

Decision Maker: EXECUTIVE,
FOR PRE-DECISION SCRUTINY BY THE ENVIRONMENT POLICY
DEVELOPMENT AND SCRUTINY COMMITTEE ON:

Date: Wednesday 15 November 2017

Decision Type: Non-Urgent Executive Key

Title: ENVIRONMENT SERVICES COMMISSIONING PROGRAMME
UPDATE

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Chief Officer: Nigel Davies - Executive Director of Environment & Community Services

Ward: Borough wide

1. Reason for report

- 1.1 This report provides an update on the procurement of a range of environmental services originally due to be tendered in April 2017 and the reasons for delays.
 - 1.2 Reviews the agreed lotting strategy for these services to see if this is still appropriate.
 - 1.3 Considers the impact of the proposed Trust at Crystal Palace Park on Lot 4 – the Parks Management and Grounds Maintenance contract.
 - 1.4 The report also outlines the proposed strategy for depots within the Borough, some of which will be retained by Environmental Services for provision of services, sites to be retained, and others which could potentially be released to generate capital receipts. It also considers any capital investment required at these sites.
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2. RECOMMENDATIONS

The Executive is asked to:

- 2.1 Note and agree the proposed strategy for depots within the borough as set out in section 4 of this report.
- 2.2 Note and comment on the revised timescale for issuing the Notices for the tendering of Lots 1 -7 as set out in Section 3 of this report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council:
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Financial

1. Cost of proposal: Estimated Cost: Between £525m and 632m, depending on whether Lots 5 – 7 are awarded with the option to extend for a further eight years
 2. Ongoing costs: Recurring cost: £39.5m
 3. Budget head/performance centre: Various budgets that cover Lots 1 – 7
 4. Total current budget for this head: £33.6m and £5.9m
 5. Source of funding: Existing controllable budgets for 2017/18 and TfL funding within the capital programme
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement S123 of the Local Government Act 1972
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillor's comments: N/A

3. COMMENTARY

3.1 On the 8th February 2107 the Executive agreed the lotting structure and procurement route for the main Environmental Services contracts as set out below:-

Competitive Procedure with Negotiations

- Lot 1 - Waste Disposal
- Lot 2 - Waste Collection
- Lot 3 - Street Environment
- Lot 4 - Parks & Grounds Maintenance

Restricted Procedure

- Lot 5 - Arboriculture
- Lot 6 – Highways Major Works, Street Lighting and Professional Services
- Lot 7 – Highways Minor Reactive Works and Winter Services,

3.2 The report set out the proposed procurement timetable, which assumed that the tender documents for Lots 1-4 would be completed and advertised in April 2017 and Lots 5-7 in January 2018.

3.3 Whilst the original timetable for preparing the documentation would normally have been sufficient, due to a number of issues the documentation has not been completed to a point where Notices could be issued.

3.4 The drafting of the required documentation, which is detailed and complex has been impacted on by staff changes and accordingly has taken far longer than originally anticipated. It is important to ensure the accuracy of the service specifications, along with the IT requirements needing to be included within the specifications and the contract monitoring frameworks (KPI's, performance measures) is right to avoid additional and unnecessary costs during the tendering process. The seven specifications also need to be signed off by the relevant Heads of Service, which in reality means one or two key individuals with already demanding workloads. The impact of this means the tender documents will not be published until December 2017 eight months later than planned.

3.5 Officers have also had to consider what assets are made available to the providers for the running of services and therefore what is included within the various specifications. Cushman & Wakefield were commissioned to undertake a review of the Council's assets with a view to advising the Council on which assets needed to be retained and what could potentially be disposed of, saving both on running costs and generating a future capital receipt.

3.6 It is important to spend time upfront getting significant long term contracts such as these right, as poor contracts will have financial implications in the longer term and potentially leave the Council exposed to risks, both in service and financial terms.

3.7 In August 2017 the Mayor of London published his draft Environment Strategy with his vision for London being a zero waste city and 65% of London's municipal waste being recycled. The Mayor has the power to direct a waste authority where he considers waste activity to be detrimental to implementing his strategy (these powers do not apply to businesses or private waste companies). There is therefore, a requirement for the Council, before issuing its tender documents to send to the Mayor's office its waste collection/disposal specifications to confirm these compliment his waste policies and proposals. This additional requirement has again, added a further delay to the tendering process.

- 3.8 Additionally consideration on the condition of the Council depots/sites has identified the need for some significant structural works to be undertaken, which will require Capital funding approval in the near future, to allow key services to be provided and necessary works to be completed.

