

Report of: Senior Housing Contracts Officer

Report to: Chief Officer of Property and Contracts

Date: 21/03/2017

Subject: Waiver Report – To seek approval to formalise the current service provider agreement with *Switch 2 – Prepayment Heat Meters*

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of ward(s): Citywide		
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number: Appendix number:		

Summary of main issues

1. Housing Leeds currently has almost 1,600 homes connected to communal or district heating systems. The standing charge for the heating bill is rolled into the rent and the tariff is managed by Switch 2 across the City.
2. The current agreement with Switch 2 is not a formal agreement and constitutes non-contract spend for the Council. Currently the yearly charge from Switch 2 is £75 per property. The service provided includes billing, money transfer, reporting and exceptions & help desk assistance. Switch 2 also provide a repair service for their metering equipment which is a separate cost and is at a premium rate.
3. This waiver report seeks approval to formalise the current agreement with Switch 2 until 2nd January 2019. This is to coincide with the Renewable Energy Recycling Facility (RERF) District Heating Network which will potentially connect c2,000 housing units over the next 2 years.
4. The spend for formalising the current agreement with Switch 2 is approximately £160,000. As a result, the decision to put this contract in place is a Significant Operational Decision.

Recommendations

The Chief Officer of Property and Contracts is recommended to approve -

1. The waiver of Contracts Procedure Rules 9.1 and 9.2 – (High Value Procurements) in order to formalise the current service provider agreement with Switch 2 without seeking competition in the sum of £160,000. This agreement will expire on the 2nd January 2019.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2 in order to formalise the current service provider agreement with Switch 2 without seeking competition in the sum of £160,000. This agreement will expire on the 2nd January 2019.

2 Background information

- 2.1 The Requirements for Metering and Billing come under the EU Energy Efficiency Directive 2014. The EU Directive on Energy Efficiency 2014, which has already been consulted on by the Department of Energy and Climate Change (DECC), mandates that all heat and cooling network operators are required to install heat meters, wherever it is technically feasible and cost effective to do so. If meters are not possible, the alternative would be Heat Cost Allocators.
- 2.2 The Directive also requires the use of these meters for billing purposes, with users charged based on their consumption, rather than as a fixed or assumed cost.
- 2.3 Alongside this there is a mandatory requirement that bulk heat metering must be installed on all communally heat blocks where the energy centre is not within the building footprint.
- 2.4 Switch 2 heat prepayment meters have been installed in individual flats across various residential sites with district heating systems and the intention is to install more heat prepayment meters in other residential blocks across Leeds.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 The installation of the 'Smart' prepayment meters by Switch 2 provide the ideal solution to the problem Leeds City Council (LCC) encountered with obsolete point of sale units and metering equipment.
- 3.2 The prepayment meters provide a host of benefits to the individual residents and Leeds City Council in terms of cost savings etc, in terms of reduced resources required to manage the point of sale outlets.
- 3.3 The prepayment meters can be remotely monitored and managed by the metering and billing supplier.
- 3.4 The prepayment meters can reduce overall energy consumption by 15%, which has been experienced by residents living in the Kirklees borough after having had the prepayment meters installed in 2012.
- 3.5 Switch 2 provide an all-inclusive service of installation, plus remotely monitor and manage the system. They have previously delivered the same type of work successfully at locations in the city. Re-engaging with the same company provides

an element of consistency in terms of the installation, monitoring, managing and the annual administration across all locations within the city.

- 3.6 Switch 2 understand the nature of the proposed works and have gained valuable experience in delivering this type of work under different conditions in large multi-occupancy buildings.

If we change providers there will be two options:-

- The new provider, retains the existing Switch 2 meters/G6units and pay Switch 2 £20 per unit as the equipment is not truly open protocol, this will be on top of the agreed service maintenance costs with the new provider. Due to the timescales and cost incurred this does not seem a viable option.
- The new provider removes switch 2 meters and replaces them with new units – this will be expensive and not practical as LCC have recently upgraded 550 properties with G6 units following a competitive tendering exercise. This will cost around £1m and would not look good as LCC have recently upgraded these properties. There would also be costs incurred by LCC (break-clause) for termination of the existing signed agreement.

Future Developments

- 3.7 The Internal Service Provider (ISP) Leeds Building Service could install the equipment and have the skills set and knowledge of these schemes. It would also provide a steady income. It is low risk and the work would be planned and therefore can be resourced appropriately. This may also be an opportunity to generate income from external organisations that may be looking to install metering in their schemes. There is an issue of cost difference between using an ISP and a tendered option of a minimum 20/25% uplift. However, currently the ISP does not have the knowledge and facilities to accommodate the metering/billing side of this contract. To implement this would be at a greater cost than retaining the existing agreement.
- 3.8 The Renewable Energy Recycling Facility (RERF) District Heating network will potentially connect c2,000 housing units over the next 2 years. Please refer to Appendix 1 – District Heating Sites. The expectation is that heat from the RERF will be provided to several energy centres close to clusters of tower blocks. The RERF metering and billing will be covered by a maintenance agreement for 5 years. The Switch 2 agreement will expire on 2nd January 2019, Housing Leeds will tender for contractor(s) to operate and maintain the local heat distribution network and bill tenants/leaseholders for the sites where Switch 2 meters are installed.
- 3.9 All Metering and Billing contracts with Switch 2 will come to an end on 2nd January 2019 to coincide with the completion of the RERF District Heating scheme.
- 3.10 The procurement strategy will need to be considered carefully as LCC may find itself in a position of having multiple providers and solutions which are not ideal. Some solutions on the market cannot be easily transferred from one billing provider to another without a cost. This will be an issue should Leeds City Council wish to take the billing function on. Most metering has the same functions but the collection

of data and billing is where the subtly and misunderstanding of what products can be procured.

