

Report to the Cabinet



Report reference: C-050-2016/17
Date of meeting: 1 December 2016

**Epping Forest
District Council**

Portfolio: Safer Greener and Transport
Subject: Award of contract for Off Street enforcement and cash collection
Responsible Officer: Qasim (Kim) Durrani (01992 564055).
Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To agree that following a procurement exercise the contract for off street enforcement, cash collection and first line machine maintenance be awarded to NSL Limited at a yearly cost of £181,370 for an initial period of five years with an option to extend by another two;
- (2) To agree to create a new post of Car Parking and Street Furniture Supervisor to deal with the additional workload associated with the off street parking enforcement and allocate a salary budget of £32,030;
- (3) To agree a one off budget allocation of £75,000, from the Invest to Save Fund, for the purchase and set up costs of IT infrastructure; hardware and software, for the delivery of the off street enforcement operations;
- (4) To note a CSB saving of £58,600, after deducting salary costs for the new post, from 2017/18 and that a further report be brought to Cabinet setting out any one off TUPE related costs as soon as these become known; and

Executive Summary:

The Council joined the North Essex Parking Partnership (NEPP) in October 2012 for the delivery of Off Street enforcement and cash collection in all of its car parks. Until that time the enforcement function was provided by Vinci Parks Limited and the back office by in house staff.

As a result of a review, carried out by RTA Associates Limited demonstrating that there is a clear advantage for the Council to provide Off Street enforcement operations itself, Cabinet agreed on 11 January 2016 to give notice to NEPP. This means that by 1 April 2017 the Council has to have an alternative arrangement in place.

The procurement exercise, for the provision of Off Street enforcement, cash collection and front line machine maintenance for a provider to undertake the Off Street enforcement, was undertaken under the European Procurement Rules. All the tenders received have been assessed under the previously agreed price quality ratio of 60/40.

Reasons for Proposed Decision:

To award the contract for undertaking Off Street enforcement, cash collection and front line machine maintenance in all 18 Council car parks.

Other Options for Action:

Cabinet has previously agreed to come out of NEPP and deliver the enforcement, cash collection and machine maintenance via a private sector provider. There is no other option, given the successful tenderer offers value for money, than to award the contract to the successful tenderer.

The option to offer the contract to the next second highest scoring bidder if the highest scoring bidder does not accept the offer.

Report:

1. The Council has previously agreed to leave the Off Street part of the agreement with NEPP and to procure a private partner to deliver the front line; enforcement, cash collection and first line machine maintenance. In order to get the best value outcome the Most Economically Advantageous Tender (MEAT) criteria adopted was a 60 price 40 quality ratio.

2. Services of RTA Associates Ltd were acquired to assist officers in preparing the specification and obtaining professional advice during the procurement process. Due to the value of the work it was necessary to procure under the European Procurement Rules (OJEU). The procurement process commenced with the placement of the OJEU Notice on 31 May 2016 and the tenders were opened by the Portfolio Holder on 21 October 2016.

3. A total of 17 companies expressed an interest in the requirements and 6 Pre-Qualification Questionnaires were returned by companies as part of the procurement process. All 6 companies were shortlisted after initial checking and audit verification, and were issued tender documents. One withdrew from the procurement process whereas two did not submit a bid. Three tenders were received, all of which are valid and have been assessed by officers.

4. The tenders were evaluated under a price quality ratio of 60% and 40%. This meant that out of a total of 10000 points there were 6000 for price and 4000 for quality. Each tenderer submitted thirteen method statements, six for Operational Delivery and seven for IT Arrangements. The score of 4000 was distributed among the thirteen method statements. Every method statement had a maximum score and officers could score from as low as 0 to as high as 5. The scores were then moderated to arrive a single score for each Method Statement. Then the weightage for each Method Statement was applied.

5. The price score is calculated such that the lowest priced bid scores the maximum 6000 points and the rest score proportionally less. For example a bid twice the value of the lowest would score half the points. The combined score for both price and quality is noted in the table below:

Bidder	Quality Assessment (4000 points)	Financial Assessment (6000 points)	Total Score
NSL	2996	5889	8885
Second highest	2598	6000	8598
Third highest	2508	4232	6740

6. The new contract offers a number of enhancements and improvements in services for the Off Street enforcement and cash collection operations:

- a. Value for money,
- b. Flexibility on scalable service delivery,
- c. Faster response of enforcement teams,

- d. Monitoring of car parks by CEOs enabling speedier responses to faults,
- e. Innovation (blue badge abuse monitoring, debt recovery from foreign vehicles and data analysis of car park usage)
- f. Scope for future development and enhancement,
- g. Introduction and application of new technology,

