

Item No. 13.	Classification: Open	Date: 14 May 2013	Meeting Name: Cabinet
Report title:		Gateway 1 – Approval of the Procurement Strategy for Arboricultural Services	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Barrie Hargrove, Transport, Environment and Recycling	

FOREWORD – COUNCILLOR BARRIE HARGROVE, CABINET MEMBER FOR TRANSPORT, ENVIRONMENT AND RECYCLING

The maintenance and environmental development of trees in this borough is an activity this Council values highly. This is there for all to see in our Borough-wide Tree Management Strategy finalised by cabinet in January 2013 and available on our Southwark Council website. Out of robust public consultation we delivered a clear intention that no longer will our residents and visitors trees be inspected and cared for on an ad hoc basis. Instead Southwark trees will be managed in a systematic and clearly understandable way, cultivating an ever healthier tree stock from now into the future.

This report strongly makes the case for the next logical progression in the care of trees by this authority. By bringing the function in-house, under our wings, our day to day tree work will deliver a range of enhancements, for the Council and for the public whom we serve. Improved quality, synergies of services, customer care opportunities, financial savings, flexibility and workforce development all emerge as benefits that flow from the adoption of this report.

By adopting this option we will be helping our arboricultural services to plant down new roots to support the greener and still better maintained borough that our tree loving residents rightly demand.

RECOMMENDATION

1. That the cabinet approves the procurement strategy and transfer of service to the in-house team of the borough wide arboricultural services as detailed in paragraphs 37-40.

BACKGROUND INFORMATION

2. The Council currently lets a single borough-wide arboricultural services contract covering all arboricultural services on all highways, housing sites and open spaces. The contract is currently in its fifth year of operation with an option to extend for a further five years from 31 March 2014. This report considers the options for service delivery from 1 April 2014.
3. The contract is based on a schedule of rates, which details the price for each type of work undertaken and is currently subject to an annual inflationary increase.

4. The contract covers borough wide tree management services including but not limited to;
 - Tree felling
 - Reduction to canopy of trees
 - Tree planting
 - Staking and tying
 - Transplanting of trees
 - Watering
 - Emergency works
 - Stump removal

Client Resources

5. The contract is monitored and administered by the parks & open spaces business unit. The client team currently consists of a tree services manager, three arboricultural officers and a contracts and monitoring officer.
6. The client team is responsible for contract monitoring, tree condition and works surveys, contract variations, contract payments, dealing with general enquiries and service requests, emergency works and tree stock replenishment. The section also provides a client agency function to eight schools where condition surveys and tree works are undertaken upon request via the current contract and general advice in relation to capital projects involving trees.
7. Arboricultural officers allocate around 70% of their time in monitoring, surveying and scheduling works for the contract. 30% of their time is dedicated to dealing with customer enquiries, capital projects and ad hoc works.

Southwark Tree Review

8. In March 2008, the Environment and Community Scrutiny Sub-Committee reported on its review of Southwark's Tree services. One of the recommendations in that report was 'That there is a best value comparison of whether tree maintenance is better outsourced or brought back in-house.'
9. At the time of the report such a review was not recommended as 'there was insufficient time, given the procurement deadlines that are legally imposed on the Council, to undertake a full best value comparison and that the option of bringing the service in house at that point should not be pursued because of the fixed costs of setting up such a service and the greater flexibility for seasonal work and variable funding provided by the use of contractors'.
10. However as the current contract draws to an end there is an opportunity to consider all the options for the future delivery of arboricultural services.

Tree Management Strategy

11. In order to manage trees consistently, transparently and in line with best practice, the Cabinet Member for Transport, Environment and Recycling agreed to pilot a Tree Strategy which was adopted in December 2010 with a review after 12 months. Following further extensive consultation a revised Tree Management Strategy was adopted by the Cabinet in January 2013 at which time the Cabinet Member for Environment, Transport and Recycling asked officers to review the

delivery of tree management services and consider the options for the delivery of such services in the future to offer residents of Southwark the most effective and cost efficient service. This report is a result of that review.

Summary of the business case/justification for the procurement

12. The current arboricultural services contract is due to be extended or relet from 1 April 2014. The provision of an in house team to undertake these works offers opportunities for efficiency and service improvement and is the recommended route for the delivery of tree management services from the end of the existing contract. A summary of the options appraisal is detailed below.

