

## ITEM No ...3.....

**REPORT TO: CLIMATE, ENVIRONMENT AND BIODIVERSITY COMMITTEE – 21 AUGUST 2023**

**REPORT ON: CONTRACT FOR PROCUREMENT FRAMEWORK TO MANAGE ASH DIEBACK**

**REPORT BY: EXECUTIVE DIRECTOR OF NEIGHBOURHOOD SERVICES**

**REPORT NO: 214-2023**

### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to provide an update on the development of a sourcing strategy for the competitive procurement exercise for a Supply Framework for surveying and removal of trees affected by Ash Dieback and to seek approval to commence a compliant procurement process and permission to award.

### **2. RECOMMENDATION**

2.1 It is recommended that the Committee:

- Approves commencement of a procurement exercise in respect of the project described, based on the sourcing strategy, summarised in this report;
- Delegates authority to the Executive Director of Corporate Services to award a contract to the successful bidder, following a tender process carried out in compliance with the Public Contracts (Scotland) Regulations of 2015.

### **3. FINANCIAL IMPLICATIONS**

3.1 It is anticipated that the value of the Framework contract could be up to £400,000 until diseased trees are removed. Any material deviation from this sum, resulting from the tender process that is above the amount, will require further approval from this Committee. This contract will be funded from earmarked General Fund balances.

### **4. DETAILS OF THE PROJECT BEING COMMISSIONED**

4.1 The purpose of this exercise is to progress a compliant procurement route for the ongoing surveying and management of Ash trees in Dundee. Reference is made to Article II of the minute of the meeting of the Environment Committee of 10<sup>th</sup> June 2022 report [254-2013](#) and Article II of the minute of the meeting of the Neighbourhood Services committee on 9<sup>th</sup> January 2023 report [5-2023](#). These reports highlighted the risks posed by Ash Dieback disease both nationally and locally and updated elected members on the progress of plans to mitigate these risks to the people and environment within the city.

4.2 Ash Dieback is the most significant tree disease to affect broadleaved trees since Dutch Elm disease in the 1960s. Over the next two decades it is predicted that up to 90% of Ash trees in Scotland will be affected. In addition to the environmental, economic and amenity impacts, infected trees have a significant health and safety risk. This risk is to both members of the public and to those involved in the management of the trees. This issue has been added to the Corporate Risk Register and the current status on the register is Amber, 5x3 Extreme - Possible.

4.3 Work has begun to identify and survey trees in high risk areas with the most dangerous trees identified in these locations being removed. However, the Neighbourhood Services Environment Forestry Team do not have the resources necessary to take further works forward. Setting up of the proposed Framework would enable Dundee City Council (DCC) to deploy contractors for ongoing survey work and effectively manage the felling of affected Ash trees.

## 5 SOURCING STRATEGY SUMMARY

- 5.1 The Council's aim is to monitor all Ash trees in high risk locations and subsequently remove the trees identified in the later stages of the disease as these pose the greatest risk to health and safety.
- 5.2 The procurement framework seeks to appoint suitably skilled and experienced arboricultural contractors who can complete a planned programme of surveys and recommend suitable management. This information would then be used by a contractor to remove unsafe trees. The level of need is currently unclear and will be variable over time; therefore a Supply Framework will be utilised.
- 5.3 This is a 'Regulated' procurement exercise and the procurement procedure used will be the 'Open' procedure.
- 5.4 As there is uncertainty regarding how receptive this market segment is, a 'Prior Information Notice' (PIN) has been published on the Public Contracts Scotland Portal (PCS) to seek key information from the market place in order to gain insight to the framework. The feedback for this will be received prior to the tender being published and will inform the final Service Specification and Contract Lotting structure (e.g. appointment of single or multiple contractors to geographical areas etc.).
- 5.5 The proposed Tender Evaluation Methodology, (which will be informed by the PIN findings mentioned in 5.4) is as follows:

