

ABERDEEN CITY COUNCIL

COMMITTEE:	Housing and Environment
DATE:	13 April 2010
DIRECTOR:	Pete Leonard
TITLE OF REPORT:	The Grounds Maintenance Services for Sports Grounds Playing Fields and Housing Amenities Contract Award - Progress Report
REPORT NUMBER	H&E/10/025

1. PURPOSE OF REPORT

The purpose of this report is to provide Elected Members with an update on progress with the Procurement and Market Testing of Grounds Maintenance Services for Sports Grounds, Playing Fields and Housing Amenities, including the award of the contract to ISS Waterers Landscape.

2. RECOMMENDATION(S)

That the Committee:

- (i) Notes the progress report;
- (ii) Endorses the contract award to ISS Waterers Landscape; and
- (iii) Requests an Annual Progress Report from the Director of Housing and Environment regarding this contract award.

3. FINANCIAL IMPLICATIONS

Calculations show that in the 2008-2009 financial year Sports Services were charged at approximately £1.9 million and costs borne by the Grounds Maintenance Service to deliver the services were £1.81 million. The total charge for all housing amenities for 2008-2009 was also £1.89 million and the cost borne to the service was £1.79 million. With respect to the Stockethill/ Cornhill/ Rosehill/ Ashgrove Housing Amenity areas which were outlined in the procurement, detailed charging and costs were unavailable for 2008-2009 years. Charging and cost details are available for the 2009-2010 years for the prepared budget. The annual charge is planned to be £134k against the Housing Revenue Account and £134k in annual costs to the Grounds Maintenance Service.

ISS Waterers Landscape's price for the provision of the grounds maintenance services for sports grounds and playing fields, offers the Council a significant saving over the next 5 years. In the first year the service will cost approximately £983,000. This is not only a first year annual saving of approximately £392k, but will also deliver a service to a higher specification.

With regard to the Housing Amenity areas outlined in this procurement, the current cost for the grounds maintenance is £134k per annum and ISS Waterers Landscape's tender price for the first year is £159k. Although this price is £25.3k more than the current costs for the Grounds Maintenance Service, the overall total tender price offers the Council significant savings over the next 5 years. The contract specification is also higher than the current specification.

4. SERVICE & COMMUNITY IMPACT

The procurement and subsequent contract award support the Council's current Policy Statement's objective to ensure high quality and well-managed sports facilities in Aberdeen. It is also a requirement that all local authorities provide best value services under the provisions of the Local Government in Scotland Act 2003. The contract meets the requirements of competitively testing the Council's services as recommended in the Audit Scotland's Best Value Report 2008.

The contract also supports Aberdeen City's Community Plan as it aims to achieve social inclusion, sustainable development and jobs and prosperity by increasing citizen participation and commitment, improving health, improving city cleanliness and achieving sustainable land use. By doing so it supports outcomes 12 and 14 of Aberdeen City's Single Outcome Agreement.

The contract will be delivered in accordance with the Council's Environmental Policy.

5. OTHER IMPLICATIONS

The process aims to ensure that the most economically advantageous organisation will demonstrate that it has Environment Management Policies which address sustainable waste management, pesticide, herbicide and fertiliser use, fleet and equipment management, water quality and climate change. The process also requires that the successful organisation will ensure that all activities undertaken in connection with the provision of services will meet the Council's health and safety requirements.

Staffing implications have been taken into account throughout the process. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (hereinafter referred to as the "TUPE Regulations") have been adhered to. The 35 staff identified for transfer by virtue of the TUPE Regulations have been a vital part of this process and the project has taken their terms and conditions into consideration.

The outcome of this process will enable the public to have equitable access to quality sports grounds and the identified Council housing amenity areas.

