

From: David Brazier Cabinet Member for Highways and Transport
Haroon Chughtai Director of Highways and Transportation

To: Environment & Transport Cabinet Committee Meeting – 8 November 2022.

Subject: Procurement and award of contract/s for Highway Weed Control contract

Key decision: Yes

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: All Districts.

Summary: The Highway Weed Control contract is currently delivered by three Contractors. These Contracts expire on 31st March 2023. There are no further extension options, and a new contract is therefore required to be in place for 1st April 2023.

The service is provided primarily through programmed work, with flexibility for additional ad-hoc provision. The contract has been designed to enable the additional provision of alternative methods to conventional weed control.

A Key Decision is required to award the contract/s for this service as the value exceeds £1m and the service will be countywide.

Recommendation(s):

The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to procure and delegate authority to the Director of Highways and Transportation to award and enter into appropriate contractual arrangements for the provision of Highway Weed Control including any potential extension periods as shown at Appendix A.

1. Introduction

- 1.1 The existing contracts expire in March 2023 and as a statutory requirement they require a re-tendering exercise to continue service provision. Current provision is split between five lots and delivered by three contractors.
- 1.2 In order to ensure a seamless transition to new service arrangements, new contracts will need to be in place from 1st April 2023.
- 1.3 The Council has a legal duty to keep roads and pavements clear of vegetation for safe passage of highway users.

- 1.4 The main service areas comprise; highway weed control, provided primarily through programmed work with flexibility for additional ad-hoc provision. This contract will facilitate up to two programmed weed treatments per year to highway hard surfaces. The contract will also provide for the treatment of noxious weeds such as Japanese Knotweed and Giant Hogweed.
- 1.5 The contract will provide flexibility to allow trials of alternatives to glyphosate throughout the contract period, such as hot foam; manual clearance; acetic acid and walked applications.
- 1.6 The existing contract primarily serviced KCC Highways & Transport owned assets but also incorporated Public Rights of Way assets. There may also be a need to carry out works on privately owned assets to ensure highway safety.
- 1.7 Glyphosates licence is due to be reviewed by the HSE in 2025. It is worth noting that the current market consensus is that its licence will continue to be approved.
- 1.8 Due to the specialised nature of the works a standalone specialist contract is required.
- 1.9 It is anticipated that the service will be provided across twelve districts in Kent.

2. Market Engagement

2.1 The market is predominantly SME's; KCC has good industry knowledge of the size, scope, and locations of the primary suppliers in this industry. The use of industry specific vehicular and pedestrian weed control equipment on the highway favours smaller, local specialised SME suppliers.

2.2 A market engagement exercise was conducted in May 2022 and identified a number of risks to be considered:

- Lotting structure
- Contract Period
- Supply chain
- Specification

2.3 Lotting:

- Suppliers preferred smaller lots, enabling them the flexibility to bid for multiple lots to suit their business capacity and capability.

2.4 Contract Period:

- A contract term of up to four year was preferred to allow investment in machinery and staff.

2.5 Glyphosate alternatives:

- Glyphosate pricing has been unstable since the Covid19 pandemic. This has been due to supply chain problems with manufacturing. It is expected, and the

market agrees that prices will start to fall once supply chains are re-established in 2023.

- Alternative chemicals were discussed with the market, however, whilst some suppliers were trialling alternative solutions, none had yet identified an alternative which was environmentally friendly, economically viable, and as effective as glyphosate.
- The confidence to roll out alternatives such as hot foam, hot water, and brushing across the county was low, however it was considered suitable for trials in smaller inner-city areas. It was not considered appropriate for a rural county similar to Kent.

3. Delivery models

3.1 To date four options for the future provision of these works have been considered, as set out below.

Option 1 – Do Nothing

Discounted as The Council has a legal duty to keep roads and pavements clear of vegetation for safe passage of highway users.

Option 2 – Deliver in House

Discounted as this is not a core service to the authority. Due to the limited period to apply weed control, the staff would not be utilised all year round and this is of specialist nature.

Option 3 – Procure one provider to deliver the county

Discounted as unlikely to access SME providers and fails to provide resilience throughout the county. SME's usually have lower tender prices due to lower overheads compared to larger companies and therefore this option does not provide best value for money. It does not encourage local providers which is a priority for KCC.

Option 4 – Procure multiple providers across district grouped lots

Carried Forward This is a similar model to other landscape contracts. E.g. Rural Swathe and Urban Grass Contracts.

This paper will detail Option 4 and review the benefits and challenges facing the Council and its partners should it implement this strategy.

4. Procurement Strategy

4.1 Two separate procurement processes were undertaken previously with SC17035 covering Lots 1-3, and SC18036 covering lots 4-5 which co-terminate in March 2023. The proposal is to procure all lots within one competitive process. Taking into consideration the market engagement, the proposed lotting strategy is as follows:

- Lot 1 - Dartford & Gravesham
- Lot 2 – Sevenoaks & Tonbridge & Malling
- Lot 3 – Maidstone & Tunbridge Wells

- Lot 4 – Ashford & Swale
- Lot 5 – Canterbury & Thanet
- Lot 6 – Dover and Folkestone & Hythe

4.2 Historically Dover and Folkestone & Hythe have managed their own weed control contracts with funding based on KCC's average externally commissioned contract rates. However, these Districts have now decided to hand back these contracts due to increasing pressures on resource.

