

**From:** Mike Hill, Cabinet Member for Community and Regulatory Services  
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**To:** Environment and Transport Cabinet Committee – 28<sup>th</sup> November 2018

**Subject:** Contract Management/ Procurement – Public Rights of Way Vegetation Clearance

**Classification:** Unrestricted

**Summary:** This paper provides an overview of the Public Rights of Way (PRoW) vegetation clearance procurement and contract management.

In May 2018, ten contracts were awarded for vegetation clearance on the PRoW network. The contracts run for a period of five years with an option to extend for a further two year period subject to satisfactory performance. The award of the contracts followed a full and extensive procurement process. There have been teething difficulties with delivery with a contractor voluntarily withdrawing from the contract and another being dismissed. The Public Rights of Way and Access Service has worked with its contractors to recover from these initial difficulties.

**Recommendation(s):** The Cabinet Committee is asked to note and comment on the contents of this report.

## 1. Background

- 1.1 Kent's Public Rights of Way (PRoW) network extends to 6900Km. It is maintainable public highway. The County Council, under its statutory obligation to maintain the highway, is responsible for the clearance of vegetation (other than crops) growing from the surface of PRoW, where necessary, and to take action to prevent overhanging vegetation from obstructing them.
- 1.2 The clearance is undertaken to ensure that PRoW remain available and safe to use. Regular clearance prevents obstruction and inconvenience and helps minimise the long term cost of maintaining the network: dense overgrowth costing significantly more to clear per metre.
- 1.3 Approximately 8.3 percent of the PRoW network is subject to planned clearance annually. Prior to 2012 approximately 2000km of vegetation clearance was undertaken annually, covering approximately 14.5% of the network.
- 1.4 A large part of this work is delivered by contractors with specialist equipment and skills in vegetation clearance. In addition to the work carried out by contractors, six volunteer groups equipped and supported by the Service,

undertake clearance. Further, the Countryside Access Wardens undertake spot clearance of overgrown entrances, stiles, gates and bridges using hand tools. This is work that is prohibitively expensive to engage contractors to complete. The volunteer work supplements the planned clearance regime.

## **2. Procurement of Vegetation Clearance – April 2018**

2.1 In May 2018, the County Council's PRow and Access Service awarded 10 contracts for the clearance of vegetation from PRow. The contracts are to run for a period of five years, with the option to extend them for a further two years, subject to performance. The contracts require that 1,146Km of PRow are cleared annually during the summer months. There is the option that additional vegetation is cleared as directed, dependent on the ability of the County Council to fund the work.

2.2 Award of the contracts followed a thorough and extensive procurement process. In putting in place new contracts, the Service wished to make improvements to the efficiency and effectiveness of the supplied service. Key objectives of the procurement were to:

- reduce the number of clearance contracts to 10 from the previous number of 15, which would help the service to better manage the contracts;
- reduce the work involved in the procurement of providers for contracts annually;
- provide continuity of service through longer contract periods as opposed to the previous one year contracts;
- enable contractors to invest in people and equipment; and
- ensure compliance with procurement law given that the total contract value, with an annual spend of £180K, excluding extras, over seven years, would amount to over £1M should the contracts run their full permitted course.

2.3 Extensive engagement took place with providers prior to formal procurement, and we had 16 successful responses to the Pre- Qualification Questionnaire (PQQ). Assessment of the PQQ is intended to narrow the field of competing suppliers to those that can actually deliver the work to time, cost and quantity.

2.4 The 16 contractors successful at that stage were invited to tender for the work. Having assessed the suitability of the contractors through the PQQ, tenders were assessed entirely on price. The lowest price is scored highest. The Service, working with the Council's procurement team, attempted to mitigate the risks associated with one supplier winning all of the work by limiting any successful contractor to the award of 3 of the 10 contracts (lots) available.

2.5 Four companies were successful based on the criteria above and the contracts awarded. Had the contractors been able to deliver the service as required the authority would have saved around £20K per annum when compared with the rates paid in previous years. This would amount to savings in total of between £100K and £140K over the duration of the contracts. Of the four contractors

appointed, two had previously worked in the County and had delivered the service to time, cost and quality.