7. The table above shows the highest scoring bid to be that of NSL Limited for a yearly sum of £181,370, subject to a yearly uplift of CPI, for Off Street enforcement, cash collection and first line machine maintenance it is recommended that the contract be awarded to NSL Limited, for a period of five years with an option to extend by another two (**recommendation 1**)

8. The contract for the Off Street enforcement operation consists of: Civil Enforcement Officers (CEO) inspecting car parks to ensure vehicles are parked in compliance with the conditions applied and where necessary issue Penalty Charge Notices (PCN) to contravening motorists under the Civil Parking Enforcement (CPE) powers, cash collection from 41 pay and display machines and first line machine maintenance of all pay and display machines.

9. Motorists have a right to appeal any PCN issued by an enforcement authority and the appeal process is stipulated in the Traffic Management Act 2004. The responsibility for dealing with challenges to the PCN issued and complaints from motorists will be that of officers of the Council.

10. The management responsibility for the Off Street enforcement contract will be within the Car Parking and Street Furniture Team of the Council. The team is responsible for: all repairs in the 18 Council car parks, signs and lines, lighting repairs, all the street name plates across the District, litter bins, the street furniture that is the responsibility of the Council for example those notice boards or benches that are in the Councils ownership.

11. In the year 2015/16 NEPP issued 5391 PCNs, on behalf of the Council, within the Car Parks in the District, whereas previously Vinci Parks issued 7829 in 2010/11. Not all the PCNs will be challenged, the industry average is circa 30% are challenged, which could mean between 6 and 9 challenges over a single working day. Each challenge has to be assessed and dealt with individually and within the legislative parameters set by the Traffic Management Act 2004. Two separate officers have to deal with the appeals within the Council and if the appellant remains dissatisfied then the case is referred to the Traffic Penalty Tribunal. Alternatively if motorists fail to appeal against a valid PCN then following a set procedure the Council has the right to seek cost recovery.

12. As of 1 April 2017 the Car Parking Team will have to; in respect of the new contract: manage their performance, certify base and enhanced payments to the contractor in respect of services previously offered by NEPP: recommend and report on policy and strategy issues relating to Off Street enforcement, monitor Key Performance Indicators, deal with challenges to PCNs or pursue cost recovery and attend Traffic Penalty Tribunal. The Car Parking and Street Furniture team currently does not have the capacity to deal with this additional workload. It is recommended that a new post of Car Parking and Street Furniture Supervisor be created within the team and, subject to Job Evaluation, estimated salary approved (**recommendation 2**)

13. The Off Street enforcement operation will be regulated by a fully hosted web enabled software system that enables all PCN data to be recorded and stored. This will enable Council staff to access and review all PCN cases and will be essential for dealing with any appeals as well as when considering cost recovery proceeding against motorists. Although the software solution has been proposed by the contractor the licences and associated systems will belong to the Council as will any hardware and network devices. The one off capital budget of £75,000, including the winning bidder's ICT set up costs, will be required for monitoring and accessing the enforcement data management system (**recommendation 3**)

14. The total yearly value of the new contract is £181,370 which against the existing yearly budget of £272,000 represents a saving of £58,600 per annum, after deducting the costs of the new post of Car Parking and Street Furniture Supervisor. Although the ongoing savings are guaranteed, subject to the formal contract being signed, there is the issue of TUPE costs. One member of staff will TUPE from NEPP to the new contractor. The member of staff is not a direct employee of the Council and it was not possible to provide all the TUPE related information, for example; redundancy or pension strain costs, to the tenderers within the tight time line of the procurement process. Due to this tenderers were unable to price the cost of TUPE and it was apparent that the tenderers may assume the worst case costs which could be detrimental to the Council. Furthermore the Cabinet has already agreed that should the outcome of the procurement not be favourable then the Council should operate this function in house, in which case it would have to bear any TUPE related costs. This effectively means that the cost risk associated with TUPE remains with the Council.

