


<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET</p> <p style="text-align: center;">6 FEBRUARY 2017</p>	
<p>RE-PROCUREMENT OF WATER RISK ASSESSMENT (LEGIONELLA)SERVICES CONTRACT</p>	
<p>Report of the Cabinet Member for Housing: Councillor Lisa Homan</p>	
<p>Open Report</p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Other services consulted: None</p>	
<p>Wards Affected: All</p>	
<p>Accountable Director: Nilavra Mukerji –Housing & Property Services</p>	
<p>Report Author: Henrietta Jacobs Procurement Manager</p>	<p>Contact Details: Tel: 020 8753 3729 E-mail: henrietta.jacobs@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1. This report establishes the rationale for going out to procurement (in accordance with the Public Contract Regulations 2015 (as amended)) for a 5 year contract for the inspection, risk assessments and associated remedial works on communal hot and cold water systems to housing properties within Hammersmith & Fulham. The contract will have the mechanism built in, to enable the extension of the contract for a further 2 years (5+2).
- 1.2. The existing contract with Severn Trent Metering Services Ltd expires on 30 August 2017.

2. RECOMMENDATIONS

- 2.1. That approval be given to go out to procurement for a 5 year term contract, (with the option to extend for 2 years) using the Restricted Procedure in accordance with the Public Contracts Regulations 2015 as amended (the "Regulations").

- 2.2. To note that the award criteria is to be set at 60% Price & 40% Quality and the contract will have a notional annual value of £400,000, subject to market testing.
- 2.3. To note that the current 2017/18 draft estimates for Water Hygiene is £393,900. As there is a mandatory and statutory requirement to provide these services, the budget may need to be revised as a result of market testing. It is anticipated that any increase will be accommodated within the overall managed revenue repairs budget.

3. REASONS FOR DECISION

- 3.1. The current contract with Severn Trent Metering Services Ltd expires August 2017 and a new contract is needed to manage this service.
- 3.2. The Health & Safety at Work Act 1974, specifically the Approved Code of Practice (ACOP) L8 – Prevention of Legionella Regulations, requires regular inspections of communal cold water storage cisterns and their associated hot and cold water systems to assess the risk of the proliferation of Legionella bacteria and to carry out associated remedial works required to minimise this risk. The contract will ensure that all communal hot and cold water installations within housing properties comply with these regulations.

4. PROPOSAL AND ISSUES

- 4.1. The Public Contract Regulation 2015, requires that, where the estimated value of the contract exceeds the financial thresholds (£166,000 for services & £4.1m for works), there is a statutory requirement to go out to the market. The preferred option contained in the Council's Contract Standing Orders (CSO's), in the absence of no suitable framework is to use the Restricted Procedure where there is a well-developed market.
- 4.2. In line with the Council's Social Value Policy objectives for supporting local businesses, the recommended option will ensure that there is engagement with such businesses from the start. The proposal will be to carry out a "Meet the Buyer Day Event" for both Tier 1 and Tier 2 contractors early in the process. Inviting Tier 2 business (who are likely to be local businesses) to engage in the process, may provide sub-contracting opportunities to potential Tier 1 companies. The concept is to create an avenue for local businesses with interest to help them decide on how they want to express their interest, either as a main contractor or sub-contractor.
- 4.3. A list of local businesses maintained by the Economic Development Team, will be used to invite appropriate businesses to the event.
- 4.4. The opportunity will be advertised for wider coverage in contract finder, capitalesourcing portal and an OJEU notice will be published as well.

- 4.5. A tender appraisal panel (TAP) will be set up to oversee the tendering process. This panel will consist of officers from Housing Property Services, Legal, Finance and Leasehold services team.
- 4.6. The contract will comprise of the following:
- Two yearly risk assessment survey
 - Associated remedial works picked up from the survey
 - Microbiological testing of water
 - Monthly water temperature monitoring
 - 3 monthly cleaning of communal shower heads
 - Electronic storage of test results and inspection reports/certificates, web based access of same for officers.
- 4.7. Tenderers will be requested to submit as part of their Method & Resource statement, their Health and Safety policy, their Corporate Social Responsibility, Social Value tool kit, and their Environmental policy, setting out how they would minimise any impact on the environment and minimise energy consumption whilst carrying out these works.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. Officers considered the following options:

Option 1 – Use an existing Framework to meet our mandatory and statutory requirements.

- 5.2. No appropriate framework agreement was found that met the requirement of the Council both in terms of specification and geographical location.

Option 2 – Recommended Option – Go out to Procurement

- 5.3. Given the lack of viable alternatives, the only option is to undertake a formal procurement process. Moreover, this option will give the Council the opportunity to tailor the specification to meet the requirements of the borough, while ensuring that regard is given to a robust social value tool within the community.

- 5.4. **Procurement Process** See Appendix 1.

5.5. Contract Management

- 5.6. The Service Owner (Engineering Team), headed by Engineering Group Team Leader, will be responsible for the day to day management of the contract. The engineering team have been involved in putting together this report and will be involved throughout the procurement process, working with the procurement manager. The GC Works 9 form of contract will be used and Key Performance Indicators (KPIs) will be built into the contract to measure the contractor's performance. For detailed outline of the KPIs and remedies see section 13 of the attached appendix.

