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Award

## **Award of Contract to manage Ash Dieback**

Leeds City Council - PACS

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-034071

Procurement identifier (OCID): ocds-h6vhtk-04aff2

Published 22 October 2024, 9:57am

### **Section I: Contracting authority/entity**

#### **I.1) Name and addresses**

Leeds City Council - PACS

Civic Hall

Leeds

LS11UR

#### **Contact**

Calum McIntyre

#### **Email**

[Calum.McIntyre@leeds.gov.uk](mailto:Calum.McIntyre@leeds.gov.uk)

#### **Telephone**

+44 1133788313

**Country**

United Kingdom

**Region code**

UKE42 - Leeds

**Justification for not providing organisation identifier**

Not on any register

**Internet address(es)**

Main address

<https://www.leeds.gov.uk/>

Buyer's address

<https://yortender.eu-supply.com/login>

**I.4) Type of the contracting authority**

Regional or local authority

**I.5) Main activity**

General public services

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## **Section II: Object**

### **II.1) Scope of the procurement**

#### **II.1.1) Title**

Award of Contract to manage Ash Dieback

#### **II.1.2) Main CPV code**

- 77211400 - Tree-cutting services

#### **II.1.3) Type of contract**

Services

#### **II.1.4) Short description**

This contract is to carry out ground truthing surveys on 529 Ash Trees, carry out safe removal of the trees with relevant traffic management processes put in place. Once trees removed and disposed off, carry out the replanting of 5 trees per one cut down.

Phase 1 will focus on the removal of 539 Council owned trees that are most seriously affected by the disease (Class 4 trees) and that are within falling distance of Leeds' A and B Roads. Sampling survey undertaken in June 2024 (see paragraph 10 above) allowed the LCC team to estimate that 90% of the ash trees we had a diameter at breast height (dbh - measured at 1.3 m above

ground) of less than 45 cms and the remaining 10% had a dbh of greater than 45 cms. This allowed the team to estimate removal costs based on Tilhill's schedule of rates.

#### **II.1.6) Information about lots**

This contract is divided into lots: No

#### **II.1.7) Total value of the procurement (excluding VAT)**

Value excluding VAT: £440,000

### **II.2) Description**

#### **II.2.2) Additional CPV code(s)**

- 77211300 - Tree-clearing services

### **II.2.3) Place of performance**

NUTS codes

- UKE42 - Leeds

Main site or place of performance

Citywide across Leeds

### **II.2.4) Description of the procurement**

A potential total of 539 trees will be removed under this phase of works, with replanting of 5 trees for every one removed.

### **II.2.5) Award criteria**

Price

### **II.2.11) Information about options**

Options: No

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## **Section IV. Procedure**

### **IV.1) Description**

#### **IV.1.1) Type of procedure**

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

The Council believes that the decision to award new contracts for the Phase 1 'Pilot Project' of the City's Ash Dieback Programme is permitted pursuant Regulation 32(2)(c) of the PCR which states:

"32(1) In the specific cases and circumstances laid down in this regulation, contracting authorities

may award public contracts by a negotiated procedure without prior publication.

(2) The negotiated procedure without prior publication may be used for public works contracts,

public supply contracts and public service contracts in any of the following cases:

(c) in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with."

The late start to beginning the procurement process was dependent on having the funds in place and the evidence to support release of funds needed to be accurate. The time taken to provide this evidence was unforeseeable and the requirement to mitigate the risks to people and property within a short time frame is extremely urgent. The increase in the number and severity of autumn/winter 'Named Storms' adds to this urgency.

It is further important to note that the extreme urgency brought on to make this direct award to Tilhill pursuant to Regulation 32(2)(c) PCR 2015 is also compounded by the increasing public health and safety issue due to the proximity of the trees requiring felling and management to the roadways. If this direct award is not made there is a danger that the trees will fall onto the roadways. Notwithstanding the above, there is the potential risk of challenge because the Council has used Regulation 32(2)(c) PCR 2015.

#### **IV.1.8) Information about the Government Procurement Agreement (GPA)**

The procurement is covered by the Government Procurement Agreement: No

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## **Section V. Award of contract/concession**

### **Title**

Contract to manage Ash Dieback

A contract/lot is awarded: Yes

### **V.2) Award of contract/concession**

### **V.2.1) Date of conclusion of the contract**

22 October 2024

### **V.2.2) Information about tenders**

The contract has been awarded to a group of economic operators: No

### **V.2.3) Name and address of the contractor/concessionaire**

TILHILL FORESTRY LIMITED

3rd Floor 1 Ashley Road, Altrincham, Cheshire, United Kingdom, WA14 2DT

Altrincham

WA14 2DT

Country

United Kingdom

NUTS code

- UKD63 - Cheshire West and Chester

Companies House

03242286

The contractor/concessionaire is an SME

No

### **V.2.4) Information on value of contract/lot/concession (excluding VAT)**

Initial estimated total value of the contract/lot/concession: £440,000

Lowest offer: £400,000 / Highest offer: £440,000 taken into consideration

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## Section VI. Complementary information

### VI.3) Additional information

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Notwithstanding the above, there is the potential risk of challenge because the Council has used Regulation 32(2)(c) PCR 2015. This risk can be mitigated by the publication of a voluntary transparency notice on Find a Tender Service immediately after the decision to

award the contract has been taken and then waiting 10 days to see if any challenges are made. If no challenges are made, the chances of a claim for ineffectiveness being brought are significantly reduced and would only be successful if the Council had used the negotiated procedure without publication of a notice incorrectly.

Furthermore, publishing such a notice will also start time running for any other potential claim for breach of the PCR, which must be brought within 30 days of the date that an aggrieved party

knew or ought to have known that a breach had occurred.

## **VI.4) Procedures for review**

### **VI.4.1) Review body**

The High Court of Justice

Strand

London

WC2A 2LL

Country

United Kingdom

### **VI.4.3) Review procedure**

Precise information on deadline(s) for review procedures

This decision can be challenged within 10 days of this notice being published and up to 30 days of the date that any aggrieved party knew or ought to have known about the decision.