

REPORT TO: Executive Board Sub Committee

DATE: 4th November 2010

REPORTING OFFICER: Strategic Director – Environment and Economy

SUBJECT: Proposed Waiver of Standing Orders (Procurement 3.1-3.6) for a Single Company Quote/Tender Contract

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

To seek a waiver on this occasion of tendering Procurement Standing Orders to allow the Operational Director (Highways, Transportation and Logistics) to enter into a contract for survey, maintenance and improvement works on Public Rights of Way with a single company without tendering.

2.0 RECOMMENDATION: That

- 1) the Operational Director (Highways, Transportation and Logistics) be authorised to award a contract for survey, maintenance and improvement works on Public Rights of Way (PROW) to the contractor GROUNDWORK MERSEYSIDE covering the financial years 2010/11 and 2011/12 for a period from 4th November 2010 to 4th November 2011, to be funded from the approved capital and revenue budgets for PROW maintenance and improvements for these years, and**
- 2) that in light of the exceptional circumstances, namely the combination of functions that Groundwork bring to the service as referred to in this report, and in accordance with Procurement SO 1.8.2, Standing Orders 3.1-3.6 be waived on this occasion.**

3.0 SUPPORTING INFORMATION

- 3.1** Groundwork Merseyside (a company limited by guarantee and registered in England, Company Registration No. 4344089, Charity Registration No. 1090395) is one of Merseyside's largest environmental charities and its stated purpose is to *'build sustainable communities in areas of need through joint environmental action'*. For a number of years, the Council have worked very closely with Groundwork Merseyside (formally Mersey Valley Partnership / Groundwork Mersey Valley) who have carried out a significant amount of work on the Public Rights of Way network in Halton. This approach has been beneficial to the Council as work is carried out by Groundwork utilising their experience and expertise and

adopting methods of work that save Council officer's time and involvement in the detailed design and planning of these environmental improvement works.

- 3.2 The arrangement also brings with it a number of additional social benefits through supported employment for people with learning disabilities within Halton. In seeking a waiver of Standing Orders the aim is to ensure that these social benefits continue to be achieved, whilst also ensuring that the most cost effective procurement method is used to minimise costs across all elements of Public Rights of Way management.
- 3.3 Until April 2009 Groundwork was grant aided by the Council, and in return they informally provided the Council with consultancy advice, including liaison with landowners on obstruction or access issues. When this grant ceased a Service Level Agreement (SLA) was entered into, to provide a similar service on a more formal basis. This Service Level Agreement runs for up to 4 years and is currently in its second year.
- 3.4 In addition to the services provided under the SLA, which enables the identification of a minor works and maintenance programme, Groundwork have previously designed and implemented minor repair and improvement schemes. Changes to Procurement Standing Orders now require all works between £1,000 and £50,000 to be subject to three competitive quotations. This brings the majority of minor works on Public Rights of Way, previously carried out by Groundwork, into this category. It is anticipated that the revenue and capital works budgets over the next 12 months (during the financial years 2010/11 and 2011/12) will be spent in three main areas: i) surveys to identify areas of the network which are not easy to use; ii) maintenance works to control vegetation, provide adequate surfaces and repair infrastructure; and iii) improvement works to provide better surfaces and infrastructure such as gates/steps/boardwalks. There are significant advantages to the Council in continuing to procure these minor works through Groundwork, as follows:
 - Expertise and experience – Groundwork have carried out this work since 1997, and due to their good contact network and relations with farmers/landowners they are usually able to resolve issues quickly and without the need for enforcement action by the Council. Groundwork have enabled any emergency issues such as Foot and Mouth etc to be efficiently dealt with.
 - Groundwork Merseyside provide volunteering opportunities and a structured training programme for people from Halton with learning disabilities, through Supported Employment - which increases social inclusion for those with learning disabilities by helping them find work or training. It also means less reliance on expensive day care provision and more emphasis on specialist service provision. This is discussed in the Rights of Way Improvement Plan (ROWIP) (Para 5.2.9/10). The

incorporation of these opportunities into their work requires specialist approaches to issues such as Health and Safety Procedures.

- Future Jobs Fund – Groundwork have a number of employees (who are residents of Halton) under this scheme which enables the employee to gain additional experience. Their salary is paid for by the Government which results in direct savings to Halton in the costs of undertaking works on Public Rights of Way.
- Additional funding – Groundwork are able to lever additional funding for many projects. In these cases the Council only pay the funding match rather than the full cost of works and Groundwork deal with all elements of the funding application and reporting. Recent schemes include Footpath 4 Daresbury Firs, Gorse Lane and Timberland Trail.
- Groundwork can supply a whole package identifying (via the SLA) and delivering (via Capital/Revenue works budgets) small scale maintenance and improvement works, with little intervention being required from Council officers on the design and management of works.
- Direct identification, design, site management. Due to the unique way Groundwork operate, and the scale of most rights of way schemes, one person is usually responsible for the identification of schemes, and management of the construction on site. This means a saving to the Council by negating the need to produce detailed designs and works specifications to enable a number of quotations to be sought. This also means that the person managing on site has a detailed knowledge of the legal basis of Public Rights of Way and can make sound decisions on any changes required without day to day involvement of Council officers. Quality is assured through progress meetings between Council and Groundwork staff to discuss problems, specifications etc.
- The improvement and maintenance works typically being carried out are on unmetalled paths and involve construction of new timber structures. Groundwork have significant experience in this type of work, which is outside the normal scope of road works and landscape contractors and is not covered within the schedule of rates of our existing term maintenance contractors.
- Groundwork are listed as 'partners' for delivery on many items in the ROWIP implementation plan actions (M1, H5/6, A, T13/14, and CB)