Market considerations

13. A detailed review of current arboricultural service providers for London local authorities was undertaken. Only one of the London Boroughs who responded to our benchmarking questionnaire currently operates an internalised service while the others operate a single service provider contract or framework agreement.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

14. To determine the best approach for tree management, the procurement options were reviewed against the following objectives;
 - Able to achieve value for money and most economical advantageous bid.
 - Able to provide the Council with control and flexibility to manage service as required.
 - Able to ensure the Council has access to market expertise and quality service delivery.
 - Able to select partner(s) with whom Southwark can build a relationship to deliver.
 - Mitigation/minimisation of risk.
 - Sufficient flexibility to allow all potential suppliers an opportunity to bid.

A detailed analysis of each viable option was undertaken and a brief summary of the risks and benefits of all the options is provided below.

Option 1 – Single contractor procurement

15. This option provides the most straight forward procurement route which enables a single service provider to be procured under a competitive tender process. This approach was used to procure the current contractor.
16. According to the benchmarking exercise there is a limited market providing arboricultural services with a similar value as the Southwark contract in the London area. A proper and competitive procurement requires the Council to seek five tenders. During the last procurement exercise in 2009 six full tenders were returned. With relatively few organisations to choose from it might be difficult to procure a good quality and cost effective service in this way. If the procurement is driven by cost and the contractors have a requirement to make a

profit the quality of the service may suffer. This notwithstanding this option is the second best option available to the Council at this time as it would deliver on quality, flexibility and price.

17. This option is therefore not recommended

Option 2 – Procure two or more contractors

18. The organisations that could compete for this work are the same as those for single contractor procurement. This option would allow the Council flexibility to engage a range of contractors when required but splitting the contract could increase costs and client side management of the contract thereby reducing officer time to improve customer service. Approximately 70% of officer time is spent dealing with contractual issues and this will increase with more than one contractor.
19. This option is not recommended for the reasons set out in the full options appraisal.

Option 3 – Shared services/joint procurement with another borough

20. A number of authorities across London are looking at joint procurement/shared service options as one of the options for their new tree service contract.
21. There may be savings to be made through economies of scale from shared management and clienting arrangements. However they will be relatively modest as the majority of the costs relate to operational staff. There may also be additional costs associated with the development of the contract and this option may actually require more contract management than the current contract. Generally it can be assumed that there would be additional complications associated with delivering a contract over geographical and political boundaries.
22. The four authorities with a similar contract end date to Southwark have indicated that they are not currently in a position to progress discussions with Southwark. Officers consider that any further delay in agreeing the Council's procurement route would put the tree service delivery at risk.
23. This option is not recommended for the reasons set out in the full options appraisal. However this option could be considered in the future when other boroughs are ready to enter into discussions.

Option 4 – Participate in an existing consortium or framework agreement

24. Officers were not able to identify any existing consortium arrangements or frameworks agreements which would be open to the Council thus this option was not scored in the full options appraisal.

Option 5 – Do nothing

25. The option to do nothing is not available as the Council has a number of statutory and general obligations to manage trees under the :-
 - Occupiers Liability Act 1984
 - Highways Act 1980

26. All owners of trees have a duty in law, known as a duty of care, to take reasonable steps to avoid acts or omissions that can be reasonably foreseen to prevent harm.
27. A Local Authority has an additional duty of care to all residents and visitors to the borough (this includes trespassers) and as a large land owner/public land owner will be expected in law to have a robust inspection regime to minimise and control risk to others.
28. Where insurance risk is concerned Local Authorities are expected to foresee and manage trees in a manner to take account of the effect of roots and buildings. Cessation of these activities may result in claims of negligence.

Option 6 – Extension to current contract

29. To agree an extension to the current contract to end March 2019. This option would allow continuity of service delivery.
30. Officers have some concerns regarding the performance of the current contractor in relation to their ability to complete the monthly schedule of works on time and to adhere to work specifications. This results in a poor contract relationship between the Council and contractor and restricts further development of the service. As a result it is not proposed to extend the current contract.
31. This option is not recommended for the reasons set out in the full options appraisal.

