

Report of Chief Executive Officer BITMO

Report to Director of Resources and Housing

Date: 4th June 2018

Subject: To agree a new 6 months contract for Belle Isle Tenant Management Organisation responsive repairs, internal refurbishments and adaptations (Schedule of Rates) Contract

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In? check with governance	<input 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 type="checkbox"/> No

Summary of main issues

1. Belle Isle Tenant Management Organisation (BITMO), on behalf of Leeds City Council, has a legal obligation to undertake repairs, maintenance and adaption works to dwellings which are under their current management agreement.
2. Morrison FS Ltd., which was subsequently purchased by Mears Group Plc, was awarded a five year contract from 1st October 2011 to 30th September 2016 for the responsive repairs, internal refurbishment and adaptation works to the Belle Isle TMO managed housing stock. This followed a formal procurement exercise undertaken on behalf of Leeds City Council and under the guidance of the then Leeds City Council Procurement Team.
3. Under the terms of the JCT Measured Term Contract the option available to extend the contract for up to a further twenty four months (2 years) was implemented following approval by the BITMO Board and the Director of Resources and Housing under the Council's Governance regulations and Constitution on 4th July 2017.
4. A new procurement exercise has commenced for another OJEU Procurement (OJEU Contract notice published on 13th November 2017). BITMO have undertaken a number of activities and progressed the procurement of this contract. Most recently this included the timely completion of the evaluation of Pre-Qualification Questionnaires and the approval of a shortlist of organisations to be invited to submit full tenders. However following an unexpected delay linked to available resources within the Council's Procurement Team it has now become apparent that there are significant risks associated with the current timetable which culminates in a contract start date of 1st October 2018. This report therefore

looks at the merits of the two available options – to proceed or extend the established timetable.

5. This report concludes that a delay in starting the contract is the most sensible option and therefore seeks permission to negotiate a short term 6 month contract (circa £900,000) with the current provider. This would allow sufficient time to have a new contract in place to start from 1st April 2019.

Recommendations

1. Seek approval from the Director of Resources and Housing to the report and to the proposal to put in place a short term 6 month contract (1 October 2018 to 31 March 2019) with the current repairs and maintenance contractor (Mears Group Plc).
2. Note the contents of this report and to approve the waiver of Contracts Procedure Rules 9.1 and 9.2 in order to put in place a formal contract that reflects the current service provision with Mears Group Plc which includes a process of negotiation.
3. Note that this provides sufficient time to ensure sufficient resources are in place from Belle Isle TMO and PPPU to effectively complete the new OJEU procurement exercise to commence a new contract from 1st April 2019 with appropriate time contract mobilisation.
4. Note that the incumbent contractor has agreed in principal to maintain the existing rates for the proposed six month period. Note also, however, that the negotiation may need to allow for unit rates to be adjusted by an agreed amount following negotiation between representatives of Belle Isle TMO and the current incumbent contractor.
5. Note that this proposal has been placed on the forward plan and implementation will be a key decision based upon expenditure levels under the Council's constitution and therefore subject to 'Call-In'.

1 Purpose of this report

- 1.1 To provide detail of the requirement to engage the services of a repair and maintenance service contractor to undertake responsive repairs, internal refurbishment and adaptations to the Belle Isle TMO managed housing stock including void work and capital investment improvement works to domestic properties managed by Belle Isle TMO on behalf of Leeds City Council from 1st October 2018 to 31st March 2019.

2 Background information

- 2.1 The provision of a property repairs and maintenance service is a legal requirement that the Council and its appointed Management Organisations are obliged to undertake to ensure that each property meets minimum lettable standards
- 2.2 Belle Isle TMO manages a contract on behalf of Leeds City Council in the Belle Isle area of the City. Mears Group Plc is the incumbent contractor and delivers this particular service to the Belle Isle TMO managed stock of approximately 1,900 dwellings.
- 2.3 The current contract commenced on 1st October 2011 for the period of five years following a formal procurement exercise undertaken on behalf of Leeds City Council and under the guidance of the then Leeds City Council Procurement Team.

