

Report of: Property and Contracts Chief Officer

Report to: Director of Environment and Housing

Date: 29/07/16

Subject: Mechanical Services: Authority to Procure

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Leeds Building Services (LBS) currently have an agreement in place to support them in delivering Mechanical Services to client departments as an Internal Service Provider (ISP). This agreement, initially put in place for Property Maintenance, commenced on 1st January 2013 and expires on 31st December 2016 with no further options for extension available. This report seeks approval for the proposed procurement route, including the scope of service, for the provision of delivering Mechanical Services.
2. This procurement exercise will look to establish a framework agreement to support LBS in delivering Mechanical Services. It is anticipated that there will be multiple contractors appointed to each 'lot' of the agreement. This is to ensure that competitive pricing can be sourced in accordance with the needs to the Council's Internal Service Provider (ISP), LBS, and associated clients.
3. The new framework agreement is required from 1st January 2017, and will be for an initial period of 2 years with a further 2 x 12 month extensions available.
4. The anticipated annual value of this framework agreement is £1,380,000. The total estimated framework agreement value, £5,520,000 exceeds the Official Journal of European Union (OJEU) threshold and must therefore comply with OJEU timescales and advertisement regulations.
5. A review of the available procurement options has been undertaken with officers from Projects Programmes and Procurement Unit (PPPU) in compliance with Contract Procedure Rule 3. This report identifies the preferred option to deliver the service.

Recommendations

The Director of Environment and Housing is recommended to:

1. Grant the authority to procure a framework agreement to support Leeds Building Services to deliver Mechanical Services. The anticipated annual value is £1,380.000 per annum. The total value of the agreement, inclusive of extensions, will be approximately £5,520.000.
2. To approve the proposed procurement route which will be a OJEU compliant framework, and there will be multiple contractors and lots within the model.

1. Purpose of this report

- 1.1. To inform the Director of Environment and Housing of the procurement options available and seek approval to put in place a new framework agreement to support Leeds Building Services to deliver Mechanical Services in line with Contract Procedure Rule 3.1.8.

2. Background information

- 2.1. This procurement will replace the current agreement. It will also allow LBS to continue delivering services to Council departments as an Internal Service Provider, specifically with regards to delivering Mechanical Services.
- 2.2. This will ensure Council departments are able to approach Leeds Building Services in line with Contract Procedure Rule 3.1.4, and will support the Internal Service Provider to meet the varied needs of its client groups, contributing to best value being achieved for the authority.
- 2.3. This process is being run alongside a schedule of procurements taking place to support LBS and its sub-contracting requirements. These will ultimately support LBS in continuing as an ISP for Leeds City Council.
- 2.4. This provision is encompassed within the Construction and Housing Category Plan.

3. Main issues

- 3.1. In December 2015 a project group was set up to undertake the procurement. The group consists of representatives from teams within the Council including Leeds Building Services, Leeds Housing Property and Contracts, and Projects Programmes and Procurement Unit (PPPU).
- 3.2. This project has been registered on the Councils project management software: PM Lite, and has been assessed as a mid-scale (ref: CW516656).
- 3.3. The Leeds Building Services Mechanical section provide Mechanical services to various Leeds City Council departments that include Corporate Property Management, Children's Services and Housing Leeds. The service covers a wide variety of buildings in terms of type and use which includes schools, leisure centres, training centres, offices, public buildings, residential / nursing homes, day centres, children's' homes, council sheltered housing and multi storey flats.
- 3.4. The service is presently supported by a number of specialist Mechanical contractors and it is now the intention to carry out a procurement exercise to implement a framework agreement that will facilitate and secure the provision of these specialist Mechanical contractors.
- 3.5. The main objectives of this procurement activity are to allow LBS to continue providing a service to the authority and ensure mechanical systems in the Council meet all required servicing and Health & Safety requirements.
- 3.6. The framework to be procured will deliver the following:

Lot 1 – Installation, service, repairs and maintenance of air conditioning units, including air source heat pumps, and ventilation systems and ductwork - approximate value of £445k per annum.

Lot 2 – The supply, installation, repairs and maintenance of commercial catering kitchen ventilation systems – approximate value of £600k per annum.

Lot 3 – Commercial gas heating systems. installation, repairs and maintenance approximate value of £200k per annum.

Lot 4 – The design, supply, installation and repairs of boiler flue systems – approximate value of £45k per annum.

Lot 5 – Underground gas, heating and water services installation and repairs approximate value of £40k per annum.

Lot 6 – The installation, cleaning and repairs of insulation to ductwork and pipework and plant on commercial heating/cooling systems - approximate value of £25k per annum.