Option 7 – Delivery of service in-house

32. This option involves direct delivery of tree management services by the Council through a team working within Southwark Hygiene Services, the Council's in-house workforce responsible for street cleaning, estate cleaning, grounds maintenance and pest control.
33. An internalised service would allow a flexible approach to tree management, it would exploit the synergy between the existing work of Southwark Hygiene Services and tree management services to maximise efficiencies and would deliver a cost reduction as contractor profit would not need to be accounted for.
34. The performance issues experienced with the current contractor as detailed in paragraph 30 can be avoided through careful management and detailed transition arrangements. This report and the proposals contained within are the result of discussions between management of Public Realm and Sustainable Services Divisions who are responsible for tree management and Southwark Hygiene Services respectively. Service managers are working through the detailed arrangements required to internalise the service.
35. Only one of the London Boroughs who responded to the benchmarking questionnaire currently operates an internalised service but believes it offers excellent value for money. Other Boroughs operate a single service provider contract or framework agreement. The risks of operating internal services remain with the local authority rather than being passed over to the contractor. These risks are primarily related to employer's and public liability. Officers

believe that these risks are manageable as Southwark Hygiene Services have experience of bringing services in house and managing all associated and similar risks.

36. For the reasons set out above and in the full options appraisal this is the recommended option.

Proposed procurement route

37. Having considered all the risks and benefits associated with the seven options it is proposed that Option 7 – delivery of service in-house, represents the best opportunity to deliver an improved service to all residents of the borough. It is therefore proposed that Southwark Hygiene Services deliver the Council’s arboricultural services from the end of the existing contract.

38. Southwark Hygiene Services has experience of all elements of bringing a previously outsourced service back in house, including (TUPE) legislation. Southwark Hygiene Services has a demonstrable track record of delivering significant improvements in front line services. It is proposed that the new arboricultural services workforce will adopt the working practices and culture that exists within this service and will become more customer focused and concentrate on delivering a quality service on a ‘not for profit’ basis.

39. The proposed service will provide;

- Maximum efficiency by exploiting the synergy between the existing work of Southwark Hygiene Services and tree management services.
- A redeveloped and flexible approach to the current tree management issues across the borough, in line with the revised Tree Management Strategy, which will concentrate on a high quality and value for money service.
- More time for the ‘client’ team to invest in excellent customer service, strategic issues and surveying.
- A cost reduction in the provision of the service.

40. Comparisons with the existing service delivery

Existing Arrangements	Proposed Arrangements
Maintenance works on all trees on highways, housing, parks and schools on request.	As existing plus the ability to utilise Southwark Hygiene Services grounds maintenance staff to carry out basic functions such as minor pruning, dealing with epicormic growth and cover for leave/sickness
24 hour emergency service	24 hour emergency service – Southwark Cleaning already operate a 24/7 service so tree related issues can be incorporated at minimal cost
Annual purchasing commitment for contractor	Anticipated annual cost of £656K with no need for ad-hoc work or contract variations
1 x full time contract manager	1 x full time service manager
12 x full time arborists on	16 x full time arborists to cover leave/sickness

Existing Arrangements	Proposed Arrangements
average throughout the year	and provide additional resources

Identified risks for the procurement

41. The table below identifies a number of risks associated with this proposed service and controls to mitigate the risks.

Risk	Likelihood	Severity	Risk control
Approval delayed	Low	Medium	The current contract does not end until March 2014. The in house plans need to be robust and in place by the time the current contract ends. There are other Tree contractors that could help fill the gaps if necessary.
TUPE issues, transfer of appropriate contractor staff	High	High	Robust scrutiny of the TUPE process, including the full involvement of the legal employment and contracts team.
TUPE costs unknown	High	High	Full contractor staffing costs are not currently known. Estimates have been made and it is thought that costs can be accommodated.
TUPE – staff from the existing contractor do not transfer	Medium	Medium	Due diligence to ascertain transfer is appropriate Training of new staff achievable in four weeks (costs associated) There are other Tree contractors that could help fill the gaps if necessary
Delays in recruitment of good quality staff.	Medium	High	Explore options in fast tracking the normal recruitment procedures. Emergency works can be undertaken by the existing in-house Southwark Hygiene Services
Failure of new delivery mechanism	Low	High	Full understanding of the tree management specification in advance of implementation, highly trained and motivated staffing, robust management structures in place to ensure success. Partnership working between the client and in-house contractor

Key /Non Key decisions

42. This report is a Key Decision because it will impact on a number of service areas and on residents from across the whole borough.