2.4 In accordance with Clause 11.4 of the JCT Measured Term Contract the contract was extended by a period of up to twenty four months from 1st October 2016 to 30th September 2018.

2.5 A new procurement exercise has commenced for another OJEU Procurement (OJEU Contract notice published on 13th November 2017). BITMO have undertaken a number of activities and progressed the procurement of this contract. Most recently this included the timely completion of the evaluation of Pre-Qualification Questionnaires and the approval of a shortlist of organisations to be invited to submit full tenders. However following an unexpected delay linked to available resources within the Council's Procurement Team it has now become apparent that there are significant risks associated with the current timetable which culminates in a contract start date of 1st October 2018. This report therefore looks at the merits of the two available options – to proceed with the established timetable or to delay the start.

2.6 Contract Value

The current non-guaranteed combined capital and revenue values indicated in the original contract documentation for this contract are:

Repairs **£550,000.00** (Five Hundred and Fifty Thousand Pounds per year)

Void Work **£1,000,000.00** (One Million Pounds per year)

Adaptations **£250,000.00** (Two Hundred and Fifty Thousand Pounds per year)

Annual contract expenditure for the current financial year is anticipated to be approximately at this level but with a higher proportion of expenditure on planned works. It is therefore anticipated that a 6 month contract negotiation will be for £900,000.

3 Options for Consideration

3.1 Option 1 – Amend the original timetable and proceed with procuring a new contract with a start date of 1st October

A new procurement exercise has commenced for another OJEU Procurement (OJEU Contract notice published on 13th November 2017). BITMO have undertaken a number of activities and progressed the procurement of this contract. Most recently this included the timely completion of the evaluation of Pre-Qualification Questionnaires and the approval of a shortlist of organisations to be invited to submit full tenders. However, following an unexpected delay linked to available resources within the Council's Procurement Team, it has now become apparent that there are significant risks associated with the current timetable which culminates in a contract start date of 1st October 2018.

As a result of issues around available resources to deliver the new procurement it may be possible that a contract could still be awarded on or before 1st October 2018, however given the issues referred to in this report and a substantially reduced timetable it is not anticipated that this contract could be awarded with an effective contract mobilisation period of 3 months and this, it is expected, would cause major issues and be unsatisfactory to commence a new contract on this basis.

It should be noted that the option has been considered to just seek a period of 3 months to put in place a new contract, so as to start the new contract from 1st January 2019; however it is felt to be inappropriate to start a new contract for responsive repairs and maintenance, adaptations and planned investment works immediately after Christmas.

To mobilise a new contract will also require a significant staff resource input to monitor performance and it would be unlikely that current performance levels would be matched during at least the first quarter of the contract period with a new contractor. Contractor mobilisation of compatible IT systems and co-location of contractor staff are additional factors that have potential to affect the quality of the initial service delivered

A dedicated Mears Group Plc workforce is engaged solely or predominantly on the BITMO contract and would be subject to TUPE to a new contractor. This requirement could also have potential to disrupt the contract mobilisation.

3.2 **Option 2 – Extend the timetable and negotiate a short term 6 month contract to deliver the Repairs and Maintenance Contract requirements**

Under the current contract that will have been in place for 7 years Mears Group Plc is providing good value for money. The current schedule of rates is currently 7.71% net below the original competitively tendered value (10.05% without adjustment for inflation). This has allowed increased planned and targeted investment in the housing stock and will provide a good basis to negotiate a cost beneficial fixed rate adjustment for the contract extension period. In addition the contract has proved a good source of employment for apprentices which has proved successful for five operatives.

Mears Group Plc has consistently provided a good repairs and maintenance service over the contract period for all work streams. Co-location with Mears Group staff has proved especially beneficial. For the current financial year the following performance figures are available to February 2018:

- 99.62% of reactive and planned repairs have been completed within target.
- 97.92% of reactive repairs have been right first time.
- 100% of recorded customer satisfaction surveys indicated full satisfaction with the service provided (verified by independent Belle Isle TMO surveys)
- Average contractor void property turnaround time for combined revenue and capital work is 5.78 days.
- 97.34% of major and minor adaptations have been completed within target with high customer satisfaction levels.
- High customer satisfaction levels have been received for kitchen and bathroom refurbishment works.