- 3.11 Part of the procurement will also cover the ongoing maintenance of existing and newly installed heat prepayment meters which at the moment is agreed per scheme and is not open to scrutiny. By procuring with a robust specification in place and looking at how the service is batched, there are potentially significant savings to be made around:-
- The yearly charge of the metering & billing function;
 - Emergency repair costs & callouts;
 - The cost of the initial install;
- 3.12 The savings would be around the quantity of units installed and bulk buying of the equipment. The billing system once set up by a provider for one property is a simple task to add data sets and therefore using fewer suppliers would also keep costs down.
- 3.13 The existing Switch 2 meters installed will not be replaced because it would not be economically advantageous to replace these meters which the majority are under 5 years old and have an expected useful life of another 5 – 10 years and therefore less likely to incur repair/callout costs.
- 3.13 Once the RERF contractor starts metering & billing, Leeds City Council will have a comparison of another provider/product of metering and billing other than Switch 2. With this information and a better understanding of what technology is available and its optimum use this can be a good starting point.
- 3.14 The last couple of schemes where metering was installed as part of a heating install or upgrade the appointed contractor approached Leeds City Council and asked who our preferred metering & billing supplier are. The LCC metering specification requirements reflected the needs of the current provision, and as a result the Switch 2 solution was used by the successful bidder.

4 Corporate considerations

Consultation and engagement

- 4.1 Consultation has taken place with Projects, Programmes and Procurement Unit (PPPU) (Procurement Category Manager) and Housing Leeds operational teams including Property and Contracts Audit and Contracts Manager. All parties are of the opinion that the agreement with Switch 2 should be formalized until 2nd January 2019.
- 4.2 PPPU legal (Senior Project Solicitor) have also reviewed the terms and conditions of the current agreement with Switch 2 and have expressed no concerns for formalising the agreement.
- 4.3 Leaseholders have been served with the relevant notices under the Leasehold Consultation Requirements (England) Regulations 2003, this provision is added in to the service charge. It is worth noting, however, leaseholders have the option of not

having the heat meters installed and can use utilities as their main source of heating if they wish.

Equality and diversity/cohesion and integration

- 4.3 No adverse impact on equality & diversity / cohesion & integration is anticipated

Council policies and best council plan

- 4.4 The recommendations in this report do not contravene any existing Council policies.
- 4.5 The recommendations do contribute significantly to a number of the City Priorities, particularly reducing fuel bills and carbon emissions and providing quality affordable homes.

Resources and value for money

- 4.6 Leeds City Council have experience of working with Switch 2. They have familiarity with the provider and know the service they offer works. This still demonstrates value for money as the Switch 2 meters are a known product in the industry.

Legal implications, access to information and call-in

- 4.7 This is a Significant Operational Decision which is not subject to Call In and there are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.
- 4.8 By formalising the current agreement with Switch 2, this could leave the Council open to a potential claim from other suppliers to whom this contract could be of interest to, that it has not been wholly transparent. In terms of transparency, it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to suppliers from other EU member states and, if it could, the opportunity should be subjected to a degree of EU wide advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.) and the geographical location of the place of performance.
- 4.9 The Chief Officer of Property and Contracts has considered the nature of the services being delivered and due to the fact that this service must be provided by Switch 2, must be performed in Leeds and the relatively low value of this contract, is satisfied that this opportunity would not be of interest to providers in other EU member states.
- 4.10 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.

- 4.11 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2 the above comments should be noted. In making their final decision, the Chief Officer of Property and Contracts should be satisfied that the course of action chosen represents best value for money.

Risk management

- 4.12 If a waiver for continuing to use prepayment heat meters with Switch 2 is not approved then the following risks may apply:
- Increased non-contract spend.
 - Potential disruption of service in planning the logistics between the handover of the old and new system, and switching meters.
 - Switch 2 have agreed in principle to end all current arrangements in January 2019, there is a risk of not understanding the scope of the new project/arrangements due to insufficient time.

5 Conclusions

- 5.1 Housing Leeds are currently incurring non-contract spend by using Switch 2 to install prepayment heat meters in individual flats connected to a District Heating System.
- 5.2 By formalising the current agreement with Switch 2 until 2nd January 2019, this will ensure the Council will have a compliant contract in place and coincide with the RERF District Heating network going live, thus giving enough time to develop a procurement strategy to deliver this service in the future.

6 Recommendations

The Chief Officer of Property and Contracts is recommended to approve -

- 7.1 The waiver of Contracts Procedure Rules 9.1 and 9.2 – (High Value Procurements) in order to formalise the current service provider agreement with Switch 2 without seeking competition in the sum of £160,000. This agreement will expire on the 2nd January 2019.

7 Background documents¹

- 7.1 Appendix 1 – District Heating Sites

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.