

Committee: Cabinet

Date: 20 February 2023

Wards: All

Subject: Award of Environmental Enforcement and Animal Welfare Services Contract

Lead officer: Adrian Ash, Interim Executive Director, Environment, Civic Pride & Climate

Lead member: Councillor Natasha Irons, Cabinet Member for Local Environment, Greenspaces and Climate Change

Contact officer: Claire Secord, Interim Performance and Business Development Manager (Public Space)

Exempt or confidential report

The following paragraph of Part 4b Section 10 of the constitution applies in respect of information within this appendix and it is therefore exempt from publication:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Members and officers are advised not to disclose the contents of the appendix.

Recommendations:

- A. To award a new contract for the provision of Environmental Enforcement and Animal Welfare Services across the Council's administrative area for a period of approximately four (4) years with potential extensions of up to 24 months (2 years) to 'Bidder A' as referred to in the exempt appendix within this report.
- B. To delegate the decision to award an extension of the awarded contract to the Executive Director of Environment, Civic Pride & Climate in consultation with the Cabinet Member, for any period up to 24 months (2 years) in accordance with CSO 27.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to explain the procurement process for a new contract for the provision of Environmental Enforcement and Animal Welfare services across the Council's administrative area and to recommend that Cabinet approves the award of the contracts to 'Bidder A', the successful bidder contained within Appendix B in the exempt information of this report.
- 1.2. The tender process involved contractors bidding to provide the Environmental Enforcement and Animal Welfare services following a pre-qualification exercise, fully in line with CSOs and the Public Contract Regulations 2015.

- 1.3. One (1) service provider is recommended to be appointed. Due to the commercial sensitivity the details of assessment results have been circulated as a confidential appendix to this report.
- 1.4. The recommended service provider offered the best overall value for money and quality in the procurement process.

2. DETAILS

- 2.1. This report outlines the key features and benefits of this recommendation and the impact that this will have on overall impacts on service quality, cost control and value for money.
- 2.2. The contract is for the provision of Environmental Enforcement and Animal Welfare services across the Council's administrative area; To work with the London Borough of Merton Enforcement Team to provide Environmental Enforcement Services in respect of, the Environmental Protection Act 1990 (including Control of Dogs), Anti-Social Behaviour Act 2003 and Clean Neighbourhood & Environment Act 2005.
- 2.3. The successful bidder will provide a team of qualified Enforcement Officers who will patrol agreed areas of the Borough and, through interaction with the public, will raise awareness of environmental standards, change behaviours towards environmental crime, and issue Fixed Penalty Notices when appropriate.
 - 2.3.1. The Service Provider will provide all the necessary systems and processes to enable the recording of FPNs as well as the required administration and expertise to process and progress FPNs through to settlement, including attending appeal and court hearings as necessary.
- 2.4. The animal welfare services element of the contract will be sub-contracted to a suitable provider.
- 2.5. This is primarily a concessions contract and as such, there is no guaranteed minimum level of spend or volume of work under the contract. The council has the ability to procure services outside of this contract should it wish to do so.
- 2.6. The contract bid price in £'s and pence (excluding VAT) per FPN ticket paid, an ad hoc schedule of rates and an animal welfare schedule of rates were used to ascertain the total value of the contract. Values for these were based on a three-year average of past service delivery.
- 2.7. The total tendered sum for the provision of the contract, the suppliers' details and the tenderer reference identification for evaluation is outlined within Appendix A of the exempt information forming this report.

3. PROCUREMENT PROCESS

- 3.1. The procurement was undertaken via an open tender route.
- 3.2. The Invitation to Tender (ITT) was published on 4th November 2022, with a submission deadline of 12 noon on 5th December 2022.
- 3.3. A total of three (3) submissions were received and the evaluation of the bids was carried out in line with the evaluation methodology set out in the ITT.

