

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	5121
Author:	Robeel Haque
Department:	Communities, Environment and Resident Services
Contact:	Eddie Curry (Job Title: Head of GreenSpace & Natural Environment, Email: eddie.curry@nottinghamcity.gov.uk, Phone: 01158764982)
Subject:	NHS tender for winter maintenance, ground maintenance and Christmas tree installation/removal contracts
Total Value:	See 'Exempt Appendix 3 3yr cost breakdown NHS permission to tender' (Type: Revenue)
Decision Being Taken:	To approve:- 1. The submission of a tender for National Health Service (NHS) Nottingham University Hospital for Winter Maintenance , Ground Maintenance and Christmas Tree Installation and Removal Contracts as per the scope of the the tender detailed in Appendix 1 V3. 2. Permission to submit for the tender for the duration of the initial 3 year contract. If contract extensions are made then further approvals shall be requested.3. The external income as detailed in the Exempt Financial Profile see 'Exempt Appendix 2 cost breakdown NHS permission to tender'4. Delegation of authority to the Director of Operations and Residents Services to enter into contracts with the NHS relating to the delivery of the contract specification.
Reasons for the Decision(s)	The Greenspace and Natural Environment Landscape Services have managed the NHS Winter Maintenance and Christmas Tree installation and removal contract for the last 5 years. In the final year of the contract the service negotiated for the staff standby costs to be covered which were not included in the previous years agreement. The winter maintenance work includes gritting at various Nottingham University Hospital sites. In addition to the Winter Maintenance works tenders will be submitted to retain the Christmas Tree Installation contract and to take on new Grounds Maintenance works around the Hospital sites. If tenders are successful this work will generate valuable income and help the service to maintain its existing medium term financial income targets as well as contributing to agreed increased income targets. As per the advice from Legal - The Local Authorities (Goods and Services) (Public Bodies) Order 1975 provides the power and opportunity for the Council to provide goods and services to other public bodies. Under this legislation there is no restriction on how costs are recovered and it is for the parties to agree such fees and charges between them. This allows for 'profit' to be made on these inter authority activities. As noted previously, the purchasing authority would need to address their procurement obligations to ensure compliance and the service would need to ensure that there is a separate account for the sale of goods/services for such monies received via those arrangements.The Landscape Team are self funding so carrying out this work from an external source which will cover costs and generate a revenue for the Council.

Briefing notes documents: For information not publication NHS permission to tender Appendix 1 V3.docx

Other Options Considered: Option 1:- Not to submit a tender for the works - This option has been rejected as it will result in a loss of income and other funded work will need to be sought to cover staff costs or it could lead to reductions in the service and potential staff redeployment or redundancies.Option 2 :- The submission of only the Winter Maintenance and Christmas Tree Contract. This option has been rejected as it will miss the opportunity for the service to secure additional Grounds Maintenance contract works. Option 3:- Submit a tender to secure the Winter Maintenance, Christmas Tree and Grounds Maintenance contract works. This option has been approved as it will maximise the potential income and ensure that the service continues to deliver its expected income targets.

Background Papers: Delegated Decision 3657

Published Works: None

Affected Wards: Citywide

Colleague / Councillor Interests: None

Any Information Exempt from publication: Yes

Exempt Information:

Description of what is exempt: The attachments referenced Exempt Appendix 2, 3 and 4 should be exempt from publication as they contain financial information regarding income and profit and also staff costs including overheads. Disclosing this information would provide an unfair advantage to competitors.

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

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

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it would show our customers our profit margin and also our competitors. When contracts are retendered it would provide our competitors with a competitive advantage over us if our costs and income were disclosed.

Documents exempt from publication:

Exempt Appendix 5 Finance Comments.docx, Exempt Appendix 4 Landscape Operative chargeable cost per person and gritting profit.docx, Exempt Appendix 2 cost breakdown NHS permission to tender.docx, Exempt Appendix 3 3yr cost breakdown NHS permission to tender.docx

Consultations:

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

None

Equality:

EIA not required. Reasons: This contract is being commissioned by Nottingham University Hospital and no persons are disadvantaged by the work

Regard for NHS Constitution:

The winter maintenance work will provide a gritting service to ensure that visitors and staff at the NHS Hospital sites are not placed at risk of injury caused by slips on icy paths. .

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

21/05/2024

Advice Sought:

Legal, Finance, Other: Robeel Haque(Rob.Haque@nottinghamcity.gov.uk)

Commissioner Comments:

The Commissioners are content with this proposed delegated decision

Legal Advice:

This report seeks authority for the Council to submit a tender and, if that tender is successful, trade for profit in an arrangement with Nottingham University Hospital. The report cites the Local Authorities (Goods and Services) (Public Bodies) Order 1975 as the legislation providing the Council with vires to do this. The vires actually comes from the Local Authorities (Goods and Services) Act 1970; the 1975 Order lists bodies that we may trade with under the power detailed in the 1970 Act. It is unclear whether Nottingham University Hospital is listed under the 1975 Order, although from the nature of the Order, it seems likely but someone should verify this to ensure the Council is not acting ultra vires if successful in the tender and an agreement that is acceptable to the Council is offered.

The delegation of authority to enter into the contract should be made subject to a legal review of the proposed contract, either by Legal Services or external legal support. Noting the capacity issues within Legal Services, sufficient time for a review should be arranged; if not, external legal support will be required at cost.

Advice provided by Anthony Heath (Senior Solicitor) on 05/04/2024.

Finance Advice:

This advice is exempt from publication and is contained within exempt appendix 5

Other Advice:

The submission of tenders and securing of the NHS Winter Maintenance, Christmas Tree and Grounds Maintenance Contracts will if successful all help to deliver the Landscape Service existing income targets and also the delivery of additional income targets agreed as part of the 2024/25 budget process. The contracts will help provide job security and help to ensure the medium term sustainability of the Landscape Service. Advice provided by Eddie Curry (Head of GreenSpace & Natural Environment) on 20/02/2024.

Signatures

Corall Jenkins (PH Energy, Environment and Waste Services, Parks)

SIGNED and Dated: 14/05/2024

Colin Parr (Corporate Director, CERS)

SIGNED and Dated: 14/05/2024