Management

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

| Risk Identified | Likelihood | Impact | Risk Management Actions Planned |
|---|------------|--------|--|
| Failure to deliver activities within the procurement plan | Possible | Minor | Following a defined project plan with clear resource implications at key stages |
| Insufficient rigour around the tender process | Possible | Minor | Suitable level of advertising of the tender process to attract the widest field of tenders. Benchmarking research completed into other authorities experience of re tendering, costs, risks. Scrutiny consideration of process |
| Insufficient funds to complete a successful tender | Possible | Minor | The estimated cost of such a submission has been drawn from experience of other tendering exercises, other benchmark authorities and consultancies that have helped put together such bids |
| Cost of the contract when bids are received is too high | Possible | Major | The tendering process will be designed to maximise market interest and consideration of efficiency savings |
| Failure to meet ongoing service targets due to | Possible | Major | The management resources within the service area will be closely monitored to ensure |

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| resources directed towards the procurement process | | | sufficient resources are provided to support the procurement process as well as the management of the current service during this busy period. Additional independent staffing/ consultancy support will be reviewed at regular intervals and agreed by the Project Board |
|--|--|--|---|

Key Decision: Yes

Background Papers: Report to Cabinet – Future Options for Service Delivery, 30th August 2012 & September 2011

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Part B

Background

1. Green Spaces and Engineering Services form part of the Cleansing & Open Spaces Department within the Community and Wellbeing Directorate. They form two of the three operational groups within the Department (the third being waste) and are supported by a Policy & Development group and Business Support group.
2. Both Green Spaces and Engineering Services are provided using direct employees delivering the service. The services employ the equivalent of 8 FTE's in Engineering and 34 FTE's in Green Spaces, although some posts are externally funded, shared with neighbouring authorities or seasonal.
3. The two groups include the following service elements:-
 - Open space management including grounds maintenance
 - Loughborough Cemetery management
 - Wildlife management
 - Parks management and maintenance
 - Shelthorpe Golf Course management and maintenance
 - Bereavement services (shared with North West Leicestershire District Council)
 - Loughborough in Bloom – operational delivery and support
 - Flood alleviation – watercourse maintenance
 - Fleet management – contract management
 - Street furniture provision and maintenance
 - Graffiti removal
4. Following a Cabinet report of September 2011, Officers across the Council conducted desk top reviews of service areas to consider a range of service delivery options and measured against an agreed set of criteria. This process included two stages. Stage one consisted of a high level assessment of all services against alternative potential methods of service delivery including in-house service re-design, public-to-public (sharing or procuring from other public sector bodies), outsourcing, community challenge, employee mutual and community asset transfer. The results of this desk top exercise were used to inform stage two of the process where Heads of Service were asked to complete a more detailed template against the criteria such as impact on cost, quality, risk, customer perception and impact on strategic partners.
5. For each service that was identified to be suitable for an alternative method of delivery, Heads of Service scored between 1 and 5 for each criterion. The higher the score the more likely a change in delivery method would realise benefits for the council. Agreed weightings were applied to the criteria and

results were collated and reviewed by Directors and Heads of Service at a 'star chamber' interview with the Senior Management Team (SMT).

6. The star chamber considered Green Spaces for Outsourcing, Public to public, community asset transfer.
7. This process highlighted that the delivery environment across the Council is dynamic with Heads of Service reviewing their own portfolios on a regular basis and ongoing pressure to reduce costs and increase efficiency naturally results in a number of service reviews being in progress or planned at any point in time.
8. Further information on this process and results of this exercise are detailed with the Cabinet report of August 2012.

Soft Market Testing

9. As a result of the star chamber process a report was submitted to Cabinet in August 2012 considering a range of services across the Council and recommending that Green Spaces be subject to a soft market testing exercise to ascertain potential level of savings achievable. This was to be completed by March 2013. The Cabinet report at that time made no reference to Engineering Services.
10. Officers established a Project Board comprising of the Lead Member for Cleansing & Open Spaces, the Head of that Service together with the Director of Community & Well Being. This Project Board considered Green Spaces and, notably the potential to include Engineering Services as a supplementary service that may offer additional synergies and efficiencies if offered to the market place. The Project Board agreed in October 2012 therefore to include the operational Groups of both Green Spaces and Engineering as part of a soft market testing exercise.
11. As part of the soft market testing process a Prior Information Notice (PIN) was issued to allow the Council to engage with the market and inform the next stage of our assessment. This was issued in November 2012 and forms part of procurement rules that keep the process with EU law and Council contract procedure rules.
12. The PIN notice generated significant interest and resulted in the Council receiving nine completed questionnaires offering the Council information that helped develop our consideration of any benefits offered by alternative service delivery options. In particular, the Council sought opinions on the 'bundle' of services being considered; the preferred procurement process; the preferred length of contract; level of savings against current budget that could be realistic together with where these savings could be realised.