<p><u>Economic and Financial Standing</u></p> <p>In line with the Scottish Procurement Guidance ('Scottish Procurement Document), Tenderers were required to submit financial overview statements to support the sustainability of their bid. Their financial viability will be fully evaluated, prior to Contract Award, again in line with Scottish Procurement Guidance.</p> <p>Employer's Liability Insurance covering the death of or bodily injuries to employees of the bidder arising out of and in the course of their employment in connection with this contract to the level of 10,000,000 GBP in respect of each claim.</p> <p>Public Liability Insurance covering the death of or bodily injury to a person (not an employee of the bidder) or loss of or damage to property resulting from an action or failure to take action by the bidder to the level of 5,000,000 GBP in respect of each claim.</p> <p>Professional Indemnity Insurance/Medical Malpractice Insurance covering the failure of the bidder to use the skill and care normally used by professionals providing the services described in this tender to the level of 2,000,000 GBP in the aggregate.</p> <p>(Pass/Fail)</p>
<p><u>Experience</u> (Pass/Fail)</p> <p>2 x Contract examples.</p>
<p><u>Health and Safety Policy</u> (Pass/Fail)</p>

### Technical Section 30% (Quality)

**Firstly**, only those Suppliers meeting or exceeding the Qualification stage proceed to the Tender evaluation stage.

**Secondly**, the Technical responses will be evaluated to ensure Tenderers meet all of the mandatory requirements:

Compliance with Specification of Requirements	Compliance (in full) with the Specification of Requirement. Bidding Organisation to confirm that they comply.
---	--

**Thirdly**, the tenders are evaluated based on the most economically advantageous tender, having regard to the Price and Quality of the Tender, as follows: Quality - 40% and Price - 60%.

**Scored Quality Criteria Includes:**

- Delivery of Contract and Quality of Service – monitor and maintain high quality service
- Resourcing of Requirements – Provision of Equipment and Labour to provide the service
- Project Plan – Plan of works to fulfil the specification
- Community Benefits
- Fair Work First – Fair Work practices

**Pass/Fail Criteria Items:**

- Duty of Care, Health and Safety & Risk Management – proof of appropriate measures used for felling
- Site Specific Risk Assessment and Method Statement – populated Risk Assessment and Method Statement for survey and removal of Ash Trees
- Health & Safety – relevant health and safety aspects for the removal such as working at height
- Provision of Management Information – Example report
- Contract Review Requirements – Bidder compliance with Specification of Requirements
- Climate Change and Environmental Impacts

**Scored Price Criteria:**

**Total Price for Each Contract Lot:** The Bidder with the lowest cost for each category is awarded full marks (60 marks) for Total Price. Each of the other offers are awarded marks based on a pro-rata system relevant to the lowest priced offer.

**6. RISK ANALYSIS**

6.1 There are four standard risks in any procurement and for public sector regulated procurements, a fifth is added, that of the procurement exercise itself breaching the public contract regulations and leaving the Council open to a legal challenge:

Description of Risk	Actions to be taken to manage risk
<b>Commercial Risk</b> – That either the price objectives are not achieved up front or there are other costs that arise during the contract and diminish the overall benefits.	The Council's specification will contain all the works expected for the contractor to undertake to allow for most accurate pricing.
<b>Technical Risk</b> – This concerns the difficulty in being able to specify the desired outcome and on the market being unable to deliver to the specification.	The technical specification is included within the framework agreement and this is market tested. As a PIN has been published, this should reduce the risk as we will be aware of any elements from the draft specification that could not be carried out.

<b>Performance Risk</b> – This concerns the ability of suppliers to perform consistently over the life of the contract to deliver the planned benefits.	The contract will contain a number of KPIs governing service response times.
<b>Contractual Risk</b> – Being able to remedy the 's shortcomings in the contractor's performance without severely damaging the contract and about avoiding reliance on the contracted supplier as the contract develops.	The contract will put a reliance on contractors but there will be reviews and contact with the contractor to assure the fulfillment of duties.
<b>Procurement Risk</b> – where a procurement is found unsound in law, through the public procurement rules.	Procurement will be carried in a compliant manner (open tender procedure).

## 7. CONCLUSION

- 7.1 The approval of spend and award will allow for tendering to begin as soon as possible. Having this procurement framework in place will enable Dundee City Council to respond the risks posed by Ash Dieback in an efficient and timely manner.

## 8. POLICY IMPLICATIONS

- 8.1 This report has been subject to the Pre-IIA Screening Tool and does not make any recommendations for change to strategy, policy, procedures, services of funding and so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment.

## 9. CONSULTATION

- 9.1 The Council Leadership Team have been consulted in the preparation of this report and agree with its contents.

## 10. BACKGROUND PAPERS

- 10.1 None.

Elaine Zwirlein  
Executive Director of Neighbourhood Services

Tony Boyle  
Head of Environment

21 July 2023