Policy implications

43. Following engagement with local people through the Council's budget process, the Council plan identified a number of principles that would underpin the Fairer Future for all vision and guide the promises and objectives that were agreed through the Council plan. The Fairer Future principles were updated in 2012/13 to include five core principles, two of which are relevant to the procurement of arboricultural services:

- Spending money as if it were coming from our own pocket
- Making Southwark a place to be proud of

44. The Council plan also confirmed the ten Fairer Future promises, a set of key commitments to the residents and businesses of the Council that outline the things we will be working towards as an organisation to create a fairer future for all. Specifically relevant to the procurement of arboricultural services is:

Promise 1 - Provide improved value for money and keep Council tax increases below inflation

45. The actions of the internal tree management service contribute to the delivery of the Tree Management Strategy and Biodiversity Action Plan through protecting and maintaining tree stock, and adapting to climate change. Tree management will contribute to the delivery of the Open Spaces Strategy through the effective management of a healthy and safe tree stock which contributes to the provision of high quality open space and improving access to nature.

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Forward Plan (if Strategic Procurement)	01/02/2013
DCRB/CCRB/CMT Review Gateway 1	18/04/2013
Notification of forthcoming decision –despatch of Cabinet agenda papers	02/04/2013
Approval of Gateway 1: Procurement strategy report	14/05/2013
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	01/06/2013
TUPE Consultation period	01/08/2013
Recruitment to vacant posts	01/12/2013
Set up of Depot	01/01/2014
Procurement of fleet and equipment	01/02/2014
Staff Training	01/02/2014
In-house Service start	01/04/2014

TUPE/Pensions implications

46. TUPE will apply and initial staff lists from the current contractor will be requested in due course. The Council will ensure that all legislation will be taken into account and an appropriate procedure will be followed. The legal employment and contracts team will be fully consulted on the process to be followed.

Development of the tender documentation

47. Not Applicable

Advertising the contract

48. Not Applicable

Evaluation

49. Not Applicable

Community impact statement

50. The internal tree management service is concerned with planned and responsive tree care and seeks to improve the delivery and quality of arboricultural services throughout the borough.

51. The impact of the internal tree management service will affect all communities/groups, residents, businesses, visitors and those that pass through the borough and will in turn improve the quality of life for all. Direct benefits are a well maintained tree stock that makes an important contribution to the safety of all. Continued emphasis on maintenance will especially benefit the most vulnerable members of the community i.e. the elderly, the disabled and young children.

52. An equalities impact assessment was undertaken and the internal tree management service impacts positively on people with disabilities as it aims to ensure accessibility through the effective management of the tree stock on the highway.

Economic considerations

53. Not Applicable

Social considerations

54. The internalised service would directly employ members of staff and therefore London Living Wage would be paid. The internalised service would also look to offer apprenticeships and other training opportunities.

Environmental considerations

55. The in-house service will use existing procedures of green waste recycling and will continue the policy to reduce the use of pesticides in tree management practices.

56. The in-house service will be based in the borough as opposed to a service provider from outside the borough. This will contribute to the reduction of carbon emissions

Plans for the monitoring and management of the In-house service

57. The internal tree management service will be delivered against the existing, detailed specification. The service will be monitored by the parks and open spaces client team using monitoring arrangements and performance indicators currently in place. This will enable comparison between the In-house service and

the previous contract.

58. The following KPI's have been identified:

- Percentage of works completed within agreed timescales.
- Percentage of completed works meeting specification standard.
- Number of trees planted and survival rates.
- Response to complaints within agreed timescales.
- Response times including emergency works.
- Percentage of Green Waste recycled.

59. The parks and open spaces manager will report on the performance of the service to the Strategic Director of Environment and Leisure.

Staffing/procurement implications

60. A team of sixteen arboricultural specialists will be recruited to deliver the internal tree management service. This will consist of an operations manager, five team leaders and ten operatives.

61. There will be no changes to the client team within the parks and open spaces business unit who will monitor the performance of the internal tree management service.

Financial implications

62. Should this report be agreed it is expected that costs reductions can be achieved after the first year of operations. Allocation of these savings will be considered as part of the budget making process for 2015/16.

63. The housing finance manager has confirmed that the costs of implementing the internal tree management service need to be contained within the General Fund and Housing Revenue Account budget envelopes.

Investment implications

64. The in-house service will require investment in depot, machinery and equipment. This will be capitalised over three to five years and is included in the annual cost of delivering the service.