13. The Project Board has met on several occasions to discuss the options for Green Spaces and Engineering and in particular the results of the soft market testing.

Scope of Services

14. Overall the response from the market was very positive in respect of the scope of services being proposed by the Council with most organisations suggesting a high degree of deliverability.

Procurement Options

15. There are four options in relation to procurement :

- a) Open Procedure – all those interested may respond to the advertisement by submitting tenders;
- b) Restricted Procedure – selection is made of those who respond to an advertisement and only they are invited to submit a tender for contract.
- c) Competitive Dialogue Procedure – where the Council enters into dialogue with bidders, following an advertisement and a selection process, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender
- d) Negotiated Procedure: where one or more persons are selected in order to negotiate the terms of the contract after responding to an advertisement.

16. Under the restricted, competitive dialogue and competitive negotiated procedures where competition is required, there must be a sufficient number of participants to ensure genuine competition, with a minimum of five for restricted procedure and three for the competitive dialogue and negotiated procedures. In open and restricted procedures, all negotiation with tenderers on fundamental aspects of contracts, and particular on prices, is ruled out. Independent legal advice suggests that even though the negotiated procedure is still within the law, OGC guidance indicates that it is to be followed only in the most exceptional cases. Competitive dialogue does allow maximum flexibility.

17. Competitive Dialogue allows the Council to engage with the supply market to identify potential solutions / options, and discuss how these would operate, the pros and cons of each potential option, before determining the most appropriate way forward. It allows for affordable solutions to be identified and allows the Council to consider all options before making a decision on which approach will best meet the Council's needs.

18. The Project Board considered the responses to the issue of procurement options from the soft market testing and concluded that whilst there was a mixed response from the market, the most useful procedure to follow that would provide both flexibility to the Council and assurance of fairness to potential bidders would be competitive dialogue.

Length of Contract

19. The length of contract in service contracts of this nature tend to be of medium terms, relating mainly to vehicle and plant life. Longer 25 year contracts are more rare as are shorter 2-3 year contracts. The response from the market generally favoured 7-10 contract periods. Optional extensions to contracts of this nature also help provide stability and incentives for good performance.

20. The plant and vehicles currently used by the Council in the delivery of these services is under an existing contract that is due to expire in March 2015. This type of plant and vehicle is typically contracted on a 5-7 year time period. As such it would be prudent to consider the contract length for the procurement proposal for Green Spaces and Engineering to dovetail with the fleet and plant contract. It is therefore proposed to develop a contract that is up to ten years in length, with the potential for a similar extension period.

Partnership Approach

21. As with other procurement exercises, completed by Charnwood, there is the potential for Charnwood to outsource services in partnership with other authorities. This option was discussed by the project board, and informal discussions with other districts, LCC and Leicester City. This option will remain in the procurement process to enable potential economies of scale and efficiency savings.

Potential Savings

22. The soft market testing information provided by the Council included high level budget information for 2012/13 together with staffing structures and activities/facilities managed by the services. The market was specifically asked to consider the percentage of savings that could be possible based upon the limited information available at this stage.

23. The level of savings proposed in the nine responses varied between 5 and 25%. However, many respondents proposed that a significant level of these savings would be found from 'back office' functions such as legal, human resources, finance, ICS etc.

24. On this basis the Project Board considered the level of operational savings that could be made as part of this procurement exercise to be a minimum of 5%. If realised this would provide savings in the region of £100k per annum.

Employee Mutual

25. Whilst the initial assessment identified in paragraphs 5 and 6 above did not highlight any appetite for an employee mutual, the management team within Green Spaces has subsequently expressed an interest in such a proposal. The Project Board has formally requested a detailed expression of interest including financial details, support from the staff concerned and a completed questionnaire as completed by organisations as part of the soft market testing to enable the Board to benchmark proposals going forward to the procurement process. This could therefore potentially be considered as part of the wider procurement exercise.

Conclusion

26. The Board concluded that there is sufficient appetite across the market, and potential efficiency savings to proceed to a procurement process. The recommendations in the report confirm the proposed Competitive Dialogue route and reasons supporting this option.