

## CABINET

18 September 2018

<b>Title:</b> Term Contract for Mechanical Servicing and Maintenance within Public Buildings, Schools, Leisure Buildings and Communal Housing Properties	
<b>Report of the Cabinet Member for Finance, Performance and Core Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Robert Overall – Director of My Place	
<b>Accountable Strategic Director:</b> Claire Symonds, Chief Operating Officer	
<b>Summary:</b>  This report seeks to request Cabinet approval to enter into a procurement exercise for the award of a new Term Contract for Building Maintenance in Non-domestic Properties over a three-year term covering the period with the possibility of two, one-year extensions subject to satisfactory performance of the appointed contractor. This contract is for day-to-day reactive repairs, cyclical maintenance, and minor works.  This contract will be used to: <ul style="list-style-type: none"><li>• Provide a reactive repairs and cyclical maintenance service to all non-domestic buildings as necessary.</li></ul> Provide the facility of a minor works service to all non-domestic buildings. It is anticipated that the contract will be used: <ul style="list-style-type: none"><li>• By Schools via a service level agreement (SLA);</li><li>• By My Place for all Council public buildings and communal housing properties.</li><li>• CUL (Coventry University London).</li></ul> It is anticipated that the new contract will commence on 5 <sup>th</sup> January 2019	
<b>Recommendation(s)</b>  The Cabinet is recommended to: <ul style="list-style-type: none"><li>(i) Approve the procurement of a new term contract for Building Maintenance within Public Buildings, Schools, CU London (Coventry University) and Communal</li></ul>	

Housing Properties, in accordance with the Council's Contract Rules and the strategy set out in the report; and

- (ii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Finance, Performance and Core Services and the Director of Law and Governance, to conduct the procurement and enter into the contract and all other necessary or ancillary agreements, including contract extensions, with the successful bidder.

#### **Reason(s)**

The procurement exercise will lead to the award of a new Term Contract which will provide the Council with a responsible, safe and cost-effective maintenance, repair and minor works service to its buildings, thus helping to achieve the Council Priority of a "well run organisation".

## **1. Introduction and Background**

- 1.1 The Council has a statutory responsibility to comply with the Health and Safety at Work Act 1974 and relevant Building Regulations requirements. The previous term contract for building maintenance and repairs which was awarded to Kirkman & Jourdain Ltd, has expired following the utilisation of the extension period allowed under the provision within the contract.
- 1.2 The previous contract let to Kirkman & Jourdain Ltd was a combination of reactive and small works with a maximum individual order value of £50,000. The contract provided a 24-hour building repair and maintenance service to schools, operational and public buildings and CU London added in August 2017, with a pre-priced schedule of rates, which enabled users of the contract to control budgets.
- 1.3 To enable officers to undertake a lengthy options appraisal including the intrinsic value of a Building Maintenance Term Contract (BMTC) itself and other potential methods of procurement the previous contract has been in continuance. The various options appraisals including the need for this contract in its current form have been investigated within this process and are detailed in section three of this report.
- 1.4 To ensure that a suitable contract is put in place it is considered advisable to re-tender through a new term contract. The use of a term contract will remove the need to tender for each job and reduce the administrative work involved in this process.
- 1.5 This tender does not include works to domestic (tenanted) properties but does include works to communal properties and some sheltered accommodation, which will be funded from the Housing Revenue Account (HRA). The Borough's leased out properties that have not agreed a full maintenance type contract with Property Services are not included.

## **2. Proposed Procurement Strategy**

- 2.1 The recommended option is to procure a contractor via an open market two stage restricted tender process. This enables the Council's requirements to be specified and tendered via a process that allows the opportunity for local / regional suppliers to bid. Tenders will be sought through a full European Restricted Procedure following an advertisement in the Official Journal of the European Union (OJEU).
- 2.2 The contract will be awarded through a scoring matrix on the basis of 60% price and 40% quality.
- 2.3 It is proposed that this contract will be let as a Joint Contract Tribunal JCT Measured Term Contract (2016 edition), which is appropriate for use:
- By Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
  - Where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
  - Where a Contract Administrator and Quantity Surveyor are to administer the conditions. These roles are performed by Quality & Compliance Officers within the My Place Services Team.
- 2.4 It is anticipated that the new contract will commence on the 5th January 2019 for a period of three years with the possibility of two, one- year extensions at an estimated value of approximately £2,250,000 over the initial three-year period to £3,750,000 for the full five-year period (including the possible two, one-year extensions).
- 2.5 The estimated contract value comprises a combination of small works and major upgrades, up to a maximum single order value of £50,000, and planned service costs based on a priced schedule of rates. The precise contract value will depend upon the value of work that is placed with the successful contractor but is also dependent upon client budgets.
- 2.6 In order to achieve the Council Priority of a "well run organisation" it is essential for the council that all buildings are maintained and kept in a state of good repair. Failure to meet this requirement could result in unsafe assets and buildings, with the potential of causing ill health to the community, visitors, staff, and contractors, which could result in criminal prosecution of officers and councillors under Health and Safety legislation.
- 2.7 The contract will work on a "call off" basis for Council's schools, operational and public buildings, from a priced Schedule of Rates for the duration of the contract. The "call off" arrangements do not commit the Council to guaranteed payments to the contractor by way of any stand-by arrangements, but will ensure continued supply of important services during the contract term
- 2.8 It is expected that the contract will be used to meet all of the Council's day to day repairs, cyclical maintenance, minor works and will be based on priced schedules of rates items plus an element of unspecified work where estimates have been used for materials and hourly attendance rates. Industry agreed adjustments will be