LOTS 1- 4

- 3.9 Given the 8 month delay in issuing the tender documents for Lots 1 -4 officers have had to produce a new timetable that will seek to meet the original April 2019 award date. This is tight because, in light of Mayor for London requirement, the earliest date on which the Notices may be issued is 20th December 2019.
- 3.10 Assuming the Notice is issued, the tenders will be returned to the Council mid-April and then there will need to be a focus by all officers on ensuring that the first round of negotiations are completed within 6 weeks. Any changes in services levels resulting from negotiations are likely to require consultation with those impacted on, prior to agreement, which could impact on the timetable.
- 3.11 It is proposed, subject to satisfactory completion of early rounds of negotiations, that a final bid is received in June 2017 to complete the tender process. This will then allow sufficient time for the evaluation and award report to be written and agreed by members.
- 3.12 During the 6 month remaining period (prior to the intended contract start 1/4/19) there will be the need for both parties to complete due diligence, and for the service providers to mobile the contract arrangements.
- 3.13 Risks – this timetable is extremely tight, all key officers will need to focus 100% on the evaluation process and service providers may not be able to respond to these tight timetables and decide not to bid. Additionally, the Council may still have to negotiate contract extensions and if the existing contractors are unsuccessful in their bids, may require significant inducements to cover the contract “being at large” (i.e. out of contract).

LOTS 5 – 7

- 3.14 While in the original report to Executive it was envisaged that all of the 7 Lots would go out at the same time to mitigate some of the timetable problems now being experienced it is proposed that Lots 6 -7 are now run on an amended timetable (because the current contract cannot be extended past July 2018). Whilst it is possible that there may be some market interest across all areas it is unlikely that this new proposal will prejudice the original tender strategy but it does reduce some of the risks associated with extending these contracts beyond term, which have now become apparent. Officers therefore recommend Lots 5-7 are viewed as standalone arrangements with the opportunity for any bidders who are successful in procuring more than one lot to offer discounts.
- 3.15 Lots 5 -7 will be completed under the restricted tender process, so any bids received will be evaluated on the information and pricing documents received. This will make these services much easier and quicker to evaluate.

Lot 5

- 3.16 Officers are currently pulling together all the tender documentation for Arboriculture Services which should be very similar to the service specification produced when this service was last tendered back in 2008. Whilst the timetable of April 2019 is tight, officers can see no reason

why this will not be completed in sufficient time, allowing for a lead in period of 3 months for contract mobilisation.

Lots 6 - 7

- 3.17 These contracts include Major & Minor Highways Works which it was proposed to extend to align with the other Lots e.g. a contract start date of April 2019. However, legal advice received suggest that the Council will be exposed to a potential risk of external challenge in extending these contracts beyond their current term, partly due to additional Capital works already being included, as a modification, in the existing contract.
- 3.18 It is therefore proposed that these contracts are separately tendered with a start date of August 2018. This is extremely tight as there will need to be a two month contract mobilisation period, so the award of contract will need to be in place at the latest by May 2018. This gives officers only 7 months to complete the whole tendering process.
- 3.19 Officers that would normally support the tendering of these contracts are already fully utilised on Lots 1- 4 of this tendering process and therefore officers will need to engage external consultants to prepare all the required contract documentation to allow a new contract to be in place within this new timetable. This will be funded from within existing resources.
- 3.20 In light of the tight timescale, it is proposed that the Neighbourhood Officers (that would have been included in these Lots) are initially retained with a view to including them in these contracts post award.

SERVICES WHICH COULD BE INCLUDED IN THE CONTRACT LOTS AT A LATER STAGE

- 3.21 As part of the review of current services carried out, officers have identified opportunities to include other areas of service delivery within the Environmental directorate which could be included at a later stage if it is considered this offers value for money. The OJEU Notice will therefore include provision for the future inclusion of elements of services such as CCTV, Pest Control, Stray and Abandoned Dogs, and Neighbourhood Officers.

CRYSTAL PALACE PARK

- 3.22 Officers are currently considering the benefits of transferring the future management of Crystal Palace Park to a Trust. This is unlikely to be finalised before the commencement of the new Parks Management and Maintenance contract, Officers to allow sufficient scope for this to be included in the tender and award of contract process. As a result a separate price will be obtained for this service within the form of Tender and relevant documents, as longer term any costs may need to be removed if it is deemed to be value for money to transfer these functions to the Trust.

4. DEPOTS/SITES

- 4.1 The Council has a number of depots used or held for the provision of environmental services ranging from waste collection, disposal, fleet use, office use etc. As part of the new contract officers need to take a view about what assets are offered to potential bidders to allow them to provide these services and what if any might be able to be disposed of to generate a capital receipt and save on running costs. The Council therefore engaged Cushman and Wakefield (C&W), the Councils retained property advisors, to undertake a review of all 19 depots/sites held by the Council and take a view of these which should be retained or declared surplus and potentially sold to generate a capital receipt.
- 4.2 In total there are 19 sites (which contain various build assets) made up as follows:-

1. Central
2. Churchfields Road
3. Crystal Palace Park
4. Crystal Palace Anerley Hill
5. Thicket Road
6. Kelsey Park Lower
7. Priory Gardens
8. Beaverwood
9. Church House gardens
10. High Elms Country Park
11. Alligator House
12. Chislehurst Cemetery
13. Church House Gardens Lodge
14. Croydon Road Recreation Ground
15. Den Barn High Elms
16. Kelsey Park Upper
17. London Road Cemetery
18. St Luke`s Cemetery
19. Shire Lane

4.3 The brief to C&W was that the Council needed to provide sites with sufficient geographical coverage to service the entire borough, but reduce where possible any future financial liabilities and future cost pressures and release site where there would be an opportunity to generate capital receipts.

