

## CABINET

21 DECEMBER 2010

### REPORT OF THE CABINET MEMBER FOR FINANCE, REVENUES AND BENEFITS

<b>Title:</b> Framework Agreement for Repairs and Maintenance of Mechanical Equipment in Public Buildings, Schools and Leisure Buildings	<b>For Decision</b>
<b>Summary:</b> <p>This report asks for authority to seek tenders in accordance with the European Procurement Directive, for a framework agreement for the repairs and maintenance of mechanical equipment in public buildings, schools and leisure buildings, split into three lots: Lot 1 – Public Buildings, Lot 2 – Schools, Lot 3 – Leisure Buildings. The framework would be for a period of twenty months with the possibility to extend each lot for a period of a further twelve months, subject to the satisfactory performance of the contractor(s).</p> <p>The framework will cover the day-to-day reactive repairs, planned maintenance and minor works of a general nature of mechanical equipment, in public buildings, schools and leisure buildings. The previous term contract was ended by mutual agreement in January 2010 and work is currently carried out by J Scott &amp; Sons Ltd on an ad-hoc basis.</p> <p>It is proposed to seek tenders for a framework to cover a period of twenty months from 1 July 2011 with an option to extend each lot for further 12 months, subject to satisfactory performance.</p> <p>Tenderers can apply to bid for one or more of the lots but would be required to provide proof of capacity to be able to deliver the level of services for the number of lots that they apply for. The new contracts are timed to enable collaboration of future contracts which may lead to other potential benefits and efficiencies that such arrangements can offer.</p> <p>It is confirmed that the relevant provisions of the Council's Contracts Rules and European Union (EU) Procurement Rules will be fully adhered to.</p> <b>Wards Affected:</b> None	
<b>Recommendation(s)</b> <p>The Cabinet is asked to agree to tenders being sought for a framework agreement for the repairs and maintenance of mechanical equipment in public buildings, schools and leisure buildings, over a 20 month term with the possibility to extend for a further 12 months.</p>	
<b>Reason(s)</b> <p>To provide a safe and cost effective maintenance and minor works service to all public buildings, schools and leisure services, thus helping to achieve one of the Community Priorities of "Making Barking and Dagenham Cleaner and Safer".</p>	

### **Comments of the Chief Financial Officer**

Current costs associated with the mechanical servicing and maintenance for public buildings, schools and leisure buildings amount to £261.000 per annum.

The Resources department administers the contract for the Council, and all costs are charged to and met from relevant departmental and service budgets.

The costs of servicing and maintenance, as a result of the new contract, will continue to be met from existing departmental and service budgets.

### **Comments of the Legal Partner**

1. The Council has power, under section 1 of the Local Government (Contracts) Act 1997, to enter into contracts for the provision of mechanical servicing and building maintenance services (“the Services”) on the basis that such services are properly required for the discharge of the Council’s duties.
2. This report is seeking Cabinet’s approval to tender a framework contract for the provision of the services, with a proposed original term of 20 months, and an option to extend for a further period of up to 12 months.
3. It is anticipated that the estimated value of the services to be let under the proposed framework contract will be in excess of the EU thresholds for application of the Public Contracts Regulations 2006 (the EU Regulations), therefore there is a legal obligation to tender the contract in the EU.
4. In compliance with Contract Rule 3.6 which requires the proposed strategy for contracts above £400,000 to be presented to Cabinet for approval, the report sets out the proposed strategy for the procurement of the proposed framework contract, which includes tendering in the Official Journal of the European Union (OJEU), using the restricted procedure.
5. The report states that for efficiency reasons, the proposed framework contract will be split into three lots, and that the Services will be “called off” from each lot under the framework contract, as and when required by the Council.
6. The EU Regulations allow the splitting of contracts into lots insofar as the purpose of doing this is not to avoid the application of public procurement rules.
7. The EU Regulations also permit local authorities to “call-off” (i.e. commission) works, supplies and services from a duly established framework contract provided the terms applicable to the call-offs (e.g. price) are set out precisely in the framework contract.
7. The report confirms that fixed prices, based on a schedule of rates to be set out in the proposed framework contract will apply to call-offs under the framework contract.
8. The Constitution (Contract Rules 13.3) provides for delegated authority to the Corporate Director of Finance and Resources to award the framework contract upon conclusion of the procurement process.