6. REPORT

6.1 Background

6.1.1 At Full Council on 30 September 2009, Elected Members agreed that Organisation E, ISS Waterers Landscape, be awarded preferred bidder status. Elected Members also agreed that if the Council were unable to progress the discussions with the preferred bidder to the stage of invoking the contract award procedures in accordance with the Public Contracts (Scotland) Regulations 2006, officers would be authorised to award preferred bidder status to the next most economically advantageous response, subject always to that bidder's acceptance to the contractual terms and conditions incorporated within the Invitation to Tender, which again would be non-negotiable, and that this process would be replicable if necessary vis-à-vis the next bidder in line, subject always to the same requirements, until the Council was in a position to make a contract award in accordance to the 2006 Regulations, subject to the required standstill period being adhered to, and this Committee would receive a report on this process by March 2010.

6.2 Contract Award

6.2.1 From 1 October 2010, officers opened a dialogue with ISS Waterers Landscape to ensure acceptance of the Council's Terms and Conditions as instructed by the Council. ISS Waterers Landscape is a division of the Global company ISS Facility Services Limited, which has its headquarters in Copenhagen, Denmark. A Parent Company Guarantee has been secured with ISS Facility Services Limited.

6.2.2 Throughout the Market Testing and Procurement process, engagement with Trade Unions and Staff has been paramount. During the process staff voiced concerns about the retention of both their pensions benefits and employment terms and conditions. Adherence to the elements which caused concern have been incorporated within the contractual terms and conditions secured with ISS Waterers Landscape. It was explained to staff that under the TUPE Regulations staff would transfer on their existing terms and conditions of employment, with a 'broadly comparable' pension scheme being provided.

6.2.3 In order to satisfy adherence to the TUPE regulations with regards to pension provisions and acceptance of the Council's employment terms and conditions, officers and ISS Waterers Landscape spent considerable time and effort on this issue to ensure that these requirements were fully met. An Actuaries Report from the Council's Pensions Actuary, Mercers, was commissioned which found that the ISS Platinum Pension scheme was 'broadly comparable' to that of the Local Government Pension

Scheme, with the exception being that where staff were paying additional voluntary contributions (hereinafter referred to as AVC), this may not be the case in the ISS scheme. The requisite checks were undertaken and only a few staff were paying AVCs. In light of this ISS Waterers Landscape agreed to assist staff affected to find an alternative 'broadly comparable' AVC Scheme as this is a condition of the contract.

6.2.4 As the terms and conditions of contract could be demonstrated to be fully met as agreed by Elected Members, the Head of Procurement on Monday 18 January 2010, then wrote to all unsuccessful bidders to advise that ISS Waterers Landscape was the successful bidder. This invoked the 10 day standstill period. At this point unsuccessful bidders had the opportunity to challenge the process and/ or request an opportunity to debrief during the standstill period. Whilst bidders did request debriefs, there were no challenges to the process. The contract was thereafter awarded to ISS Waterers Landscape under the auspices of The Public Contracts (Scotland) Regulations 2006.

6.3 Staff Consultation

6.3.1 From the beginning of this process engagement with the Staff and Trade Unions has been important and undertaken, with the consultation requirements under the TUPE Regulations having been adhered to. Engagement with staff started in March 2009 prior to a Contractor's Conference. A detailed Communications Plan was developed and this ensured that staff were consulted prior to any key dates such as the release of the Pre-tender Questionnaire, Invitation to Tender, Council Decision and immediately after the Council Decision being made on 30 September 2010. The Project Leader wrote on several occasions to all staff who were 'in scope' of this contract as part of the consultation.

6.3.2 On 10 August 2010, staff were invited to a meeting at Summerhill to discuss the procurement and the process. This built on the first meeting on 5 March 2009, which explained the procurement process and the possible implications should an external bidder be successful. Staff received a written invitation on 20 October 2010, to a meeting on 4 November 2010, where they had an opportunity to discuss the next steps and consider further implications of the process. Staff had expressed concern over their pension arrangements which have since been found to be 'broadly comparable' with their current arrangements by a Government Actuary. The Project Leader was advised by Legal Services that the Government Actuarial Report may be generic and not truly indicative of the Council's scheme. A further Actuarial Report was commissioned by the Project Manager and was undertaken by Mercers, the outcome being as highlighted in paragraph 6.2.2 of this Report. Some staff undertaking work at the Stockethill/ Cornhill/ Rosehill/ Ashgrove Housing Amenity area indicated that they wanted to know how it was decided that they were in scope for transfer under the TUPE Regulations as part of this procurement. They were written to on 4 November 2010 explaining why they were deemed to be 'in scope'.