To ensure continuity of service and value for money, Option 2 would be the favoured option of the Belle Isle TMO management and LCC Procurement Team - to extend the existing contract with the incumbent service provider for a period of six months at an agreed rate adjustment frozen for the full extension period.

3.3 **Proposed timetable**

In order to implement a new contract with sufficient contract mobilisation to start the newly procured contract from 1st April 2019, the following programme is proposed.

Activity	Original dates	Option 1 - Contract still starts on 1st October 2018	Option2 - Contract Starts on April 1st 2019
Finalise tender	19 th January	6 th April 2018	Mid May 2018

documentation	2018		
Proposed Tenders Out	22 nd January 2018	6 th April 2018	Early June 2018
Proposed tender return date	27 th February 2018	8 th May 2018	Mid-August 2018
Tender Evaluation process complete and award report approval by Tenant Board	28 th February to 19 th April 2018	16 th May – 22 nd June 2018	Late August 2018 to end September 2018
Leaseholder Consultation and notification	23 rd April – 1 st June 2018	22 nd June – 27 th July 2018	End September 2018 for 30 days
Award report approved as a SOD under constitution, ALCATEL and contractor feedback	11 th June – 29 th June 2018	30 th July – 17 August 2018	Early November 2018
Contract award implemented	2 nd July 2018	20 th August 2018	End November 2018
Mobilisation period including potential TUPE transfer, ICT interface, operational matters	3 rd July - 30 th September 2018 (3 months)	21 st August – 30 th September 2018 (5 weeks)	Mid December 2018 (3 months)
Contract Start	1 st October 2018	1 st October 2018	1 st April 2019

4 Corporate Considerations

4.1 It is a legal requirement that Leeds City Council undertake repairs and maintenance works to dwellings where they are the landlord.

4.1 Adequate time is available to undertake a formal extension of the existing contract

29th March 2018

Belle Isle TMO Full Board Approval for Extension of Contract (Completed)

Late April 2018 (after forward plan)

LCC Approval to award new 6 month Contract via Director Delegated Decision (key decision) based on the existing contract terms and conditions; current schedule of rates and KPI's

4.2 Consultation and Engagement

- 4.3.1 The current service provider, Mears Group Plc., has a small team based at the Belle Isle TMO office and the management team would recommend that this effective presence for an enhanced service remains and fulfil the Boards requirement for local employment.
- 4.2.2 TUPE will not apply to the proposed short term 6 month contract and Belle Isle TMO have confidence that Mears Group Plc., will maintain current employment commitments to this contract including successful on-going training and apprenticeships.
- 4.2.1 Belle Isle TMO has confidence that the incumbent service provider will strive to meet service levels required by Leeds City Council for the duration of the proposed 6 month period 1st October 2018 to 31st March 2019.
- 4.2.2 Leeds City Council Property and Contracts SMT will be consulted on the recommendations within this report, prior to reference to the Director of Resources and Housing for a formal decision.
- 4.2.3 Belle Isle TMO Board have been consulted by BITMO Chief Executive and are in agreement with the recommendations within this report.

4.3 Equality and Diversity / Cohesion and Integration

- 4.4.1 Leeds City Council contract screening process will be used to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

4.4 Council Policies and City Priorities

- 4.6.1 It is a legal requirement that Leeds City Council undertake repairs and maintenance to dwellings where they are the landlord.

4.7 Resources and Value for Money

- 4.7.1 Existing Belle Isle TMO resources are currently in place, and will work jointly with support from PPPU to ensure continuity of service for the 6 month contract and the new procurement exercise.
- 4.8 It is felt that the short term 6 month contract will provide good value for money for the services provided under the contract.