3.5 Alternative options have been considered:

- (1) Existing term contracts have been examined but do not have sufficient scope of works for all minor works to Public Rights of Way. Term contractors would not be able to provide all of the benefits listed above, and we would need to negotiate additional payment with them to cover such items.

- (2) Quotations could be sought through the Due North system. However, detailed designs and specifications would need to be produced in advance, for each type of work and for the management and administrative aspects of Public Rights of Way maintenance and improvements. This would place a significant extra demand on officer time and costs, and delay the implementation of the ROWIP.

4.0 BUSINESS CASE

4.1 Value for Money and Competition

4.1.1 To ensure value for money without competitive quotations the rates provided by Groundwork will be scrutinised and, where applicable, compared with existing comparable rates for small scale highway improvements. Where possible rates provided for works peculiar to Public Rights of Way will be compared to those paid by neighbouring local authorities. Where significant discrepancies exist these works will either be negotiated further with Groundwork, or failing agreement these items will be excluded and alternative methods of delivery explored. This process will also need to take account of the added benefits that Groundwork bring as listed in 3.4 above.

4.1.2 Groundwork also bring added value through:

- knowledge and expertise in the design and management of works on site, the Rights of Way network and landowners
- enabling of volunteers (900 person hours in the last financial year) and those on Supported Employment and Future Jobs Fund schemes
- leverage of additional funding
- a whole package of identifying and delivering work, saving Council officer time in design, management and dealing with legal issues
- experience in the type of works required
- partnership approach

4.2 Transparency

4.2.1 Transparency will be ensured by the recently introduced requirements for the Council to publish all of its individual expenditure over £500. The Freedom of Information Act also provides a mechanism for those who may have an interest to scrutinise the procurement methods used. This is in addition to the Council's own internal audit procedures.

4.3 Propriety and Security

- 4.3.1 The Council's usual integrity clauses will be built into the contract document and only staff with a need to know will have information about the contract.

4.4 Accountability

- 4.4.1 Accountability would remain with the Operational Director (Highways, Transportation and Logistics) who will be awarding the contract, and can be subject to scrutiny by internal/external audit and the Environment and Urban Renewal Policy and Performance Board.

4.5 Position of the Contract under the Public Contracts Regulations 2006

- 4.5.1 The contract would be exempt, as it is a works contract and will not exceed the EU procurement threshold of £3,927,260.

5.0 POLICY IMPLICATIONS

- 5.1 The proposed recommendation will assist the Council in continuing to meet its Local Transport Plan and Rights of Way Improvement Plan (ROWIP) policies, for example ROWIP policy R19 regarding community participation.

6.0 OTHER IMPLICATIONS

- 6.1 The costs of the works under the proposed contract will be met through existing Public Rights of Way capital and revenue budgets.

7.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

7.1 Children and Young People in Halton

The Supported Employment and Future Jobs Fund schemes which are enabled by Groundwork, assist young people in finding work or training.

7.2 Employment, Learning and Skills in Halton

The recommendation would ensure that Halton people, including those with learning disabilities, continue to benefit from opportunities under the Supported Employment and Future Jobs Fund schemes. This also helps with social inclusion by helping them to find work or training opportunities.

7.3 A Healthy Halton

Continued enhancement of the Rights of Way network helps encourage physical activity.

7.4 A Safer Halton

There are no direct implications for this priority.

7.5 Halton's Urban Renewal

The recommendation will help implement environmental improvements and aid social inclusion for those working on the construction, including volunteers.

8.0 RISK ANALYSIS

There is some risk that certain aspects of works carried out by Groundwork will not be at the cheapest rate available. However it is proposed to manage this risk by comparing its submitted rates with other rates available to the Council, and negotiating the rates or sourcing elsewhere for those aspects where there is a significant difference. This risk must also be weighed against the additional benefits that Groundwork bring.

9.0 EQUALITY AND DIVERSITY ISSUES

The recommendation would have a positive impact on equality and diversity as delivery of schemes through Groundwork will result in employment or training for members of society who may otherwise be excluded.

10.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Rights of Way Improvement Plan	Rutland House	Jonathan Farmer