

Guidance Notes

Introduction

The following Contract Procedure Rules can be waived in **exceptional circumstances** and only with the prior written approval of the Relevant Chief Officer –

Contracts Procedure Rule No 3.1.1 – Category Plan and approved budget

Contracts Procedure Rule No 3.1.6 – Requirement to use existing suppliers

Contracts Procedure Rule No 3.1.7 – Requirement to use an Approved Framework Agreement

Contracts Procedure Rule No 3.1.15 – Requirement to use the Council's standard tender documents

Contracts Procedure Rule No 3.1.22 – Procurements not to be undertaken by consultants

Contracts Procedure Rule No 3.1.23– Post tender negotiations

Contracts Procedure Rules No 8.1 and 8.2 – Intermediate value procurements

Contracts Procedure Rules No 9.1 and 9.2 – High Value Procurements

Contracts Procedure Rule 15.2 – Tender evaluation

Waivers cannot be made retrospectively in any circumstances and failure to comply with Contract Procedure Rules may result in disciplinary action.

A report is required to meet the Council's obligations of transparency and openness and to show that the matter referred for consideration properly falls within Contracts Procedure Rules.

Officers are recommended to seek advice from the Chief Procurement Officer when completing the Waiver Report.

Report of: Parks & Countryside Forestry Section

Report to: Sean Flesher (Chief Officer, Parks & Countryside)

Date: 7th December 2017

Subject: Arboricultural Works Contracts 2017/18 – Parcel 45

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Leeds City Council prioritises the mitigation of identified tree risks within defined timescales. Traditionally, all tree work has been undertaken in-house by P&C Forestry Section with very little work being outsourced.
2. Occasionally, the amount of work identified exceeds in-house operational capacity, which leads to a backlog of tree risk mitigation work.
3. Increase in demand for tree services from our expanding client base can also add to in-house capacity issues.
4. P&C are working with PPPPU to prepare a new Framework Agreement for Arboricultural Work. However, this will not be ready for some months.
5. There is a need to outsource small multiple parcels of tree work to ensure that the Council meets its statutory obligations during times when there is not the capacity to meet demand.

Recommendations

The Chief Officer for Parks & Countryside is recommended to note the content of this report and to:

- 1- Note the temporary outsourcing of small arboricultural contracts until a full Framework Agreement is put in place to manage any future arboricultural contracts as details in 2.6 of the report when the In-house capacity are exceeded.
And
- 2- To approve to award a contract to Tree Saw – professional tree surgeons in the sum of **£810.00**

1 Purpose of this report

- 1.1 To provide the background to the current backlog of tree risk mitigation work and articulate the need to temporarily outsource this work and manage the Council's liability.

2 Background information

- 2.1 Parks and Countryside's Forestry Section is responsible for the maintenance of all trees vested with Leeds City Council. They also undertake contract work for SSE as part of the City's Street Lighting Contract and undertake work on request from a variety of other in-house clients, such as individual schools, Children's Services, Adult Social Care, as well as NPS and a range of private clients, including the University of Leeds.
- 2.4 When the amount of identified tree work that needs to be completed within defined timescales exceeds the current in-house capacity, the Forestry Section needs to have the flexibility to outsource parcels of work quickly to ensure that a backlog of outstanding work does not build up.
- 2.5 Forestry managers have been working with PPPPU to develop a Framework Agreement to streamline the outsourcing of small parcels of work when in-house capacity is fully exhausted. This Framework Agreement will be advertised widely to encourage local arboricultural contractors to become involved. However, it is anticipated that the Framework Agreement will not be ready for some months.
- 2.6 Over the short-term, the Forestry Section has needed to outsource small parcels of tree work in order to ensure that the backlog is reduced to a manageable level. The outsourcing has followed the receipt of 3 quotes from approved arboricultural contractors.
- 2.8 This CPR Waiver Report has been prepared to cover these temporary arrangements. In addition, a Historical Contract Record will be submitted to PPPPU as each new contract is awarded to record the outcome of the quotation process and ensure compliance with Data Transparency requirement.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 To ensure flexibility in mitigating identified tree risks within defined timescales at times when the in-house capacity cannot meet demand.

Consequences if the proposed action is not approved

- 3.2 Failure to mitigate tree risks that have been identified may result in harm to people or property and leave the Council open to litigation.

Advertising

- 3.3 Currently, such work is not going through the tender process. Parcels for outsourcing are being prepared and a minimum of three quotes are being requested from approved contractors vetted by the Forestry Section. The work is awarded to the contractor that provides best value for money as well as meeting all approved arboricultural contractor requirements.

Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Forestry managers are working closely with PPPPU to prepare a Framework Agreement for 2018/19 to meet both the service and LCC procurement requirements. This will be advertised as thoroughly as possible, with a wide range of arboricultural contractors invited to take part.
- 4.1.2 The current need to outsource work is due to the backlog of tree risk mitigation works.
- 4.1.3 The priority is to reduce the backlog of work so that all unreasonable risks are mitigated and no outstanding work has exceeds completion dates.

4.2 Equality and Diversity / Cohesion and Integration

- 4.1.4 Six local contractors are currently invited to quote for work, with a view to receiving a minimum of three quotes before work is awarded.
- 4.1.5 This is a temporary arrangement to clear a backlog of work.

4.3 Council Policies and City Priorities

- 4.3.1 Leeds City Council has a statutory duty to maintain trees under its control in such a way as to ensure that their condition or location does not pose unreasonable risks to people or property. This Duty of Care is taken extremely seriously and the mitigation of identified risks is prioritised to ensure that the most serious risks are mitigated first.
- 4.3.2 Identified risks are categorised and completion dates assigned.

4.4 Resources and Value for Money

4.4.1 All outsourced work is funded through existing tree management budgets.

4.5 Legal Implications, Access to Information and Call In

4.5.1 PPPPU has advised that this Waiver Report be prepared and approved as soon as possible and that all new contracts are supported by a Historical Contract Record, which will be advertised on Your Tender.

4.5.2 This temporary arrangement will cease following the implementation of the new Framework Agreement during the summer of 2018.

4.5.3 This decision is an administrative decision and is not subject to call-in.

4.5.4 In making their final decision, the Chief Officer of park and Countryside should be satisfied that the course of action chosen represents Best Value for the Council.

4.6 Risk Management

4.6.1 It is considered that failure to mitigate identified tree risks within reasonable timescales may result in injury or harm to people or property. Outsourcing the backlog of identified risk work will ensure that those risks are properly mitigated in a timely fashion.

5 Conclusions

5.1 Outsourcing small, multiple parcels of work through a quotation process over a short period of time is the most proactive way of managing the council's tree risk responsibilities.

5.2 Recommendations

The Chief Officer of Parks & Countryside is recommended to:

approve the **content of this report and record the outcome of the procurement process for under low value procurement under £10K as stated under CPR 7.3**

and

to award a contract to **Tree Saw – Professional Tree Surgeons** in the sum of **£810.00** The contract shall commence on the **7th December 2017** and expire on the **28th December 2017** [with the option to extend for a period of **4 days to 12th December 2017**].

6 Background documents

- 6.1 Background Paper A – ‘Tree Guidelines for the Management of Leeds City Council’s Trees - frequently asked questions’ link below:

<http://www.leeds.gov.uk/leisure/Pages/Forestry.aspx>