- 3.4. Tenderers were required to answer a set of method statement questions to assess the quality of their bid, along with a completed price list.
- 3.5. The tender evaluation comprised of three stages: the first of which was a tender compliance check, on a pass/fail basis; the second was a quality and technical evaluation in line with the methodology prescribed in the tender and the third was the assessment of price in line with the methodology prescribed in the tender.
- 3.6. The quality and technical evaluation was carried out by a panel of officers from the Public Space Division. Each compliant tender was evaluated individually by members of the evaluation panel.
- 3.7. The panel, along with an officer from Commercial Services, met on 19th December 2022 to discuss individual scores and comments for each question in order to arrive at an agreed, moderated score.
- 3.8. The names of the bidders and their respective scores are included within Appendix B.
- 3.9. Due to the specialist nature of the services the basis of tender evaluations was based on a 50:50 ratio of quality/price. A quality threshold was contained within the evaluation methodology. Bidders who failed to meet this threshold would be disqualified from the process and would not progress to stage three – price assessment. All of the bidders met the quality threshold, and therefore progressed to the price evaluation.
- 3.10. The bids were evaluated against the following nine (9) method statement questions to assess the quality of each bidder:

No.	Method statement	Weighting
Q1	<p>Please detail how you will deliver the Contract in the form of a Method Statement. Please include the following, using the bullet points as sub-headings:</p> <ul style="list-style-type: none"> • How you will realise the Service outcomes detailed in the Specification. • Customer interaction management from cradle to grave from ticket issue to payment or prosecution. • How you will work towards ensuring quality of evidence gathering and witness statement for prosecution cases. • How you will verify the identification and address of person being issued. <p>Bidders were also invited to submit an example deployment plan.</p>	10%
Q2	<p>Describe your organisation's approach to ensuring that resources are secured and effectively maintained in order to meet the requirements set out in the Specification and deliver an effective and efficient use of resources ensuring value for money. This should include, but not be limited to:</p> <ul style="list-style-type: none"> • Staff recruitment and selection strategy and processes. • Staff training and development. • Management and supervision of staff. • Sustainability and resilience of resources (e.g. approach to managing short term absences, maternity leave etc). 	5%

Q3	<p>Please provide details of the Technology Platform to be used and how this will:</p> <ul style="list-style-type: none"> • Deliver the requirements set out by the Client in the Specification. • Provide optimal on street efficiency. • Issue Fixed Penalty Notices using the proposed system. • Manage case files from ticket issue to collation of the prosecution file. • Assist the client in maintaining data requirements for this contract (i.e. no of FPNs issued). • Support the Authority's data protection and privacy responsibilities in relation to GDPR. 	5%
Q4	<p>Please provide a detailed implementation programme, identifying critical milestones, tasks, dependencies and responsibilities which should include but not be limited to:</p> <ul style="list-style-type: none"> • Your approach to project planning and risk management to ensure the Service is operational by the commencement date. • Your interactions with the Authority during mobilisation to ensure a smooth transition of Services. <p>Bidders were also invited to submit a one-page A3 GANTT chart or equivalent to demonstrate their Mobilisation Plan.</p>	5%
Q5	<p>Please set out details of how you will ensure that the contract delivers optimal quality and performance including:</p> <ul style="list-style-type: none"> • How you will meet the contract SPIs. • How you will manage the quality of Fixed Penalty Notices issued. • How you will manage poor performance. • How you will deliver ongoing service improvement throughout the life of the Contract. 	10%
Q6	<p>A key requirement of this Contract and the law is to ensure that the public and the staff deployed within the contract comply with Health and Safety Legislation.</p> <ul style="list-style-type: none"> • Please provide details on how you intend to assess and manage risk to the staff in what can be a confrontational environment? • What processes and procedures will you put in place to mitigate risk? • What physical measures including equipment and PPE will you put in place? • How will you use ICT to ensure that risks are identified, reported and monitored? 	5%
Q7	<p>Bidders are required to submit the carbon reduction plan in line with the Council's aspirations of delivering on its Climate action plan.</p>	5%
Q8	<p>Bidders should set out any proposals of social value that can be generated/offered through the delivery of Environmental Enforcement. Bidders should complete the LBM Social Value Charter (Appendix C)</p>	5%