<p>9. Cabinet has the power under Section 15 (6) of the Local Government Act 2000 and under Part C of the Council's Constitution to delegate its powers to officers.</p> <p>10. The Legal Partner (Procurement, Property and Planning) confirms that there are no legal reasons preventing Cabinet from approving the recommendations of this report. The Legal Partner should however be consulted in relation to the contractual terms and conditions that will apply to the proposed framework contract.</p>		
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<p><b>Cabinet Member:</b> Cllr C Geddes</p>	<p><b>Portfolio:</b> Finance, Revenues and Benefits</p>	<p><b>Contact Details:</b> Tel: 020 8227 2116 Fax 020 8227 2162 E-mail: <a href="mailto:cameron.geddes2@lbbd.gov.uk">cameron.geddes2@lbbd.gov.uk</a></p>

## 1. Background

- 1.1 These contracts enables the mandatory routine testing of various mechanical systems as well as the day-to-day repairs and minor works within the Borough's schools, public buildings and leisure buildings expediting the Council's responsibility to comply with all current legislative requirements and Health and Safety at Work etc Act.
- 1.2 The Council has a statutory responsibility to comply with the Gas Safe regulations within public buildings, schools and leisure buildings.
- 1.3 It is proposed to split the framework into three lots, Lot 1 – Public Buildings, Lot 2 – Schools and Lot 3 – Leisure Buildings

## 2. Proposal

### 2.1 Current Position

The last term contract for the Mechanical Servicing and Maintenances within Public Buildings, Schools and Leisure Services buildings was awarded to Birdsall Ltd in September 2007, with mutual termination of the contract agreed in January 2010.

J Scott & Sons are currently acting on an ad-hoc basis to fulfill the Council's mandatory obligation.

This tender does not include works to domestic properties mechanical plant and services, which are under a separate contract to Enterprise, who are the Customer Services client's term maintenance contractor; or the schools catering equipment which is currently let under a separate contract; or the Borough's leased out properties that have not agreed a full maintenance type contract with Property Services.

The completion time of this framework has been tailored to coincide with the completion of the electrical small works contract with the intention that these two contracts can be combined into a new framework agreement producing potential future savings and efficiencies by eliminating individual procurement costs.

It is also perceived that these contracts may also be combined into an East London Solutions procurement initiative for term maintenance contracts that is currently being worked on and led by London Borough of Tower Hamlets. This form of compilation is in its infancy with regards to term contracts and it is Asset Management's intention to commit its building term maintenance contract to this collaboration to test the scheme for best value purposes.

## **2.2 Report detail**

2.3 The contract will utilise the new Asset Management K2 data base administered by the Asset Management Help Desk to accept / receive the jobs from the various clients and then forwarded to the appropriate contractor(s) via a dedicated e-mail address, this system will also allow electronic invoicing which will greatly improve the administration of these contracts. The system is also in accordance with current E-government aims.

2.4 It is proposed that the new contract will work on a "Call Off" basis from a priced Schedule of Rates for the duration of the contracts. This will ensure that the Council enjoys the benefits of economies of scale. The "Call Off" arrangements do not commit the Council to guaranteed payments to the contractors by way of any stand-by arrangements, but will ensure a continued supply of important services throughout the contract period.

2.5 It is expected that the contract will be used to meet the Council's day-to-day repairs and service requirements for mechanical servicing and maintenance.

2.6 The estimated expenditure is a combination of small works and major upgrades up to a maximum single order value of £50,000. The planned service costs are based on the priced Schedule of Rates to comply with all relevant regulations or changes in legislation including the Councils' Constitution Contracts Rules for Class B contracts. It is intended that the price schedules will be fixed throughout the term of the framework to offer the Council the benefits of economies of scale whilst improving maintenance efficiency and enabling the Council to standardise equipment used. All planned maintenance works will be carried out at regular pre-determined intervals in conjunction with regular service plans as generated by the Council.

## **2.7 Tender Process**

The tender will be advertised in the Official Journal of the European Union (OJEU) and will use the two stage Restricted Procedure comprising of Pre-Qualification (PQQ) and an invitation to tender (ITT). This is in accordance with the EU Procurement Directive 2004/18/EC for Services Contracts. The opportunity will also be advertised in The News as well as being posted on the Council's web site and Supply2gov.

## 2.8 Tender Evaluation

The tender evaluation will not be based on price alone; each lot will be evaluated on a 70% quality and 30% price basis.

The tender process will evaluate eligibility, financial viability, environmental and quality assurance, technical capabilities and references, health and safety, and equalities and diversity.

