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Request to Award a Contract Direct to Solar for Schools Limited under Contract Procedure Rule 9.5

Date: 2nd June 2021

Report of: Chief Officer (Sustainable Energy and Air Quality)

Report to: Director of Resources and Housing

Will the decision be open for call in? ☐ Yes ☒ No

Does the report contain confidential or exempt information? ☐ Yes ☒ No

What is this report about?

Including how it contributes to the city's and council's ambitions

- The council has been successful in obtaining a £25M grant from central government through BEIS which includes £710,547.01 (including contingency) to install solar PV to the rooves of 12 of Leeds maintained schools.

- The programme of works also includes the installation of an air source heat pump at these schools to replace gas boilers that are coming to the end of their life.

- There is a requirement to appoint a contractor to supply, install and provide ongoing maintenance and support of the solar arrays that will be installed as the internal service provider does not have the appropriate skills for this technology.

- Several procurement routes have been explored to identify a supplier who can deliver this programme of work within the extremely tight timescales imposed on the award of the grant. These schemes must be delivered by 30th September 2021. A suitable framework which would allow the council to appoint a supplier directly without competition, due to the tight timescales regarding delivery, which covers all aspects of the requirements could not be identified. Equally, the traditional solar PV business model of full capital input by the Client proved incompatible with the BEIS grant requirements, and as a result an alternative business model was needed to submit a bid and avoid missing funding.

- Solar for Schools Ltd (SfS) is a not for profit organisation who have a history of delivering solar PV schemes tailored specifically for school's estate. Their business model includes;
    - Design,
    - Supply,
    - Installation,
    - Annual payment for additional energy generated and not used on site,
    - Maintenance, support and monitoring, and
    - Replacement of inverters over a 25-year period

- SfS have a proven track record of delivering these types of schemes, including sites in Leeds such as Seven Hills Primary School and Otley Library and Tourist Information Centre.

- Schools will benefit from the SfS business model as it will provide them with cheap renewable energy (below half the current cost of grid electricity) generated on site, an inclusive maintenance, support and monitoring regime, the ability to lift the panels (covered for any damage) should there be a requirement to repair any area of the roof and an income from over generated energy. The Council is required to put in 80-90% of capital costs at the point of installation.

- Other solar PV installers do provide some of these services, but these are add-ons to the design, supply and installation element which was available on the frameworks explored.
    - Additional legal agreements would be required to cover the maintenance, support and monitoring.
    - A power purchase agreement would have had to be arranged with an appropriate organisation to cover over generation of the assets especially during the school holiday periods.
    - Insurance would have to be purchased at any time the panels require lifting to undertake remedial works on the roof.
    - Inverters[1] would have to be replaced every 6 – 10 years at a cost of between £6,000 and £8,000 (at current prices) which would be an additional cost for the school.

Recommendations

a) The Director of Resources is recommended to award a contract directly to Solar for Schools Limited under contract procedure rule 9.5 on the grounds that they are genuinely the only organisation able to meet the Council's specific requirements of delivering the programme of design, supply, installation, ongoing maintenance, support and monitoring, allow the lifting of panels to gain access for remedial works to the roof and contribute to a mutual benefit scheme which rewards schools for overgeneration of energy. The maximum value of this contract will be £710,547.01.

Why is the proposal being put forward?

1 The team delivering this programme of work have been attempting to identify an organisation that is able to deliver a comprehensive programme of installations of solar PV onto the rooves of 12 Leeds schools. The requirements include:

a) an inclusive additional commitment of maintenance, support and monitoring of the performance of the solar panels.

b) Cover the cost of any accidental damage whilst in operation or should the panels required to be lifted to undertake remedial action on the school roof.

c) Inclusive of the cost of the replacement of inverters for a period of 25 years.

d) Provide a mechanism where the school can receive an income for over generated energy especially during the school holiday periods.

2 There is a requirement that this work must be delivered by 30th September 2021 in conjunction of the requirement of the grant funding received. There is an opportunity to extend this date

[1] Solar inverters, also called grid-tied inverters, convert the direct current (DC) electricity produced by solar PV panels to alternating current (AC) electricity that can be used in the building or exported back to the grid.
Solar inverters also:
- ensure compliance with regulations about feeding electricity into the grid, for example by immediately disconnecting if there is a power cut
- maximise electricity production by constantly varying its resistance (load).

through to 31st March 2022 in extreme circumstances, however the council is attempting to minimise the amount of spend during this extension period to ensure any further bids are viewed on a favourable basis. There are some parts of the programme that can not be delivered within this timescale already due to issues with the installation of air source heat pumps and associated works around grid stability and asbestos remediation.