	<p>to indicate the social value to be committed through the Contract delivery.</p> <p>Describe how the bidder intends to deliver this aspect.</p>	
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- 3.11. The bidders provided a completed Price List as part of their tender returns. The Price List consisted of a series of rates against a comprehensive list of indicative work volumes (list based on historical work volumes and target operating models).
- 3.12. This list provided had separate sections covering the Core Services (issuing of FPNs), ad hoc works and animal welfare requirements with indicative volumes based on a 3 year average.
- 3.13. Following the process, one provider was successful for recommendation for contract award (as shown in Appendix B).
- 3.14. Contract management is a critical requisite to ensure the success of a contract of this size and importance. A Partnering Governance Schedule has been developed outlining the strategic and operational governance arrangements and structures that will be in place to ensure rigorous contract management and standards of the service. This includes the regularity and expected content of contractual meetings and reports to a suite of SPIs to monitor performance that will be reported on monthly.
- 3.15. Structure of contract management: The Service Provider will attend regular meetings and provide regular reports, the structure, frequency and expected content of which are outlines in the Partnering Governance Schedule. The Schedule also outlines the performance management framework that will be adopted to ensure that standards are maintained over the life of the contract and that robust structures are in place to address any areas of concern.
- 3.16. The Performance Management Framework, as outlined in the Partnering Governance Schedule includes a suite of ten (10) SPIs that cover a range of objectives including payment percentage rates for FPNs issued, staff deployment, Officer attendance at Court, responses to complaints and/or FOIs to emergency works and invoicing.
- 3.17. The SPIs are reported over a rolling 3-month period, ensuring that the two previous month's performance is taken into account. Each SPI is measured in two ways, a simple pass or fail for that month with a performance adjusted value applied if an omission or failure is not rectified within a specified rectification period and also the direction of travel from the previous two months. This allows the contract to take account of improved performance.
- 3.18. The framework also allows for trigger levels for the Authority to implement a corrective action plan if standards are not improved within the agreed timescales.
- 3.19. A worked example of the KPIs and how they will be reported is shown in Appendix D.

4. ALTERNATIVE OPTIONS

- 4.1. An alternative option is to do nothing, do not enter into a contract and withdraw the Service.
- 4.2. The disadvantages to this would be an increase in litter and overall cleanliness of the public realm. Less income / revenue would be received for the Public Space Division. Public Space would have to reduce public / community engagement and awareness work and there would be a significant pressure on the internal LBM Enforcement Team.
- 4.3. In addition, if the contract was not awarded, there would be no contracted animal welfare provision which would mean that the authority would be unable to undertake its statutory obligations for stray dogs as set out in Sections 149 and 150 of the Environmental Protection Act 1990 and the Environmental Protection (Stray Dogs) Regulations 1992
- 4.4. Another option would be to increase the current capacity of the in-house team by recruiting 6 additional enforcement officers.
- 4.5. This option is not recommended as the additional fixed labour costs would need to be covered financial from the current revenue budget.
- 4.6. The Council would bear all the risks of employing staff at a time when budgets are under extreme pressure. This will require 6 x officers on grade ME10 which equates to c £225k excluding on cost.

5. CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1. The approach outlined and followed for this procurement was initially conveyed at the Operational Procurement Group (OPG) in August 2021.
- 5.2. Following which, it was agreed that this would be a concessions contract. This did not change the procurement process.
- 5.3. As part of the Project Team’s wider consultation, the Head of Service attended all four Operational Procurement Groups and in addition, attended the four Departmental Management Team meetings as a scoping exercise to determine the full range of services to be considered as part of the drafting of the service specification.
 - 5.3.1. Subsequently, the feedback received through this internal consultation process has been integrated within the requirements for the new environmental enforcement provider.
- 5.4. The Procurement Board which is representative of the council departments considered the options presented in a business case report to them in August 2021.