15. At this stage these costs are not known and it is recommended that a report be brought to Cabinet as soon as the full impact of TUPE related costs is known, which may result in a one off cost. It is recommended that a CSB saving of £58,600 be agreed from 2017/18, with a proviso that one off TUPE costs may arise in the next financial year (**recommendation 4**)

16. The setting up of Off Street enforcement and associated functions is a complex project, and will consist of: data migration from NEPP, setting up IT systems to handle data relating to contravening motorists, banking arrangements for cash and cashless payments, agreeing operational arrangements with the contractor for the delivery of the service and equally importantly setting up back office functions to enable handling of all challenges relating to PCNs as well as contract monitoring arrangements. There are varying lead times for hardware and software systems required on this project and a mobilisation meeting will be arranged with the contractor and key members of the project delivery team as soon as the decision is actionable

Resource Implications:

The Council has a budget of £272,000 for 2017/18 which is based on the costs of the Off Street enforcement operation being performed by NEPP. The highest scoring tender of NSL Limited has a yearly cost of £181,370 which after taking the costs of the new post of Car Parking and Street Furniture Supervisor results in a yearly saving of £58,600

As set out in the report there currently does not exist the capacity to deal with the additional work load associated with the monitoring of the new contract and PCN challenges etc. A new post of the Car Parking and Street Furniture Supervisor will enable the team to operate the service effectively.

There are additional costs associated with TUPE transfer of a member of staff from NEPP to the new provider. These costs will not be known for a few months, until the contract has been awarded, and the new provider is able to assess all options available for the new employee, for example redeployment into a new role. There will be one off pension strain costs or possibly redundancy costs. These will be borne by the Council, however at this stage it is not possible to identify what these costs will be. It is for this reason that it is recommended that a further report be presented to Cabinet setting out the full impact of TUPE and any one off payments that may be required.

A Penalty Charge Notice (PCN) is issued when motorists park in contravention of rules. An off street car park PCN is for £50 however if paid within the discounted period, the first two weeks of issue date, then the discounted charge is £25. In the year 2015/16 NEPP issued 5391 PCNs, within the Car Parks in the District, whereas previously Vinci Parks issued 7829 in 2010/11. The industry average is circa 70% challenges are paid without a challenge, using the figures for PCN issued by NEPP and Vinci the Council could get an income of £94,325 or £137,000 per year. Current budget allocations are based on PCN income generated by NEPP, there will be an increase in PCN

income if higher number of PCNs are issued under the new arrangement.

Legal and Governance Implications:

There are TUPE implications for one NEPP member of staff engaged in providing the first line machine maintenance functions. Information provided by NEPP has been supplied to all tenderers however some detailed information will only become available once the preferred tenderer commence TUPE discussions with NEPP and the employee.

The Council, as per the terms of the Joint Committee Agreement of 2011, served notice to withdraw at the end of the current financial year. This means that by 1 April 2017 a new arrangement for enforcement, first line machine maintenance, cash collection and back office management has to be put in place.

Safer, Cleaner and Greener Implications:

All the Council car parks have Park Mark accreditation by continuing to provide adequate enforcement action and maintaining all the pay and display machines in a good state of repair the Council can continue to keep the accreditation.

All car parks are regularly inspected for maintenance issues including hedges, fences and signs and lines.

The current ability of motorists to pay by: cash, phone and debit or credit cards will continue.

Consultation Undertaken:

The procurement notices were published on the official OJEU website via the Council's e-Procurement system, Delta e-Sourcing. All the suppliers who submitted the Pre-Qualification Questionnaires were acknowledged and informed if successful or otherwise.

The suppliers who submitted acceptable Pre-Qualification Questionnaires were invited to submit tenders and issued Invitation to Submit Tenders via Delta e-Sourcing.

Over 33 statements were issued in response to Clarification Questions submitted by tenderers and the final result of the procurement exercise will be published on the OJEU website via Delta.

Background Papers:

Cabinet reports on the decision to give notice of withdrawal from the Off Street part of NEPP and progress report on the procurement process.

Notes of the Portfolio Holder Advisory Group which has kept an oversight on the delivery of this project.

Risk Management:

The Council, having given notice of termination to NEPP, needs to have a viable delivery arrangement for the provision of these services to enable a smooth service.

The previously identified risks of the procurement process not resulting in a favourable outcome have been neutralised with the successful procurement process.

There remains a risk associated with the TUPE transfer of one member of staff from NEPP to the

new contractor. For reasons set out in the report it has not been possible to assess the cost risk to the Council. It is intended to bring a report to Cabinet as soon as these costs are known.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The Council provides 18 car parks across the District and for the use of which it charges at varying rates. None of the specific group or characteristics that the Council has a legal duty to have due regard for will be impacted by the changes proposed in this report.

All disabled badge holders are currently exempt from any pay and display charges and it is not proposed to make any changes to this.

This contract will be managed directly by the Council and will offer increased flexibility and speedier response time to unauthorised parking in, for example disabled parking bays, this will ensure that the disabled bays are not misused and will be available for disabled badge holders.