6. CONSULTATION

- 6.1. Leasehold Services have confirmed that the annual cost per block for the relevant properties is below the threshold (£100) for which a formal consultation would be required.

7. EQUALITY IMPLICATIONS

- 7.1. The works will have a positive effect on all the Council's residents in ensuring that stored water services being delivered to their homes are suitably maintained to minimise the risk of Legionella bacteria and to ensure that the quality is of the highest standards. The works will not have an adverse effect on any protected groups.

8. LEGAL IMPLICATIONS

- 8.1. The Council is obliged under the Health & Safety at Work Act 1974 to prevent proliferation of Legionella bacteria
- 8.2. The proposed Restricted Procedure Procurement to award a tender for regular inspections of communal cold water, storage cisterns and their associated hot and cold water systems to assess the risk of the proliferation of Legionella bacteria and to carry out any associated remedial works required to minimise this risk would be in compliance with its obligations under the Public Contracts Regulations 2015 as amended.
- 8.3. Implications verified/completed by: Babul Mukherjee, Senior Solicitor(Contracts), Shared Legal Services, Tel. 02073613410

9. FINANCIAL IMPLICATIONS

- 9.1. The cost of the contract will be funded from existing revenue budgets within the Housing Repairs division of the Housing Revenue Account. The budget for 2017/18 is provisionally set at £393,900 and is due to be approved by Cabinet on the 6th February 2017, as part of the Financial plan for Council Homes 2017/18 report.
- 9.2. Implications verified/completed by: Alan Hollamby, Senior Accountant, Tel. 020 8753 1773.

10. IMPLICATIONS FOR BUSINESS:

- 10.1. This contract may create opportunities for local businesses. The meet the Buyer day event, will create an avenue for local businesses to discover potential opportunities if any once the contract is procured. See section 4 of Appendix 1 below

11. PROCUREMENT IMPLICATIONS

- 11.1. The procurement process will be undertaken in accordance with the Restricted procedure (as outlined in section 9 of the Appendix). The Corporate Procurement Team has advised on process and will continue to provide support throughout to the Tender Appraisal Panel.
- 11.2. Implications verified/completed by: Alan Parry, Interim Head of Procurement (Job-Share). Telephone 020 8753 2581.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

None

APPENDIX 1: BUSINESS CASE AND PROCUREMENT STRATEGY REPORT RE WATER RISK ASSESSMENT (LEGIONELLA) CONTRACT.

BUSINESS CASE

1. BUSINESS CASE – WHY THE PROCUREMENT IS NEEDED

The Council is obliged under the Health & Safety at work Act 1974, to prevent the proliferation of Legionella bacteria in Housing properties. This contract is essential to provide inspection, risk assessments and associated remedial works on communal hot & cold water systems to Housing properties within Hammersmith & Fulham.

2. FINANCIAL INFORMATION

Funding for this contract will be contained within the Housing Revenue Account and where applicable allocated capital budgets.

3. OPTIONS APPRAISAL AND RISK ASSESSMENT

See Section 5 of main report.

4. THE MARKET

Provision of Water Risk Assessment (Legionella) service, is considered a well-developed market. The proposal is to engage with the market prior to going out to tender by organising a “Meet the Buyer day” event to encourage both local businesses and main players in the market to identify areas of opportunity if any for local businesses.

The Council’s Economic Development team have been consulted and are keen to provide details of local businesses subject to this report’s approval.

PROCUREMENT STRATEGY

5. CONTRACT PACKAGE, LENGTH AND SPECIFICATION

1. Contract Package: The Council’s standard service contract will be used and will include KPI’s to measure contractor’s performance, especially where it relates to compliance. The contract will be reviewed and amended if necessary, by legal prior to publication of opportunity.
2. Length of contract: The contract will be for 5 years, with the option to extend for an additional 2 years.
3. Specification: Specification is currently being finalised by the relevant team and should be fully ready before publication.

6. SOCIAL VALUE, LOCAL ECONOMIC AND COMMUNITY BENEFITS

In line with the Council’s social value policy objectives for supporting local businesses, the recommended option will ensure that there is engagement with such

local businesses from the start. The proposal will be to carry out a Meet the “Buyer Day Event” for both Tier 1 and Tier 2 contractors early in the process. Inviting Tier 2 businesses (who are likely to be local businesses) to engage in the process may provide sub-contracting opportunities to potential Tier 1 contractors. The concept is to create an avenue for local businesses with interest in the contract to ask questions and get information about the opportunity, which will help them decide on how they want to express interest, either as a main contractor or sub-contractor.

7. OTHER STRATEGIC POLICY OBJECTIVES

Leasehold Services have confirmed that the annual cost per block for the relevant properties is below the threshold (£100) for which a formal consultation would be required.

8. STAKEHOLDER CONSULTATION

As the annual cost per block for the relevant properties is below the threshold of £100, no formal consultation will be required.