4.4 Officers will need to include within the tender documentation what sites the Council will make available to potential bidders for the provision of services. Ultimately the Council will be looking as part of the tender negotiation process, for bidders to submit innovative solutions on how they will operate the service and it may well be that some bidders will not require access to all of the sites listed. However, now is the ideal opportunity to review the use of these assets with a view to releasing those which are no longer required or which will require investment in the future.

Review by Cushman and Wakefield

4.5 C&W reviewed how the current services operates, the locations and size of the different depots, condition and current usage and potential for alternative use. Their detailed report is attached as Appendix 1.

4.6 As part of that review C&W have also provided some high level estimated costs of:-

- Putting existing structures into good condition
- Maintaining structures over a 30 year period
- Providing more cost-effective and flexible facilities based on a contract structure where the contractor is able to self-provide modular buildings and storage facilities on LBB land.

Proposals

4.7 As you will see from the detailed report from Cushman & Wakefield it is proposed that the overall number of depots retained by the Council reduced from 19 to 10 broken down in the table below:-

1. Central (Main Depot, WTS & HWRC)
2. Churchfields Road (Main Depot, WTS, HWRC & GM)
3. Kelsey Park Lower (GM -Main Depot)
4. Priory Gardens (GM -Main Depot)
5. Shire Lane (Special Use Depot)
6. BEECH Centre High Elms (Education Facility)
7. Chislehurst Cemetery (Site Specific GM Depot)
8. St Luke`s Cemetery (Satellite GM Depot)
9. Croydon Road Recreational Ground (Satellite GM Depot)
10. Beaverwood (Satellite GM Depot)

4.8 The Council's two waste transfer sites (the Central Depot and Churchfields), will be retained for the provision of the Waste Management service, Winter services, Street Cleansing and Passenger Transport Service.

4.9 The sites suggested for disposal, due to a combination of poor geographical location, high cost liabilities and potential to generate capital receipts, are as follows :-

- Alligator House (Civic Centre)
- Beaverwood – surplus land
- Church House Gardens – Depot
- Lodge at Church Gardens
- Lodge at High Elms
- Dens Barn at High Elms
- Chapels, London Rd Cemetery (x2)
- Chapel at St Luke`s Cemetery
- Kelsey Park Upper Depot

The disposal of these surplus properties could raise a potential capital receipt in the region of £9.45 million (less the cost of realisation – environmental remediation, abnormal construction and planning), subject to securing planning permission.

4.10 A further 3 depots at Crystal Palace Park are likely to transfer to the Trust at a future date and if this happens the Council will cease to have any involvement in these sites going forward.

4.11 This would then leave 10 sites (including the two central depots) for the provision of environmental services.

4.12 The attached report from C&W also highlights the risks associated with Council depots at Churchfields and Central Depots during the contract term, which will need to be considered by the service in due course. The Council has the option to ask any prospective bidder to include any capital works required in their submission which will spread these costs over the contract period or for the Council to finance any capital works required from the capital programme as and when required. This will be dealt with in the award report and once C&W have finalised their overall report.

5. POLICY IMPLICATIONS

5.1 The “Building a Better Bromley” objective of being an Excellent Council refers to the Council’s intention to provide efficient & effective services and value for money to its residents.

6. PROCUREMENT IMPLICATIONS

- 6.1 The required OJEU Notices cannot be issued until work on the tender documents has been completed. The Notices will also need to be drafted to provide sufficient flexibility to cover the matters raised in this report, the inclusion or not of any additional services identified and resulting management arrangements impacting on the bidding process and future contracts.

7. FINANCIAL IMPLICATIONS

- 7.1 The table below sets out the budgets associated with Lot 1 - 4 and Lots 5 -7:-

	2017/18 £'000
Lots 1 - 4	
Graffiti/Abandon Vehicles etc	228
Enforcement	574
Parks	4,641
Street Cleansing	3,433
Waste	17,300
	<u>26,176</u>
Lots 5 - 7	
Highways - Revenue	6,918
Highways - Capital (TfL) Funding	5,881
Aboricultural Maintenance	513
	<u>13,312</u>
TOTAL	<u>39,488</u>

- 7.2 Any funding implications that may arise from work required to the depots, identified in the feasibility study by Cushman & Wakefield will be considered in a future report
- 7.3 It is anticipated that a report will come back to members in September 2018 with the outcome of the tendering exercise for Lots 1 - 5. This report will also confirm the Client Unit arrangements.
- 7.4 For Lots 6 – 7 the award report should come back to members in April 2018 at the latest.

8. LEGAL

This report requests Members to note the revised timetable and strategy for the procurement of the main environmental services contracts.

In the present circumstances, the Council is advised to revise the timetable and strategy to ensure compliance with the provisions of the Public Contracts Regulations 2015.

Non-Applicable Sections:	Personnel, vulnerable adults & children
Background Documents: (Access via Contact Officer)	N/A