6.3.3 On 10 February 2010, after the 'Standstill period', it was announced to the staff involved that the contractor who had been successful in the procurement was ISS Waterers Landscape. This resulted in a staff meeting with ISS Waterers Landscape on 17 February 2010. ISS Waterers Landscape outlined detail of the organisation and highlighted its plans for training and staff movement to the company and answered questions from staff and trade unions.

6.4 TUPE Transfer

6.4.1 The 35 staff subject to the TUPE transfer were identified through examining staff contract charging data and the relevant areas of work. Only staff who were "dedicated" to the contract work (ie those whose posts require them to work 50% or more on the identified areas of work) were deemed to be 'in scope' for TUPE transfer. Early identification of such posts was required as part of the procurement process. The identified anonymous staffing data was required to be provided to all Bidders as part of the Invitation to Tender. The staff in the posts identified within the procurement scope were contacted in writing and invited to consultation meetings. In order to ensure that at transfer the relevant posts were still 'in-scope', the operation's management were asked to confirm that the identified posts and the staff undertaking the work were in scope for transfer. This was duly confirmed.

6.4.2 As part of the transfer process, the Council's operational management have worked with ISS Waterers Landscape to ensure that transferring staff have been able to undertake training and pre-induction to ISS prior to the Contract start date.

6.5 Contract Management and Reporting

6.5.1 Sport Aberdeen and the Sports Service has been a vital part of the procurement and subsequent selection process. As part of the transfer process the Grounds Procurement's Project Leader and Project Facilitators have undertaken an interim Contract Oversight and Management role. This has been in order to ensure a smooth transition from an in-house service to one delivered by ISS Waterers Landscape. A mechanism for managing this contract has yet to be agreed by the Directors of Housing and Environment, Director of Education, Culture and Sport and Sport Aberdeen. When a date is agreed for Sport Aberdeen to start operating, a decision will need to be made as to how and when this contract will be transferred to Sport Aberdeen. The Interim Contract Manager is working with Sport Aberdeen, Housing Amenities and ISS Waterers Landscapes to arrange a detailed work plan to take into account budget and service requirements. Outwith this process, ISS Waterers Landscapes is working with the Council's Asset Management Service to agree the leasing of depots.

6.5.2 As soon as a Contract Manager for this Contract can be agreed the interim arrangement will ensure a smooth handover by way of shadowing and support. As the officers who are undertaking the interim arrangements are experienced with the selection process, agreement and the contracts specification, they will act as a Contract support. This contract requires regular contract monitoring. An annual progress report should be presented to this Committee.

7. REPORT AUTHOR DETAILS

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8. BACKGROUND PAPERS

The Transformation Strategy of Environmental Services, Full Council, 13 February 2006, Article 6(b),

The Draft Sustainable Environment Strategy for Council Properties, Full Council, The Sports Ground and Playing Field Policy, Policy and Strategy, 2 September 2008, Article 5.1,

The Council's Public Open Spaces Grounds Maintenance Policy, Policy and Strategy Committee, 21 January 2009,

The Market Testing and Procurement of Sports Grounds & Playing fields Ground Maintenance Services Progress Report; Continuous Improvement Committee 21 April 2009;

The Procurement and Market Testing of Sports Grounds & Playing fields Ground Maintenance Services Report; Full Council 30 September 2009

CIPFA The Procurement and Market Testing of Sports Grounds & Playing fields Ground Maintenance Services Report Lesson Learned 30 September 2009

