

MUNICIPAL YEAR 2015/2016 REPORT NO.

**ACTION TO BE TAKEN UNDER
DELEGATED AUTHORITY**

OPERATIONAL DECISION OF:
Director – Regeneration and
Environment

REPORT OF
Assistant Director – Regeneration and
Environment

Agenda – Part: 1

KD Num: 4156

Subject:

**Approval to award the contract to supply
and install new play equipment**

Wards: All

Contact officer and telephone number:

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1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval to award a Capital funded three (3) year contract to the successful tenderer to supply and install new play equipment as approved in the Capital Works Programme 2014 -2016.
- 1.2 Using the ESPO 115 Framework Agreement (Eastern Shires Purchasing Organisation) contractors were invited to submit a tender for a Further Competition.
- 1.3 Each tender submission has been evaluated using published evaluation criteria.
- 1.4 The tender evaluation and financial details are contained within Part 2 of this report.

2. RECOMMENDATIONS

- 2.1 To award the contract to the highest scoring contractor, Contractor A for the supply and installation of specified new play equipment, outdoor gym equipment and safer surfacing within the Borough's play areas.

3. BACKGROUND

- 3.1 Enfield Council's Public Realm Division is responsible for all Park's play areas within the Borough.
- 3.2 In 2013 the Public Realm Division undertook a borough-wide life expectancy survey of all Park's play equipment. The report highlighted play equipment that had limited lifespan.
- 3.3 The Council's budget report in February 2014 agreed the allocation of £2m Capital funding for Parks 2014/15 and 2015/16. In June 2014 a works programme was approved to replace specified existing play equipment and safer surfacing with new like-for-like equipment and surfacing.
- 3.4 Using the ESPO 115 Framework Agreement nine contractors were invited to a Further Competition to quote for items of play equipment and safer surfacing identified and approved in the Capital Works Programme. The tenderers were also requested to provide a priced schedule of rates for similar future requirements that may be required for three (3) years.
- 3.5 Three out of the nine suppliers' submitted tenders. All three tenders were compliant.
- 3.6 An evaluation panel comprising of senior officers from the Public Realm, Regeneration and Environment Department evaluated the submissions.
- 3.7 As the Contractors already met the ESPO 115 Framework quality standards, their submissions were evaluated solely on price.
- 3.8 The proposed contractor met all of the specification requirements and scored the highest score.
- 3.9 The evaluation panel recommends the Council award the contract to Contractor A to supply and install new play equipment within the Borough.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Not to let the contract:
 - Play equipment has limited lifespan and items that no longer meet British and European Standards would have to be removed from the play area;
 - Over time, with deteriorating equipment, a play area would need to be closed to mitigate the health and safety risks to the public;

- It would bring into question the Council's commitment to promoting healthy lifestyles and outdoor exercise for local children.
- 4.2 To let the contract as an open tender under the OJEU (The Official Journal of the European Union) Procurement Regulations. This would substantially increase the timescale required to undertake the procurement without improving the likely value of the bids received.

5. REASONS FOR RECOMMENDATIONS

5.1 It is recommended to award the Contract because:

- The new contract will satisfy the Council's statutory duty of care to maintain play areas to British and European Standards;
- New equipment will provide savings compared to ongoing and more frequent maintenance costs of old equipment;
- New and safe equipment will continue to bring pleasure and enjoyment to the young residents of Enfield;
- It will engage children in physical and outdoor activity, promoting healthy lifestyles.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

Please refer to Part 2 of this report.

6.2 Legal Implications

- 6.2.1 The Council has power under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. The Council is aware of no express prohibition, restriction or limitation contained in statute against use of the power in the way set out in this report.
- 6.2.2 Throughout the engagement of the service provider, the Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.
- 6.2.3 The Council must comply with the Public Contracts Regulations 2015 and (where still applicable) the Public Contracts Regulations 2006. A framework agreement such as the ESPO 115 framework used in this instance can be used to ensure compliance with these regulations. Please refer to Part 2 of this report. The Council must also comply with its Constitution including the Contract Procedure Rules.

- 6.2.4 As the value of the contract exceeds £250,000 the Council must follow the Key Decision Procedure.
- 6.2.5 Pursuant to the CPR 21 for every contract exceeding £250,000 the Council is required to obtain a performance bond or a parent company guarantee.
- 6.2.6 The resultant agreement must be in a form approved by the Assistant Director of Legal Services and should identify key activities and outputs so that performance can be properly and regularly monitored.

6.3 Corporate Procurement

The procurement has been carried out in accordance with the Council's Contract Procedure Rules (CPRs). The use of a legally compliant framework is an exception to the CPRs. The competition has been conducted in accordance with the terms of the ESPO framework.

7. KEY RISKS

7.1 If not maintained:

- Health and safety risk to the public; particularly to children and vulnerable persons. Risk Level: High.
- Legal risk of litigation arising from a personal injury claim. Risk Level: High
- Reputational and political risk to the Council arising from the full or part closure of play areas and outdoor gyms. Risk Level: Medium to High.
- Ongoing and regular maintenance cost. Risk Level: High

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

New play equipment will provide:

- A safe and secure environment for children and parents to use;
- Quality play facilities close to where people live.

8.2 Growth and Sustainability

New play equipment will improve the appearance of parks attracting both members of the public and businesses to the borough.

8.3 Strong Communities

8.3.1 Attractive and safe parks will provide a positive contribution to encourage children of all ages and ethnic backgrounds to play together.

8.3.2 Play areas act as a community facility to bring all ages and ethnic backgrounds together whilst their children play.

9. EQUALITY IMPACT IMPLICATIONS

9.1 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report to award a contract for service

10. PERFORMANCE MANAGEMENT IMPLICATIONS

10.1 The new contract will increase the lifespan of play equipment in the Borough.

10.2 Repair costs will be reduced.

11. HEALTH AND SAFETY IMPLICATION

11.1 The new contract will increase the lifespan of play equipment in the Borough.

11.2 Old and damaged equipment is neither safe nor BS EN 1176 compliant.

11.3 When left damaged or unrepaired play equipment can present a risk of serious or fatal injury.

11.4 Users will assume an item of play equipment is safe and well-maintained which increases the risk of injury when damaged or faulty.

11.5 Serious injuries arising from old and damaged play equipment maybe subject to a Health and Safety Executive investigation.

12. PUBLIC HEALTH IMPLICATIONS

12.1 It is a Local Authority requirement to provide accessible play space for essential public health benefits.

- 12.2 Park facilities provide vital outdoor amenity space for families and residents.
- 12.3 Partially or fully closing a play area will reduce access and therefore reduce the public health benefits of the amenity.
- 12.4 Outdoor physical play is useful for physical and social development of children

Background Papers

None