applied to the priced schedule of rates annually where necessary. This will give the Council the benefits of economies of scale whilst improving maintenance efficiency and enabling the council to standardise equipment used. All cyclical and planned maintenance works will be carried out at regular pre-determined intervals in conjunction with regular service plans as generated by the Council.

- 2.9 The applicants will be assessed on their economic and financial standing, health and safety standards, technical capability, prices and references, as well as a qualitative assessment of performance targets and method statements on a range of criteria relevant to the contract.
- 2.10 Applicants who have policies and methods in place to measure quality and performance and are able to provide this information to the Council will be considered as suitable tenderers.
- 2.11 The successful contractor will be expected to maintain a full electronic audit trail of the work undertaken on behalf of the Council and this data must be accessible to LBBB officers, without additional data capture, utilising the Council's asset management database (K2) or via a web portal to an equivalent acceptable solution provided by the successful tenderer. The contractor will also be expected to work with the Council during the contract term to enhance the electronic data exchange to meet our ICT aspirations.
- 2.12 The Children's Service Department has been advised that whilst schools are encouraged to use this contract (under best value principles), My Place cannot insist that they do. Should schools decide not to use this contract under traded services SLA's and make their own arrangements for Building Maintenance works they will be required legally to undertake the same Health & Safety assessment of potential contractors and to formally monitor their work once contracted, complying at all times with current legislation.

### **3. How the procurement will address and implement the Council's Social Value policies**

- 3.1 The contract will contribute to Social value by keeping Public, School and Housing Communal Properties across the borough open, functional and serviceable. Effective maintenance will reduce disruption and associated down time that can have adverse Social impacts such as periods of unavailability or reduced access to Council services and facilities.
- 3.2 The procurement process allows all suppliers to submit a bid at selection stage allowing the opportunity for local/regional suppliers to apply, which may result in additional Social Value derived from employment opportunities

### **4. Estimated Contract Value, including the value of any uplift or extension period**

- 4.1 The combined contract value is estimated to be approximately £3,750,000 over the full five-year term (should the extension option be activated).

Projected contract expenditure							TOTAL
	Jan 2019- Mar 2019	Apr 2019- Mar 2020	Apr 2020- Mar 2021	Apr 2021- Mar 2022	Apr 2022- Mar 2023	April 2023- Jan 2024	Full Term
TOTAL	£187,500	£750,000	£750,000	£750,000	£750,000	£562,500	£3,750,000

- 4.2 The precise contracts values will depend upon the value of work that is placed with the successful contractors and is also dependent upon client budgets.
5. **The contract delivery methodology and documentation to be adopted.**
- 5.1 This contract will be delivered under Joint Contract Tribunal JCT Measured Term Contract (2016 edition) and Technical Specifications and monitored by Compliance Officers.
- 5.2 The contract will be delivered via a call off tender system, ie. as and when each client requires it. Requests for reactive repairs will be via a Facilities Helpdesk and monitored by Quality and Compliance Officers.
- 5.3 Expressions of interest and qualification stage will commence in October 2018 with the invitation to tender issued in November 2018 to facilitate a contract commencement in early January 2019
6. **Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**
- 6.1 The original aims and objectives are to provide a safe and cost effective minor works service to all Public Buildings, Schools and Communal Housing Properties.
- 6.2 Savings and efficiencies will be afforded by economies of scale and providing a one stop shop for all Building services to the above-mentioned clients. Each client will be able to utilise this contract as well as being secure in the knowledge that any Building compliance obligations will be met.
7. **Criteria against which the tenderers are to be selected and contract is to be awarded**
- 7.1 The number of tenderers will be reduced to the best 6 by applying selection criteria that include, legal and financial capacities, technical and professional ability, prior contractual performance and experience to perform the contract.
- 7.2 The contract will be awarded against criteria that represent the most economically advantageous to the Council the overarching weighting being 40% quality 60% cost. This weighting will ensure the requisite quality standards while ensure the Council receives and awards and achieves value for money.
8. **Options Appraisal**
- 8.1 **Option 1 - Tender for a three-year term contract with the possibility of two, one-year extensions** – This is the preferred option as it gives the benefits listed in Section 2 of this report.

