

Report of Head of Leeds Building Services

Report to Director of Resources and Housing

Date: 21st June 2019

Subject: Authority to undertake a procurement exercise in line with CPR 3.1.6 for the appointment of contractors to carry out Tarmacadam and Groundworks to Domestic Properties and Civic Estate

Are specific electoral wards affected? If yes, name(s) of ward(s): City Wide	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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

1. Main issues

- The existing Leeds Building Services (LBS) contracts for Tarmacadam works and Groundwork works covering Civic (Non-Housing) and Housing are both due to expire March 31st and 22nd February 2020 respectively with an option to extend for a further three months if required. The three month extension provision is to be reviewed to assess if they are required and a further report will be provided dealing with this issue. The provision is an ongoing requirement therefore requires a new procurement exercise to be carried out in competition and contract awarded in advance of contract expiration.
- Following a procurement options review it is felt that the most appropriate methodology is that a Leeds City Council tender using suppliers from Constructionline would be the preferred procurement route of delivery for this requirement.
- In order to establish such a contract a procurement options appraisal has been undertaken, and this procurement has already been added to the list of forthcoming key decisions.

2. Best Council Plan Implications

- The procurement will impact on the Best Council Plan by; ensuring quality and accessible homes, improving housing stock and lead to an overall improvement to Civic stock in the area around Leeds.
- This contract will support inclusive growth by providing regeneration to civic areas.

3. Resource Implications

- The monetary benefits of this procurement exercise ensure that with competition and the ability to test price and quality, it will maximise efficiency and gain value for money.
- The contractor will have specialist skill, technical expertise and knowledge that will ensure all works are completed with regards to Health and Safety and environmental consideration. The service will operate on the agreed tender price with clear costs and ways of working laid out during the tender process.

Recommendations

- a) The Director of Resources and Housing is requested to approve, in line with Contract Procedure Rules 3.1.6, a competitive tender process to procure and award contracts for the provision of Tarmacadam and Groundworks covering Civic (Non-Housing) and Housing works in order to support Leeds Building Service deliver its works programme for a 3 year period with the option to extend for a further 12 months with an estimated sum of £780k per annum.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval in accordance with Contract Procedure Rule (CPR) 3.1.6 to carry out a procurement exercise for a contractor to cover Tarmacadam works and Groundwork works for Housing and Tarmacadam works and Groundwork works for Non-Housing Civic, in order to support LBS deliver its programme of work.
- 1.2 This report outlines a preferred procurement option, the reasons behind the decision and the steps taken to ensure the tender submission demonstrate and provide Tarmacadam and Groundworks contractors that demonstrate both expertise and value for money.

2. Background information

- 2.1 LBS currently manage the delivery of Tarmacadam works covering: excavating and reinstating tarmacadam paths and driveways to domestic properties as well as laying tarmacadam on Civic carparks, driveways and roads. Groundwork work covers: Breaking up existing paths, removing debris, and infilling hard-core and laying base and wearing course for both Housing and Civic (non-housing) through existing contracts that have been in place since 2015. LBS currently manage the delivery of works undertaken through the current contract on behalf of departments across the authority. This arrangement will continue with the procurement of the contracts outlined below. The contracts below have been extended to ensure the Council has ample time to procure a new contract and ensure there is no off contract spend on this work stream during the new procurement.
- 2.2 The current contract for Tarmacadam and Groundwork covering Housing expires in April 2020 however the Council has an option to extend for a further 3 months if required.
- 2.3 The current contract for Tarmacadam and Groundwork covering Civic property expires in February 2020, however the Council has an option to extend for a further 3 months if required.
- 2.4 LBS currently manage the 2 contracts as separate, however as part of the procurement process, consideration is to be given with Service Managers in LBS to discuss a joint contract for Housing and Civic works, given the nature of the works. An Expression of Interest (EOI) has been sent out to contractors to determine their interest in tendering for a joint contract or for a separate contract for each work stream.

3. Main issues

- 3.1 LBS currently delivers approximately £260k per annum in relation to Tarmacadam works and Groundwork works to Leeds Housing stock and approximately £520k per annum in relation to Leeds Civic (non-housing) stock. It is proposed that contract be let for a 3 year period starting in April 2020 with the option to extend the contract for a further 12 months. The works cover tarmacadam and groundwork for housing property which includes excavating, reinstating tarmacadam paths and driveways as well as repair work. Concrete edgings will also be required. The works for Civic sites comprises of excavating and reinstating tarmacadam carparks, driveways and roads.