Lot 7 – The installation repairs and maintenance of pumps, to commercial heating systems, domestic hot /cold water systems and pressurised cold water systems - approximate value of £25k per annum.

- 3.7. The Performance and Commissioning Team in conjunction with Projects Programmes and Procurement Unit (PPPU) held a lessons learnt workshop with Leeds Building Services to review the current subcontracting arrangements. This identified that the key benefits to be achieved from this procurement will be to ensure the scope of opportunity is clear in order to avoid confusion for tenderers and to develop and maintain relationships with new providers to ensure the way in which the framework will work and be managed when in place is consistent from Leeds City Council.
- 3.8. It is worth noting, Civic Enterprise Leeds (now part of LBS) historically delivered works to external bodies such as West Yorkshire Police. Whilst there are no current plans for future similar delivery, there is a possibility of business expansion in the future, this may result in additional spend being put through this contract and the contract will be able to accommodate such additional works.
- 3.9. A contract management information workshop has been held and the following performance measures were identified. These will be reviewed and monitored by the Contract Manager and form part of the Contract Management Plan. The performance measures which will be collected are:
- a) Quoted Cost against Final Cost;
 - b) Completion of Works within Target Date;
 - c) Customer Satisfaction;
 - d) Health & Safety.
- 3.10. The contract form for this procurement will be a JCT Measured Term Contract, this was agreed in consultation with the project team and the reasons for deciding on this contract include the following:
- There is a regular flow of maintenance and minor works.
 - Works are to be carried out by a single contractor over a specified period of time under a single contract.
 - Where the work is to be instructed from time to time.

- Each works order can be individual in nature and contain task specific specifications.
- There is no specific guarantee of volume of works.

The above profile fits well with the anticipated nature of the mechanical works and is therefore most appropriate under the JCT Measured Term Contract.

3.11. The Contract Manager will be responsible for developing and managing:

- Monitoring performance measures and reporting processes;
- Annual reviews;
- Contract Management Plan;
- Exit Plan.

3.12. In order to deliver the procurement effectively, a project team including representatives from Leeds Building Services, Property & Contracts and Projects Programmes and Procurement Unit (PPPU) has been established. Property & Contracts representatives will be responsible for co-ordinating the project team and procurement delivery.

3.13. In discussion with Procurement Officers within the Projects Programmes and Procurement Unit (PPPU) the following Procurement options have been considered in line with Contract Procedure Rule 3.1;

Procurement Options:

Do nothing – This option was discounted as there are no extension options available on the current agreement. If no action was taken one of two unacceptable outcomes would take place, either the service would be unable to carry out its required function, or the non/off contract spend would be in breach of EU Public Procurement Directives and UK legislation, Public Contract Regulations.

External Frameworks – several frameworks were considered, including Fusion 21, ESPO (part of the PRO5), Efficiency North, Crown Commercial Services. The reason this option was discounted was whilst there were two frameworks which met some of the LCC need, there wasn't a solution which met it in its entirety. None of the frameworks were able to satisfy all of the council's requirements. In addition, due to the specialist nature of the smaller lots, in order to use one of these frameworks the contractors would then have to subcontract to smaller specialist contractors. This is a key reason in discounting this option, as LBS would need to be contracting directly to the specialist contractors for this work, maximising value for money and simplifying contract management.

Procure LCC framework (recommended) – this allows the Council to specify the service which it needs to meet its requirements completely, as opposed to having to settle for what is available through alternative solutions. This means that control is retained to ensure that the solution procured is of best fit, and provides best value to the Council and its residents. Best value will be sought through the call-off competitive mini-tender process, as well as ensuring that the model of delivery is tailor-made to suit LBS's requirements.

- 3.14. The procurement approach will be OJEU compliant framework, and there will be multiple contractors and lots within it. This will be structured in a way which facilitates SME involvement where appropriate.
- 3.15. The proposed price quality split will be 50% price and 50% quality. There will be a threshold in the quality submissions as each bidder will be required to score a minimum of 40% of the overall quality score available.
- 3.16. A detailed project plan has been produced for the procurement. A high level timetable is provided below:

Develop Scope	February 2016
Market Sounding	March 2016
Approval to commence Procurement: Delegated Decision Report	August 2016
Pre-Qualification Questionnaire (PQQ) and Tender Issue	September 2016
Tender Return	October 2016
Framework Agreement Award	November 2016
Framework Agreement Commencement	1 January 2017