### **3. Performance and Financial Implications**

- 3.1 With contracts awarded, the service was provided by the appointed contractors from May 2018. In order to monitor the performance of the contracts, the Service has in place robust contract management requiring regular meetings and performance reporting. Extensive checks of contractor work are undertaken. This is particularly the case in the early stages of the contract to ensure that work is being completed and that it is to the required specification. In addition to officers monitoring this performance, volunteer Countryside Access Wardens are also tasked with undertaking checks so that a greater proportion of the network can be monitored than would otherwise be possible.
- 3.2 Within a short period of commencing works it was evident that there were issues with the performance of two of the contractors. One of the contractors was simply unable to meet the requirements of the contract, as evidenced by a poor quality of clearance on the part of the network for which the contractor was responsible, despite having excellent references from another authority. Unfortunately, it was necessary to dismiss this contractor within one month of the contract start date, and to reaward the contract. This introduced a delay to clearance in three of the contract areas, as the newly appointed contractor had to mobilise quickly.
- 3.3 A second contractor struggled to meet the requirements of the contract and, while working closely with us to address the issues, voluntarily withdrew from the contract after one month, conceding that they had in fact priced the tender too low and stood to lose money throughout the life of the contract. This required a further three lots to be re-awarded, and therefore delayed service provision in the affected areas.
- 3.4 As a result, Ashford, Folkestone & Hythe, Canterbury, Thanet, Dover, Sevenoaks, Tonbridge & Malling and Tunbridge Wells areas were all affected with severe delays to our programme in these areas. In some areas, the first vegetation cut did not commence until July when we would expect the first cut to have been completed for the county by mid-June, if not earlier.
- 3.5 In areas where difficulties were experienced Parish Councils were notified and information circulated in the Member bulletin.
- 3.6 However, the net position in having to re-award contracts is that we have not delivered a saving on previous years, indeed the cost has risen in some areas, with a resultant impact on the quantity of additional clearance that we can undertake.
- 3.7 Higher numbers of reports concerning vegetation were received from the public than in the previous year; 1190 as opposed to 943 reports for the same period in 2017, a 21% increase.

3.8 The Service continues to work with the appointed contractors to get all of the programmed clearance completed and to ensure smoother running of the clearance programme next year.

#### **4. Analysis and Lessons Learned**

4.1 The procurement exercise has raised a number of points for consideration.

4.2 First, the field could not be limited to those contractors that are tried and tested. Therefore, there are always likely to be some contractors competing who can point to excellent references and good service provision elsewhere in the country but do not have specific knowledge of the labour market and costs of operating in Kent.

4.3 In addition, basing the award purely on price (following the PQQ) introduces risk: The pressures on public finance have resulted in a race to the bottom on price. The Service has tendered this work over many years and, in working with tried and tested contractors, understands that there is a floor price below which the service cannot be delivered without compromising on quality. Those contractors submitting prices below this level have generally over-estimated their likely productivity in terms of metres per operative per day. Often this is on the basis of assuming that bigger more powerful equipment can be used than is actually able to access many of the sites. Here, it is worth remembering that vegetation clearance on PRow is a very different proposition to cutting highway verges, school playing fields or visibility splays.

4.4 The procurement process was onerous for the level of spend and nature of the activity. Feedback from smaller contractors is that the work involved in responding to a PQQ and submitting a tenders is onerous and disproportionate to the ultimate reward. This does not make working for KCC an attractive proposition. This feedback mirrors that received from contractors engaged in the PRow minor works framework contracts procurement.

4.5 The procurement was lengthy, reflecting its complexity and the Governance arrangements around it. This resulted in a reduction in the time available to contractors to mobilise and delays to the commencement of works.

#### **5. Conclusions**

5.1 The procurement of PRow vegetation clearance services had the potential to deliver efficiencies in service delivery and savings to the County Council of up to £140K. In reality, the supplier market in this area was already well developed with the costs of service provision reflecting this maturity. Two of the four contractors successful in the first round of procurement that offered lower prices could not deliver the service at the price quoted and were dismissed or withdrew. Operational efficiencies, however, will be realised over the duration of the contract.

5.2 The procurement process was lengthy, ultimately impinging on contractor mobilisation and contract start dates. This in turn affected the service experienced by the public.

5.3 Through effective contract management, working closely with its contractors and volunteers and liaising with Parish Councils, the PRoW and Access Service has managed to get the vegetation clearance back on track and is optimistic that a much improved level of service will be experienced in future years.

## 6. Recommendation

### **Recommendation:**

**The Environment and Transport Cabinet Committee** is asked to note and comment on the contents of this report.

## 7. Contact details

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