9. PROCUREMENT PROCEDURE

Procurement Process

The procurement process will be carried out using the Restricted Procedure, in accordance with the Public Contracts Regulations 2015 as amended (Regulations). The process will involve publishing the opportunity in the Official Journal of the European Union (OJEU), Contracts Finder as well as Hammersmith’s & Fulham’s procurement portal.

The restricted procedure involves a two stage process – The selection stage followed by the Invitation to Tender(ITT) and award stage. At the selection stage, each tenderer will be evaluated upon their responses to the Government’s Standard Selection Questionnaire; this is based on their Financial standing, Eligibility, and Technical ability to deliver the service. The proposal is to invite the 6 highest scoring organisations to submit formal tenders.

Tenderer’s will be evaluated based on their quality submission (Method Statement) and price(Commercial) submission. The award criteria will be 40% quality and 60% price. At the Tender award Stage. Tenderers will be scored based on their responses to the following:

- Performance & Quality Control
- Resourcing
- Health & Safety
- Customer care
- Environmental Policy
- Social Value

Tenders will be formally evaluated by a Tender Appraisal Panel (TAP). Individual panel members will score the tenders independently. After the scoring has been completed, a moderation meeting will be arranged for the TAP to agree the final

moderated scores. The successful bid will be based on the tenderer scoring the highest for both quality and price.

Value for Money Statement (VFM)

Given the above recommended option of going out to procurement, this option will enable the Council to engage and create opportunities for local businesses. There may not be immediate cash savings but there will be immeasurable benefit to the Council considering the opportunities social value will bring to the community. The award criteria of 60% price and 40% quality and the seeking interest from the wider market, is to get value for money.

10. **CONTRACT AWARD CRITERIA**

The Quality/Price ratio being recommended is:

40% quality and
60% price.

The contract has robust KPI's to monitor potential contractor performance, and by using the restricted procedure, all potential contractors would have gone through the selection stage to determine their technical ability to provide the service.

The table below outlines the criteria and weighting that will be used to score the quality section of the tender:

Quality criteria	Weighting
Performance & Quality control	6
Resourcing	8
Health & Safety	8
Customer care	8
Environmental	6
Social value	4
Total	40

PROJECT MANAGEMENT AND GOVERNANCE

11. **PROJECT MANAGEMENT**

For this procurement, a project board which comprises of senior managers from housing, procurement, legal, finance and leasehold team has been set up to oversee the entire procurement process from start to finish. The proposal is for the project board to meet monthly to discuss any issues, identify risk, recommend and approve options as needed.

A tender appraisal panel, comprising procurement, service owners, finance and a resident representative has also been set up to evaluate tender submission. Any risk identified by procurement will be escalated to the project board for decision.

12. INDICATIVE TIMETABLE

Below are key milestones for this procurement.

Activity	Date
Strategy Approval	6 th February 2017
Market Testing (meet the buyer day)	22 nd February 2017
SQ/PQQ Publication (OJEU, contract finder & portal)	3 rd March 2017
Selection Questionnaire (SQ) deadline	17 th March 2017
Evaluation/shortlisting deadline	24 th March 2017
ITT Publication	31 st March 2017
ITT return deadline	20 th April 2017
Evaluation deadline	12 th May 2017
Cabinet Member Award report approval	June 2017
Contract Award & Mobilisation	1 st July 2017 – 30 th August 2017
Contract Start	31 st August 2017

13. CONTRACT MANAGEMENT

The service owner (Engineering Team) headed by Engineering Group Leader, will be responsible for the day to day management of the contract. The engineering team have been involved in putting together this report and will be involved throughout the procurement process, working with the procurement manager. KPI's will be built into the contract to measure the contractor's performance.

The following KPI will be incorporated into the contract for monitoring contractor's performance:

Key Performance Indicators

1. Performance against PPM programme – all tasks 95%
2. Contractors' quality checks of own work – 98%
3. Notification of a Priority 1 incident within 2 hours of discovery – 100%
4. Notification of any other issue requiring an order from BPM within 72 hours of discovery – 95%
5. Reporting of routine testing results and actions within 2 weeks of month end – 98%
6. Response Times for minor remedial works: -
 - a. Emergency – within 2 hours 100%
 - b. Urgent – within 3 working days 95%
 - c. Routine – within 28 days 95%
 - d. Planned – within 90 days 95%
7. % of properties where access has been attempted – 100%
8. % of properties where access had been achieved - 90%

The contractor shall be expected to supply all the above information on KPI's in an electronic format to enable the employer to monitor performance.

Subject to outcome of soft market testing, the Council will have an incentivised KPI built into the contract that will allow for a 10% payment increase where the contractor exceeds all KPI and a 10% payment decrease where they do not meet the target KPI.

Remedies

Any failure of 3 or more KPIs in any one month will incur a default point.

Any continued failure for any one KPI over 3 months will incur a default point

At any time when 3 Default Points have been recorded, the Dispute Resolution Procedure shall be invoked.

Where the Dispute Resolution Procedure is invoked as a result of Default Points, the Contractor shall prepare an Action plan identifying the necessary actions to be taken to deliver.

The contract will enable the Council to withdraw and re-allocate work where a dispute remains unresolved, with any additional cost being passed on to the contractor.

A final remedy available would be termination.