4.9 Legal Implications, Access to Information and Call-In

- 4.9.1 The decision that is proposed would be a Key Decision which is subject to Call-In as the maximum cost of the extension within this decision is more than £250k per annum. A notice will be published on the List of Forthcoming Key Decisions following the full Belle Isle TMO Board approval.
- 4.9.2 This report does not contain any exempt or confidential information under the Access to Information Rules
- 4.9.3 The current contract does not have any further provision to extend and due to the value of the contract the Public Contracts Regulations 2015 (EU regulations) apply. This extension would be a “new” contract for the purposes of the EU regulations. Regulation 72 (5) permits

modification of contracts during their term which is below the relevant threshold (at £900k the additional works are below the EU regulations works threshold of £4.5m) and which is worth less than 15% of the original contract value. The contract value to date has been approximately £1.75m per year over 7 years totalling approximately £12m so the £900k extension is in the region of 7.5% of this value and therefore well within the permitted range.

- 4.9.4 Contract Procedure Rules 9.1 and 9.2 will need to be waived to permit the direct appointment of Mears for this extended period. The financial, legal, risk and equality implications of this decision are set out in the report.

4.10 Risk Management

- 4.10.1 Belle Isle TMO is effectively monitoring/managing the contract on a day to day basis to ensure continuity of service in accord with required Leeds City Council KPI targets.
- 4.10.2 Belle Isle TMO are confident that the negotiation of unit rates for the 6 month period will maintain a cost saving below the original tender rates submitted at the start of the contract in October 2011.
- 4.10.3 A contract management plan as required by the Councils Contract Procedures Rules will be in place for the 6 month contract.
- 4.10.4 The extension appears to be in line with that permitted by the EU regs and the contract procedure rules but there is always the chance that a competitor will challenge this decision. A further mitigating factor and defence to any challenge is that the authority is in the process of re-procuring these works and this is just a temporary measure to maintain the service to tenants while the re-procurement is completed.

5 Conclusions

- 5.1 If the proposed action(s) are not approved no contractor could be potentially available to undertake repair and maintenance work to any dwellings managed by Belle Isle TMO on 1st October 2018
- 5.2 Leeds City Council would be in breach of the legal requirement to undertake due Landlord Maintenance to Council dwellings in the area managed by Belle Isle TMO.

6. Moving forward / Next Steps

- 6.1 To continue with the new procurement exercise so as to have a new contract in place for 1st April 2019.
- 6.2 Subject to approval, to commence negotiations with the incumbent provider for a 6 month short term contract for the period 1st October 2018 to 31st March 2019.

7. Recommendations

- 7.1 The Director of Resources and Housing is requested to:
- 7.1.1 Approve the proposal to put in place a short term 6 month contract (1 October 2018 to 31 March 2019) with the current repairs and maintenance contractor (Mears Group Plc).

- 7.1.2 Note the contents of this report and to approve the waiver of Contracts Procedure Rules 9.1 and 9.2 in order to put in place a formal contract that reflects the current service provision with Mears Group Plc which includes a process of negotiation.
- 7.1.3 Note that this provides sufficient time to ensure sufficient resources are in place from Belle Isle TMO and PPPU to effectively complete the new OJEU procurement exercise to commence a new contract from April 2019 with appropriate time contract mobilisation.
- 7.1.4 Note that the incumbent contractor has agreed in principal to maintain the existing rates for the proposed six month period. Note also, however, that the negotiation may need to allow for unit rates to be adjusted by an agreed amount following negotiation between representatives of Belle Isle TMO and the current incumbent contractor.
- 7.1.5 Note that this proposal has been placed on the forward plan and implementation will be a key decision based upon expenditure levels under the Council's constitution and therefore subject to 'Call-In'.

8 **Background documents¹**

JCT Measured Term Contract and Contract DocumentationF for Belle Isle TMO Responsive Repairs, Internal Refurbishment and Adaptations Scheme (Schedule of Rates) Contract 2011

Performance Data from Leeds City Council Housing Management Software and recorded on Belle Isle TMO Contractor Performance and Liaison Monthly Meeting Minutes

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.