4. Corporate Considerations

- 4.1. **Consultation and Engagement** There has been detailed internal consultation in developing this procurement strategy. This has been focussed within three key teams: LBS, Housing Leeds Property and Contracts and PPPU who are all represented on the project group.
- 4.1.2. Leaseholders have also been notified of the Council's intention to procure a new contract for this work under the Leasehold Consultation Requirements (England) Regulations 2003. A legal notice has been sent to leaseholders at city wide level. No comments or observations have been received to date from leaseholders' or Tenants and Residents' Associations.
- 4.1.3. In addition, a market testing exercise was issued via the YORtender portal on 10th March 2016 and closed on 1st April 2016. The opportunity to participate in this exercise was sent out to all of the existing contractors, as well as being openly advertised on the system so any appropriate contractor could respond. By utilising appropriate common procurement vocabulary codes for this exercise alerts were sent out to any contractor who had expressed an interest in that category of work in our area.
- 4.1.4. The market sounding feedback showed:
- There were some lots where there was considerable overlap in interest, and that the lot titles suggested proved attractive to bidders.

- Various proposals for the pricing models suggest that we need to ensure that any pricing model is really clear with how the council is procuring its works.
- There was good response in terms of how bidders would manage being on an agreement, including named account managers and detailed management information.
- There were a range of answers relating to the number of contractors per lot, with some contractors wanting work to be split by area, or to have a sole contractor per lot.
- There was no preference in terms of JCT or NEC contract terms.

4.2. Equality and Diversity / Cohesion and Integration

4.2.1. The Equality, Diversity, Cohesion and Integration Screening document has been considered and completed. No adverse or otherwise impacts have been identified.

4.3. Council policies and the Best Council Plan

4.3.1. It is paramount that procurement within Leeds City Council is undertaken with a view to ensure openness, transparency and fairness and procured in line with Leeds City Council's Contract Procedure Rules and the Public Contracts Regulations 2015.

4.3.2. This framework agreement will contribute to the Council's priorities by working towards becoming a more efficient and enterprising Council, and working as a team for Leeds.

4.4. Resources and value for money

4.4.1. The procurement will be carried out in an open and transparent manner as required by the Public Contract Regulations 2015 whilst ensuring competition is sought to identify best value when initially establishing the framework, as well as throughout the framework term by undertaking call-off contracts as and when specialist mechanical works are required.

4.4.2. The project will be contract managed by LBS within the Property and Contracts division of Housing Leeds. A contract management plan is under development for these works as is required by Contract Procedure Rule 3.1.16.

4.5. Legal Implications, Access to Information and Call In

4.5.1. It is proposed that Projects Programmes and Procurement Unit (PPPU) Commercial Team undertake due diligence of the framework agreement documents prior to this opportunity being advertised.

4.5.2. The Chief Officer for Property and Contracts, Head of Housing Contracts and PPPU officers have been consulted during the procurement process.

4.5.3. This is a Key Decision and will be subject to call in. There are no grounds for keeping this report confidential under the access to information.

4.6. Risk Management

4.6.1. A risk register will be developed as part of the framework agreement. This will highlight all risks and register how contract risks will be managed. The risk register will also form part of the scheme's Contract Management Plan.

4.6.2. The risks identified with this procurement are:

- Insufficient Tenders – this will be managed through use of the YORtender portal, OJEU advertising/Contracts Finder as well as market engagement through the tender process (i.e. a meet the buyer event).
- Uncompetitive pricing – this will be managed through the competitive tender process and the ongoing competition that the successful contractors will be subjected to through the call of procedure during the life of the framework agreement.
- Failure to meet minimum threshold for quality – this will be managed through detailed instructions to the market as well as utilising thresholds that are proportionate and achievable.
- Poor Contract Management – this will be managed through the use of a proportionate contract management plan and ensuring its use.
- Challenge – will be mitigated through following best procurement practice, ensuring fairness and transparency, and consultation with PPPU Commercial team to ensure robustness.
- Reputational damage – will be mitigated through market engagement, clear documentation/instructions and effective contract management which will diminish the risk of reputational damage.
- Risk to LBS if contract not in place – will be mitigated through the clearly structured timeline to support service deliver and ownership of the project group and associated officers to ensure that this is adhered to.
- TUPE – Commercial Gas element which is currently being in-sourced. This lot has been included in the framework as a contingency if Leeds Building Services are unable to deliver this element of work in-house.

5. Conclusions

5.1. There is a requirement to procure a new contract for the provision of delivering Mechanical Services.

5.2. The procurement will be supported by a clearly defined specification, stock data and robust arrangements for contract management.

6. Recommendations

The Director of Environment and Housing is recommended to:

6.1 Grant the authority to procure a framework agreement to support Leeds Building Services to deliver Mechanical Services. The anticipated annual value is £1,380,000 per annum. The total value of the agreement, inclusive of extensions, will be approximately £5,520,000.

6.2 To approve the proposed procurement route which will be a OJEU compliant framework, and there will be multiple contractors and lots within the model.

6.3 Background documents¹. N/A

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.