- 3.2 It is proposed that the tender evaluation methodology will be based on a 60% price and 40% quality split. The questions and weightings that make up the quality tender evaluation criteria are being prepared and approval of the evaluation criteria (including the quality questions) will be sought from the Chief Officer of Property and Contracts in accordance with CPR 15.1 in due course.
- 3.3 As an attempt to generate a good level of interest extensive research has been undertaken using the Government's approved list 'Constructionline' in order to identify good quality Tarmacadam and Groundworks specialists. The EOI that has been issued identifies a clear scope of the works required to contractors and the key timelines for implementation.
- 3.4 The decision as to whether to bring Housing and Civic work streams under one contract will be taken once all EOI responses have been received and discussions with Service managers and Procurement teams have taken place.
- 3.5 By bringing the contracts for Housing and Civic together under one contract it would support Leeds City Council and LBS in bringing value for money and gaining more interest from Contractors. However if Service Managers decide on keeping the contracts separate a joint procurement for the two work streams would also support value for money. As the specification and requirements are similar with contractors that can carry out either work stream this joint tender would be the most cost conscious approach for the Council.
- 3.6 There will be no guarantee of any volume of works throughout the contract terms.

4. Procurement Options

- 4.1 **Do Nothing** – Not an option as the current contracts are due to expire in early 2020 and, as the provision for this work is required across the Housing and Civic stock, a contract must be secured for both areas of spend. This would ensure no off contract spend in this area.
- 4.2 **Internal Service Provider (ISP)** – This would be a very quick option since there would be no procurement activity and work could be awarded directly to the ISP. However, on this occasion it is not relevant as the procurement is required to support in house capacity to deliver Tarmacadam and Groundworks and the contractors will be managed by LBS directly.
- 4.3 **Waive Contracts Procedure Rules (CPRs)** – Whilst it is possible to seek another waiver of the contracts procedure rules, this has been done previously in order to enter interim contracts so that a procurement exercise can take place. As such, if another waiver of the CPRs were sought it would leave the Council open to a potential challenge from other providers, to whom the contract could be of interest, that the procurement rules had been breached and therefore, this option is not recommended.
- 4.4 **Constructionline Council Procurement (Recommended)** – This route would provide an opportunity to test the market through a competitive exercise. A bespoke specification, pricing documents, robust shortlist and evaluation process will be developed to ensure value for money is obtained. An EOI to contractors who can carry out works on Tarmacadam and Groundworks has already been issued and all suppliers expressing an interest in either of the work streams will be invited to a restricted tender with bidders being evaluated through a price-quality evaluation

methodology. The EOI responses have shown that 17 contractors are interested in tendering for the Civic works and 17 contractors have shown an interest in tendering for the Housing works. This route would allow the Council to approach a wide field of contractors both large and small to medium enterprises. This procurement option would provide the Council with a compliant and robust tender process. The use of Constructionline would allow the Council to select suppliers that have already been through a validation process to ensure they have completed a PAS91 and have provided the necessary financial and insurance information. This would give the Council assurance that the contractors selected to tender from Constructionline would have the basic requirements sought by the Council.

4.5 **External Frameworks** – The Efficiency East Midlands Ltd Framework has been setup under the OJEU guidelines to cover Tarmacadam and Groundworks requirements. The Framework that could be used (EEM044, External Environment Improvements Work) allows either EEM to lead the tender process or the Council with EEM support on questions, scoring and evaluation. The EEM team have contacted suppliers via an expression of interest form which contains details of the Council requirements and scope of works. EEM have 5 contractors in the framework, however only one of the suppliers has national coverage. The remaining 4 contractors cover areas around the Midlands, however an initial expression of interest has been sent to all contractors in the framework. The EOI responses from EEM showed that contractors on the framework did not feel they could offer value for money in the tender due to their distance from the Leeds area a small size of works. Furthermore this framework option did not contain the incumbent contractors and for a transparent and fair tender process ideally these should be included in any new tender option. Other frameworks have been considered for this tender, including Yorbuild and Efficiency North, however none of the frameworks looked at covered the works required or the type of contractor needed to carry out the works. Other external frameworks that did cover Tarmacadam and Groundwork, focused on Highways works and so could not be considered for this contract. None of the external frameworks provided sufficient contractor interest to provide value for money delivery through the tender process. However any contractor who has shown an interest will be included on the tender list if they are approved on Constructionline.

4.6 The proposed timetable for the delivery of this arrangement using a Council Procurement is set out below:

Dates	Process
July/August	Issue Tender Documentation
4 Weeks Later	Tender Submission Deadline
4 Weeks Later	Tender Evaluation and Governance

November/December	Contract Award
April 2020	Contract Start

4.7 **Corporate Consideration**

4.7.1 **Consultation and Engagement**

Leeds Building Services have consulted with:

- Housing Procurement Team representatives, for developing relevant data protection aspects of the tender documents;
- Procurement and Commercial Services Team (PACS) representatives have seen the report and are supportive of its contents.