6. TIMETABLE

Event	Date
Evaluation of tenders	12 December 22 – 19 December 22

Departmental Procurement Group	12 th January 2023
Procurement Board	17 th January 2023
Leaders Strategy Group	6 th February 2023
Cabinet	20 th February 2023
Call-in period	27 th February 2023
Notification of contract award decision	27 th February 2023
"Standstill" period	27 th February 2023– 10 th March 2023
Confirm award of contract	11 th March 2023
Contract commencement date	1 st April 2023

6.1. Bidders provided a mobilisation plan at tender stage, and this will be finalised and implemented during the mobilisation period, immediately after the contract is awarded so that systems and procedures are in place for 01 April 2023.

6.2. It is anticipated that a rapid mobilisation of the contract can be implemented. All bidders have submitted a mobilisation plan, IT and equipment provision have been considered as part of the ITT.

6.2.1. As the incumbent, the preferred bidder already works within LBM IT systems and therefore this will reduce time for mobilisation.

6.3. The methodology set out in the Partnering Governance Schedule along with a set of pre-determined KPIs will be used to monitor the performance of the contractor during the contract period.

7. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

7.1. The core service costs are covered from the income received from the issuing of FPNs on a cost neutral basis, mitigating financial risk to the Authority as the SP covers all operational costs of the deployment of the service, including provision of PPE and IT costs.

7.2. Existing budgets cover the cost of the provision of animal welfare services.

7.3. All additional work commissioned via the ad hoc reactive service requests would need to be agreed in advance with the relevant budget holder before the deployment of any additional resource.

7.4. A credit check has been performed on the preferred bidder, which highlighted no issues of concern for the value of the contract.

7.5. Based on current volume of work being undertaken within the core service the estimated annual contract value is c700k.

8. LEGAL AND STATUTORY IMPLICATIONS

- 8.1. As per the main body of this report, the Council is seeking approval to award a concession contract for the delivery of environmental enforcement services.
- 8.2. The main body of the report indicates that a compliant procurement process was followed by advertising the opportunity in Find A Tender and managing the procurement process in accordance with the Council's Contract Standing Orders and relevant law.
- 8.3. In accordance with the Law and the Council's Contract Standing Orders, the Council must observe a standstill period following the decision to award and provided that the award is not challenged, enter into a written contract with the successful contractor.
- 8.4. The Council must also publish a Contract Award Notice and enter the details of the duly executed contract on its contract register.
- 8.5. The recommendation to delegate the decision to extend the contract to the Director of Environment and Regeneration in consultation with the Cabinet Member is permissible under the Council's Contract Standing Orders.

9. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1. Within the tender, bidders were required to propose social value offers via the Council's Social Value charter, under 4 specific theme areas: Economy; Social; Environmental, and Innovation. The social value offers submitted via the successful bidder will potentially generate social value to the London Borough of Merton. The value of which can be found within Appendix C, along with the social criteria breakdown.
- 9.2. The social value offers committed within the successful bid include: provision of work placements and apprenticeships, recruitment programme for people who are not in education, employment or training (NEETs), volunteering time to support environmental conservation & sustainable ecosystem management activities, support for local community projects, provision of expert business advice to merton-based VSCEs and MSMEs and measures to reduce carbon emissions.
- 9.3. These items will form part of the contract.

10. CRIME AND DISORDER IMPLICATIONS

- 10.1. N/A

11. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 11.1. The use of a private contractor for the issuing of FPNs could be viewed negatively and seen as a mechanism to simply generate revenue into the Council.

11.2. Litter is now the number one concern of our residents; we have invested in anti-litter campaigns over a number of years and invested in litter bins with ash trays and many gum and butt bins across our town centres. We are hopeful that through on-going provision of suitable bins, continued education and enforcement, the numbers of FPN's issued will reduce. Our intention is to prevent litter in the first place and satisfy the demands of our residents.

12. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A: Contractors Pricing Submissions
- Appendix B: Results of Tender
- Appendix C: Social Value
- Appendix D: KPI Performance Monitoring Framework

13. BACKGROUND PAPERS

13.1. N/A

Department Approval	Name of Officer	Date of Comments
Legal	Rachel Godson-Amamoo	12/01/2023
Finance	Marsha Walker	11/01/2023

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