3 There are no frameworks available that would allow a direct award without competition for the design, supply and installation of solar PV. There are no frameworks that deliver the additional services such as maintenance, support and monitoring, insurance against accidental damage, the ability to lift the panels to undertake remedial works on roof and to arrange for the exportation and payment of any excess energy generated by the solar panels.

What impact will this proposal have?

Wards affected: Cross Gates & Winmoor, Morley North, Roundhay, Killingbeck & Seacroft, Adel & Wharfedale
Have ward members been consulted? ☒ Yes ☐ No
Ward members have been informed of the works but have not been consulted in the procurement

4 Schools that are part of this scheme will receive energy generated from a renewable resource that will offset the additional demand of an air source heat pump. The schools will also almost completely remove the use of mains gas on site for the provision of heating. This will mean that these 12 schools will have their overall energy costs reduced without the requirement for additional support, maintenance and monitoring of the solar panels, all schools in the scheme are financially better off because of these changes.

5 Schools will also see an additional income for the energy over generated especially during the school holiday periods, all schools included are primary schools and use little energy over the holiday periods due to closure.

6 There will be a reduction in the carbon footprint of these schools due to their heating being decarbonised through the use of an air source heat pump and the additional energy requirement for the heat pump to be compensated for by on site renewable energy generation. This all supports the councils' ambition to carbon neutral by 2030.

What consultation and engagement has taken place?

7 Procurement and Commercial Services procurement and legal teams have been consulted on the best routes to procurement.

What are the resource implications?

8 There are no resource implications.

What are the legal implications?

9 This is a Significant Operational Decision which is not subject to call in. The decisions contained within this report is SOD as it is a direct consequence of the key decision taken on November 6th 2020 by the Director of Resources to approve capital injection and spend against renewable energy generation or other energy efficiency measures subject to a successful PSDS funding bid.

10 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

11 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 for the procurement of public services contracts and therefore it is not subject to the full EU procurement rules. However, the Contracts Procedure Rule 9.5 allows a direct award for procurements valued between £25K and £100K in certain limited circumstances. This includes where the relevant Chief Officer considers there is genuinely no competition such that only a particular organisation or provider can meet the Council's specific requirements. Awarding new contracts direct to the provider in this way could leave the Council open to a potential claim from other potential providers, to whom this contract could be of interest, that it has not been wholly transparent.

12 Although there is no overriding legal obstacle preventing the waiver of CPR 9.5, the contents of this report should be noted. In making their final decision, the Director of Resources should be satisfied that the course of action chosen represents best value for the Council

What are the key risks and how are they being managed?

13 The key risk is the risk of challenge to this decision as the contract has not been fully tested on the market. It is considered that the potential for a successful challenge is extremely low due to the nature of the requirements and these not being available on any appropriate framework that could be identified. The traditional installer business case model was not compatible with the grant bid requirements, which provides justification for the use of an alternative business model provided by Solar for Schools.

14 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.

Does this proposal support the council's three Key Pillars?

☐ Inclusive Growth ☐ Health and Wellbeing ☒ Climate Emergency

15 Leeds City Council has made a commitment to become carbon neutral by 2030. The installation of air source heat pumps and solar PV across these 12 schools will decarbonise the heat at the schools removing a large proportion of grid gas used at these schools and supporting the additional electricity demand by on site renewable energy generation.

Options, timescales and measuring success

What other options were considered?

16 The following options were considered;

- Do nothing – this option was dismissed as the council would lose the portion of grant funding it has received for this element of works.
- Internal Service Provider – the internal service provider, Leeds Building Services, do not have the skills to undertake this work nor the ongoing maintenance and support.
- Full procurement exercise unrestricted – this option was dismissed due to the timescales involved in the process and the strict deadlines in accepting the grant funding.
- Mini competition utilising an appropriate framework – this option was dismissed as an appropriate framework could not be identified which delivered all the requirements of the specification.

- Direct award utilising an appropriate framework – this option was dismissed as no framework could be identified that allowed for a direct award, nor could one be found which included all the requirements of the specification.
- Direct award to SfS – this is the preferred option as SfS are genuinely the only organisation who can deliver to the whole specification and within the extremely tight timescales.

How will success be measured?

17 Success will be measured through the level of renewable energy generated at these 12 schools compared against the additional demand for the air source heat pumps that will also be delivered on site ensuring that the school is not worse off financially as a result of delivering carbon savings.

What is the timetable for implementation?

18 1st June 2021 to 30th September 2021

Appendices

19 None.

Background papers

20 None