Legal implications

65. See the below concurrent from the director of legal services

Consultation

66. Consultation on the tree management strategy was undertaken in September and October 2012. This led to the adoption of the tree management strategy in January 2013. The consultation asked a number of questions to glean the levels of satisfaction with the tree management service. Whilst the majority of respondents were content with the way the Council manages trees it was

apparent that services could be improved.

Other implications or issues

67. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement (MG0513)

68. This report is seeking approval to bring the arboricultural services back in house. Currently the service is being delivered by an external provider with an in house client function monitoring and managing the service.
69. The report confirms that the current contract is in its last year of the initial term and whilst there is provision for a further five year extension this option is not being recommended. The report highlights some issues that exist with the current service delivery model supporting the decision not to continue with the current arrangements.
70. Paragraphs 14-36 confirm that officers have undertaken a review of the arboricultural service and considered a range of options for delivering this service going forward. Officers adopted an evaluation approach that scored each option against criteria outlined in paragraph 14. The recommended option scored the highest as a result of this assessment.
71. The business case for bringing the service in house includes the alignment of this service with other services already being delivered by the Southwark Hygiene Services team. Paragraph 39 describes the expected outcomes of the new service delivery model which include improved services and cost savings.
72. Paragraph 46 confirms that TUPE will apply and the project plan allows for full consultation. The report confirms that the Southwark Hygiene Services Team has experience of successfully bringing services back in house and dealing with TUPE transfers.

Director of Legal Services

73. This report seeks the approval of the cabinet to the procurement strategy for the future provision of arboricultural services in the borough. The procurement strategy is to bring the externalised arboricultural service back in-house.
74. CSO 4.1.3 requires that any decision to bring an externalised service in house should be approved by way of a Gateway 1 report, which this report is. Given the high value and importance of this service, it is considered that the decision to approve this procurement strategy should be made by the cabinet.
75. The Council is not obliged to use external parties to provide its services and may therefore provide these arboricultural services in-house. However, in deciding how to make provision for any Council function, the cabinet should have regard to the Council's duty to obtain best value. The report sets out the justification for the recommendation to bring this service back in-house and the business case for doing so.

Strategic Director of Finance and Corporate Services (FC13/029)

76. This report seeks cabinet approval to the procurement strategy and transfer of service to the in-house team of the borough wide Arboricultural Services. This is following the appraisal of seven possible options.
77. Options for providing this service have been financially appraised and the preferred option can be contained within the council's revenue budget. It is anticipated that a saving will be achieved from April 2014 and this will need to be considered when setting the 2014/15 budget.
78. The strategic director of finance and corporate services notes that further work will be done to confirm costs of this service, including TUPE implications. In the event that costs are significantly higher than estimated then additional resources will need to be identified.

Strategic Director of Housing

79. This service is not considered to be a qualifying agreement under the terms of the Commonhold and Leasehold Reform Act 2002 because it is a directly provided service, which is delivered through contracts of employment. Under these circumstances consultation with leaseholders on the agreement is not required. Since the agreement is not a qualifying one under the terms of the act, any work that will result in costs in excess of £250 per leaseholder should be subject to competitive quotes and separate consultation with those leaseholders affected under schedule 4 part 2 of the regulations appertaining to the legislation. Failure to do so would result in those charges being limited to £250. There were no costs above the £250 threshold last year.
80. With regard to capturing costs for service charge purposes it is imperative that systems are in place to identify costs on an estate or block basis. The contract manager should liaise with the Service Charge Accountant at the Home Ownership Unit to ensure that the systems that are in place are robust and fit for purpose.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
IDM March 2006 : Borough's Tree Strategy http://moderngov.southwark.gov.uk/ie/DecisionDetails.aspx?ID=491	Council offices, 160 Tooley Street, London SE1 2QH	Paula Thornton 020 7525 4395
Cabinet Jan 2013 : Boroughwide Tree Management Strategy http://moderngov.southwark.gov.uk/ie/DecisionDetails.aspx?ID=3527	Council offices, 160 Tooley Street, London SE1 2QH	Paula Thornton 020 7525 4395
IDM October 2010 : Boroughwide Tree Strategy http://moderngov.southwark.gov.uk/ie/DecisionDetails.aspx?ID=1613	Council offices, 160 Tooley Street, London SE1 2QH	Paula Thornton 020 7525 4395

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Barrie Hargrove, Transport, Environment and Recycling	
Lead Officer	Deborah Collins, Strategic Director Environment and Leisure	
Report Author	Des Waters, Head of Public Realm	
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Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		1 May 2013