4.3 Splitting the service into six lots but allowing one provider to win up to three lots would give the flexibility needed to provide the market with the required appetite and receive good competition from a range of SMEs. This would also provide resilience should there be any issues with an individual provider's liquidity.

4.4 The proposed contract term is 3 years with the option to extend for a further 2 years. Any decision to extend the contract will be linked to performance and contract compliance. Allowing extensions incentivises contractors that deliver good performance.

4.5 The end of the initial 3-year term of the contract would coincide with the HSE licence review of glyphosate in November 2025. This would give KCC the opportunity to either extend or seek a further alternative contract.

4.6 Weed contractors have many contract commitments due to the short-term nature of the service and depreciation of equipment will be spread across all of these contracts. The proposed contract length will provide contractors the opportunity to invest in their workforce and equipment.

4.7 The procurement timetable is as follows:

Activity	Date
ITT Return	w/c 26 th October 2022
ITT Negotiation (if required)	w/c 25 th November 2022
Final ITT Evaluation and Governance	w/c 13 th December 2022
Issue Award Letter	w/c 31 st January 2023
Mobilisation Period	1st February 2023 – 1 st April
Service Commencement Date	April 1 st 2023

5. Specification

5.1 The primary aim of this service is to control weeds on the hard surfaces within the public highway.

5.2 The County Council has a statutory obligation to maintain the highway network, which includes the control of weeds in hard surfaces to a standard that ensures highway safety.

5.3 Weed Control also prevents damage to highway infrastructure by not allowing pernicious weeds to establish and aids District authorities in their street cleansing obligations.

- 5.4 The Contract will allow for up to two programmed herbicide treatments. These will be spot treatments once during May/June and again during September. The active ingredient for this will be the herbicide glyphosate.
- 5.5 Glyphosate is an approved herbicide by the Health and Safety Executive (HSE) for use on hard surfaces and amenity areas and the contract will follow the guidelines of the HSE when treating weeds.
- 5.6 In line with the Councils Plan Bee aspirations to minimise herbicide usage the contract will provide the flexibility to undertake trials of alternatives to glyphosate. This will allow small scale experimental trials to be undertaken to gain efficacy and cost information on a number of alternatives.

6. Financial Implications

- 6.1 The current annual cost for the Service is £227k per treatment giving an annual spend of £454k for both treatments. There is also a requirement to treat noxious weeds such as Japanese Knotweed and Giant Hogweed which currently costs a further £25k pa.
- 6.2 It is expected that any new procurement and delivery model could present a price increase which reflects changes in market prices and inflation since the contracts were let in 2018. A competitive procurement process will appoint the best value contractor from the tenders submitted.
- 6.3 The contracts will allow for an annual uplift based on GM87 the Ground Maintenance index for soft landscaping services.
- 6.4 The cost of glyphosate increased in 2022 in some instances to 300% of the 2021 prices. This was due to supply chain issues, and it is expected that costs will return to normal levels after 2023. KCC will negotiate how it will ensure it does not overpay once costs return. Current service budgets include the additional cost of glyphosate.
- 6.5 Kent County Council provides a minimum of two weed sprays per year as part of the programmed service. One weed spray is funded through the soft landscape revenue budget with the second weed spray currently being funded indirectly by any underspend obtained from the Winter Service. This approach was introduced in the 2017-2018 financial year.
- 6.6 To meet minimum statutory requirements and effective asset management a minimum of two weed treatments are necessary. If there is no winter underspend this puts a £227k pressure on the Highway budgets which is unfunded. The Head of Highways is currently re-profiling highways revenue budgets to mitigate this pressure.
- 6.7 The DEFRA funded Thanet Weed Trial carried out in 2015 concluded that a change from conventional glyphosate weed control techniques to herbicide free techniques could increase costs by eight times.

7. Legal implications

7.1 The Council has a legal duty to keep roads and pavements clear of vegetation for safe passage of highway users.

7.2 The award of any contracts will be in full compliance with all relevant procurement regulation.

8. Equalities implications

8.1 An Equalities Impact Assessment has been carried out and no implications have been identified at this early stage. This will be continually reviewed as the programme continues and has been attached in Appendix B.

8.2 The initial screening identified that a Data Projection Impact Assessment will not be necessary as no personal data is collected for this commission.

9. Policy Framework

9.1 This commission is detailed within the following plans:

- Highways and Transportation Divisional Business Plan 2022-23

10. Other corporate implications

10.1 The decision to award contracts for Highway Weed Control has no significant impact in other areas of the Council's work.

11. Conclusions

11.1 This service forms part of the Council's statutory duty to maintain the highway in a safe condition.

11.2 The Council has implemented Plan Bee as part of its environmental strategy to improve the biodiversity across its assets. This contract will incorporate alternative methods to conventional weed control to allow small scale trials to take place and to gather cost and efficacy information for future contracts.

11.3 The use of herbicide is currently the most cost effective and efficient method of controlling highway weeds.

12. Recommendation:

12.1 The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to procure and delegate authority to the Director of Highways and Transportation to award and enter into appropriate contractual arrangements for the provision of Highway Weed Control including any potential extension periods as shown at Appendix A.

13. Background Documents

Appendix A – Proposed Record of Decision

Appendix B – Equalities Impact Assessment:

<https://democracy.kent.gov.uk/ecSDDisplayClassic.aspx?NAME=SD7538&ID=7538&RPID=54120773&sch=doc&cat=14935&path=13335%2c14935>

14. Contact details

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