Following tender evaluation and in line with the Council's Constitution, unless otherwise instructed by Cabinet, a recommendation report in the form of a Delegated Decision will be submitted to the Corporate Director of Finance and Resources for approval to award of the contract.

## 3. Financial Issues

### 3.1 Financial

The framework is estimated to be at the combined value of approximately £717,332 over the twenty month term plus the additional twelve month extension with Schools expenditure £325,446, public buildings £198,316 and £193,570 for leisure buildings. These estimates are based on the historic pattern of expenditure.

Client departments hold the budget to fund this expenditure. Expenditure will be incurred on a "Call Off" basis and all expenditure will need to be contained within each departments overall budget.

	Projected Contract Expenditure	Projected Contract Expenditure	Projected Contract Expenditure (possible extension period)	Totals Including (possible extension period)
Year	2011/2012	2012/2013	2013/2014	
Schools	£88,758	£118,344	£118,344	£325,446
Public Buildings	£54,086	£72,115	£72,115	£198,316
Leisure Services buildings	£52,792	£70,389	£70,389	£193,570
Combined Contract Expenditure	£195,636	£260,848	£260,848	£717,332

## 4. Legal Issues

4.1 See comments of the Legal Partner at the beginning of this report.

## **5. Other Implications**

### **5.1 Risk Management**

Technical 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.

#### **Contractual Issues**

No Specific Implications

#### **Staffing Issues**

The Race Relations (Amendment) Act 2000 (RRAA) places a requirement on local authorities to make an assessment of the impact of new and revised policies in terms of race equality. Existing policies have already been subjected to impact assessments. This Authority has adopted an approach of extending the impact to cover gender, disability, sexuality, faith, age, and community cohesion. The tender process will be undertaken including current requirements for assessment of tenderers ability to meet the RRAA during contract performance. The subsequent contract will be managed in such a manner to include monitoring of RRAA requirements. The Council will encourage contractors to use local labour where practical and if possible to encourage local training schemes.

#### **Customer Impact**

The failure of the previous term contract resulted in early termination and potentially left our customers with a poor service towards the end of the contract and lack of continuity once it had finally been terminated. It is intended that by evaluating the capacity of the contractor(s) to deliver the separate lots under the framework this will provide the Borough with the potential of appointing up to three specialist mechanical contractors that will be capable of maintaining the continuity of the business.

#### **Safeguarding Children**

The contractors shall take all reasonable precautions to prevent injury to children by implementation of measures set out in Guidance notes H.S.G 151 issued by H.S.E. All operatives and contractual staff working in schools, nurseries, and children's centres will have been CRB checked which will be on file and must be produced on request

#### **Property / Asset Issues**

Good and regular planned maintenance will prolong the life of the mechanical equipment by a significant period.

#### **Environmental Impact**

Although the environmental impact of this contract is minimal, regular service and maintenance will provide greater longevity of the Council's assets and equipment thus reducing costly breakdown and failure times. This is also in line with making and maintaining a safer Borough and therefore compliant with the "Cleaner and Safer" mandate of the Council. An ongoing performance monitoring regime will be put in place to identify failure rates of individual manufacturer's equipment. This will allow the Authority to identify unreliable plant and enable the future procurement more robust energy efficient and economical equipment.

A standardisation of cost effective reliable equipment will be achieved on this basis.

**6. Options appraisal**

6.1 (A) To do nothing – Not considered as current legislation prevents this.

(B) Combine this contract into the East London procurement initiative framework for term maintenance contracts currently led by LB Tower Hamlets. This form of compilation is in its infancy with regards to term contracts and it is Asset Management's intention to commit its Building Term Maintenance contract to this collaboration to test the scheme for best value purposes. The reason for this selection is that the Building Maintenance Term contract has high financial value but very little legislative content as it deals with only reactive maintenance, and this will allow us to monitor the performance of the framework contract without risk to our legislative duties within this contract, if successful, then it is our intention to combine these works with the electrical minor works term maintenance contract and then join these combined contracts into the East London Framework initiative. However, this option has not been considered at this stage due to the available time constraints and the unsure position and un-advanced position of the LB Tower Hamlets framework contract and specialist nature of these works.

(C) To renew the Mechanical Contract in the same format as previous years – This option was rejected due to the failure of the previous contract to provide a robust solution to the Borough's needs in this area in the event of an early termination of contract.

**7. Background Papers Used in the Preparation of the Report:**

None

**8. List of appendices:**

None