4.8 A Privacy Impact Assessment was completed from which it was determined that the delivery contractors role would be that of a Data Processors. Assessment of how contractors respond to the requirements of the Data Protection Act 2018 is part of the quality evaluation criteria. The tender documentation will also include standard clauses in line with the General Data Protection Act 2018. We are currently working with Leeds City Council Information Governance Team in order to develop these.

Climate Emergency

4.8.1 The appointment of a contractor is unlikely to have a negative or positive impact on the reduction of carbon emissions.

4.9 **Equality and diversity / cohesion and integration**

4.10 An equality, diversity, cohesion and integration impact assessment has been undertaken which has indicated that there are no negative impacts arising from undertaking this procurement.

4.11 The proposal will enable the delivery of improvement works for Leeds tenants and their access pavements. The civic contract would improve the quality and lifecycle of Tarmacadam and Groundwork areas across the Leeds area.

4.12 **Council Policies and Best Council Plan**

4.13 The procurement of this contract will enable the delivery of Tarmacadam and Groundwork within the City and therefore contribute to key objectives within the Best Council Plan by;

- Ensuring quality and accessible homes
- Improving the housing stock
- Overall improvements to Civic stock in the area around Leeds

4.14 This contract will support Inclusive Growth in the Best Council Plan by providing regeneration to Civic areas. Contractors will be able to use the Civic and Housing works to improve workers skills and possibly help people into work.

4.15 The procurement of a contractor for Tarmacadam and Groundwork will offer social values including community benefits from improving the access and groundworks around their properties.

4.16 **Resources and Value for Money**

4.17 The procurement will be carried out in line with Public Contract Regulations whilst ensuring competition is sought to identify best value.

4.18 This contract will be managed by Leeds Building Services who will develop and implement a Contract Management Plan which will detail how the contract will be managed, including performance reporting processes and how payments will be made. Whilst the performance indications and service standards will be the same for both internal and external providers there is a need to have separate plans due to the differences in communication with the provider, payment process and reporting mechanisms. Leeds Building Services are aiming to have a draft contract management plan available for review prior to contract award.

5. **Legal Implications, access to information and call-in**

5.1 The delegated decisions to determine the procurement approach for the consultancy services detailed in the report should be taken in compliance with Contract Procedures Rules 3.1.6.

5.2 Given the costs related to this contract this decision will be a key decision and will be eligible for call in. There are no grounds for keeping the contents of this report confidential under Access to Information Rules.

5.3 In making their final decision, the Director of Resources and Housing should note the above comments and be satisfied that the course of action chosen represents best value for money.

5.4 This is a Key Decision and is eligible for call in.

6. **Risk Management**

6.1 The risks identified with this procurement are listed below;

- No or inadequate tenders submitted, this will be mitigated by ensuring a wide selection of contractors are part of the tender and have responded positively to the Expression of Interest
- The procurement approach may fail to engage with the appropriate organisation to tender for this work. This has been mitigated by using a very clear and informative EOI to ensure that all contractors are aware of the works requirements and have a past history of working in this area.
- Uncompetitive pricing, this will be mitigated through competitive tender process.
- Poor contract management, which will be mitigated through the use of a proportionate contract management plan and ensuring its use throughout the lifetime of the contract.

- Challenge, which will be mitigated through following best procurement practice, ensuring fairness and transparency, consultation with all the stakeholders to ensure robustness of the tender documents. All suppliers will be given a 10 day standstill period to offer them the opportunity to challenge the decision.
- Late delivery of the contract, which will be mitigated through the clearly structured timeline to support service delivery and ownership of the project group and associated officers to ensure this is adhered to.

7. Conclusions

- 7.1 In Conclusion, this report highlights the proposed procurement route and sets out the proposed contract structure for the delivery of Tarmacadam and Groundworks to domestic properties and civic sites across Leeds.
- 7.2 LBS and procurement officers have reviewed all the potential procurement options and have concluded that the preferred option would be to establish a contract using a competitive tender process on YORtender; inviting contractors from Constructionline who have expressed an interest. Extensive work has resulted in 17 contractors expressing their interest in these works and potentially submitting a bid for this tender. Further work will be carried out to improve the specification and tender documentation, including the pricing document.
- 7.3 This contract will support LBS to deliver the specific programme of work. It is expected, with extensive works that has been undertaken in new market research, this new contract will generate interest and hopefully a greater number of tender returns. Therefore, with the perceived benefits of a more competitive price been achieved, in addition to additional contractor resources.

8. Recommendations

- 8.1 The Director of Resources and Housing is requested to approve, in line with Contract Procedure Rule 3.1.6, a competitive tender process to procure a contract to appoint contractors to support LBS delivery of their work programme for a 3 year period with the option to extend for a further 12 month period with the estimated sum of £760k per annum.

9. Background documents

None.