- 8.2 **Option 2 - To undertake tenders/quotations for each individual project** – this option is not considered as disaggregation of spend is not compliant, cost effective, both in terms of procedural costs of tendering and by offering no long-term commitment to a specific contractor. This would also create delays and additional costs where emergency action is required and would not be appropriate for reactive maintenance works.
- 8.3 **Option 3 - To buy into an existing framework contract** – Again this option was thoroughly investigated but proved fruitless due to the various combination packages that were available not being satisfactory to suit the requirements of the authority. All other solutions investigated appeared to compromise the Borough's service level provision in some way or another hence the decision to recommend option 1 as documented.
- 8.4 **Option 4 - Do nothing** – This option was considered but due to an immense amount of orders that were required on a daily basis and a diminishing lack of resources a return to a contract format will prove less onerous to manage going forward. The Council's insurance policy will be potentially compromised if we do not undertake the work. The Council also has a statutory duty to comply with the Health and Safety at Work Act 1974 and relevant Building Regulations requirements, removing the 'do nothing' approach as an option.

## 9. Waiver

- 9.1 This is not applicable to this procurement.

## 10 Equalities and other Customer Impact

- 10.1 The contract will be fully compliant with Health and Safety and other legislative requirements.

## 11. Other Considerations and Implications

- 11.1 **Risk and Risk Management** - Compliance officers will administer the contract to pre-arranged service level agreements, strictly monitoring the performance levels of each contractor. The contract will also be carried out in accordance with the Health and Safety at Work Act 1974.
- 11.2 **Safeguarding Children** - The contractors shall take all reasonable precautions to prevent injury to children by implementation of measures set out in Guidance note H.S.G 151 issued by the HSE. All operatives and contractual staff working in schools, nurseries, children's centres and sheltered accommodations will have been DBS checked where applicable working with vulnerable adults and children which will be on file and must be produced on request.
- 11.3 **Property / Asset Issues** - Good and regular cyclical maintenance will prolong the life of the building fabric by a significant period.

## 12. Consultation

- 12.1 The proposals within this report were considered and endorsed by the Corporate Procurement Board on 20 August 2018.

### **13. Corporate Procurement**

Implications completed by: Richard Barrett, Category Manager

- 13.1 The suggested use of the restricted procedure to appoint a contractor is in line with the council's contract standing orders and onward requirements of the public-sector procurement regulation. The weighting of 60 % on cost would appear to be a little low but for this type of contract it is acknowledged that the quality aspect needs to be high to ensure quality of service to minimise associated risks. An extremely thorough specification may present the opportunity to retain quality while tweaking the price weighting higher to provide a stronger focus on cost while retaining assurance around quality and standards required to minimise associated risks. The Elevate procurement team are positioned to support the procurement process including development of the tender documentation if required.

### **14. Financial Implications**

Implications completed by: Katherine Heffernan, Group Manager- Services Finance

- 14.1 The costs incurred for this contract will be fully recovered from the General Fund, HRA, Schools, Leisure Services and Coventry University through SLA's. The SLA charge will also raise fee income for the Quality and Compliance Manager to cover related staffing costs.
- 14.2 Cost of call-offs on this contract will be from individual service budgets and should be managed as part of service financial monitoring activities.

### **15. Legal Implications**

Implications completed by: Ian Chisnell, Solicitor – Contracts and Procurement, Law and Governance

- 15.1 This report is seeking approval to tender a contract for the provision of Mechanical Servicing and Repairs in Corporate Buildings, Schools and Communal Housing Properties throughout the borough. The proposed procurement being considered is estimated to have a total value above the EU threshold Works contracts (currently set at approximately £4,551,413). This means that there is a no legal requirement to competitively tender the contract via the Official Journal of the European Union (OJEU). However, the Council can choose to do so, but if it does it must follow the process set out in the Regulations.
- 15.2 The Council's power to enter into these arrangements is contained in Section 1 of the Localism Act 2011 (the general power of competence).
- 15.3 Contract Rule 28.7 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval. Furthermore, In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.

- 15.4 It is noted that the proposed procurement route is to be conducted in accordance with the Regulations using the Restricted procedure. This would appear to be following a compliant tender exercise and Legal Services will be available to assist and advise upon further instruction.
- 15.5 The report author and responsible directorate have been advised to keep the Legal Service fully informed at every stage of the proposed tender exercise.

**Public Background Papers Used in the Preparation of the Report: None**

**List of appendices: None**