

Meeting:	General scrutiny committee
Meeting date:	Monday 13 November 2017
Title of report:	Construction and Facilities Management Services to Herefordshire Council
Report by:	Director for economy, communities and corporate

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To invite general scrutiny committee to review proposals for the re-procurement of building maintenance and cleaning services and:

- make any recommendations to the executive they feel would improve the efficiency or effectiveness of the short term proposals; and
- consider whether to establish a time limited task and finish review to inform the assessment of the longer term option to move to an outcomes based model of procurement for these services.

The existing two contracts for building maintenance and building cleaning services are due to end on 31 March 2018 having previously been extended once. Whilst a longer term aim is to move to an outcomes based commissioning model there is insufficient time to develop such a specification and complete a procurement before the existing contracts terminate. It is therefore proposed to commission, as a single service, based on the existing specification for a limited period of two years, to allow for the development and procurement of an outcomes based service.

Recommendation(s)

That:

- (a) **the committee determine any recommendations it wishes to make to strengthen effectiveness or efficiency of the short term procurement arrangements proposed in respect of building maintenance and cleaning services; and**
- (b) **the committee determine any areas for inclusion in its future workplan.**

Alternative options

1. Alternative options to the proposed action are set out below.
2. Not to re-procure, this has been discounted as Herefordshire Council will require some form of building maintenance and cleaning services to continue operating and delivering services for its property portfolio.
3. Extend existing contract. This is not recommended because it could result in a challenge to the procurement process as the council would not be in compliance with the Public Contract Regulations; a successful challenge could result in significant costs to the council and affect service continuity in these important front line services. The option of extending the current arrangement was considered but as this did not comply with the OJEU regulations due to the amount of work exceeding the published limits, this has been discounted. During the procurement phase the service is procuring individual contracts for all works in excess of £5,000 as per the council's contract procedure rules. There is however a provision in the existing contract to continue until September 2018 is proposed this should only happen if the process for re-procurement cannot be achieved in the time scales laid out in this report.
4. The option of procuring individual contracts has been considered but given the volume of small orders, this approach does not comply with the rules around aggregation of contracts and would also take considerable time and staff resources which means this option is not recommended.
5. Consideration of moving straight to an outcome spec was explored but given the time frames involved this is not feasible due to the following.
 - The eventual desired outcome specification is different to the existing way of working and therefore would require time to implement the processes and the structures within the council and the property department this was not considered to be the preferred option for going forward at this stage.
 - Such an approach would not visibly demonstrate that the market has been tested to ensure the services are providing best value.
6. The option of utilising the existing Balfour Beatty Living Places Public Realm contract was also considered, however this has been discounted at this stage for the following reasons:
 - Such an approach would not visibly demonstrate that the market has been tested to ensure the services are providing best value on works of this type.

- This approach could lead to the council being challenged by other providers of these services.

Key considerations

7. The existing contracts with Interserve UK Ltd (for cleaning soft FM) and Integral UK Ltd (for construction and building maintenance) were awarded in September 2013. In August 2016 the cabinet member contracts and assets took a decision to exercise an option under the contract to extend the current arrangements to 31 March 2018. The services currently provided within the scope of the service delivery contracts need to be re-procured for services to continue throughout Herefordshire Council owned or maintained properties.
8. It is proposed to put in place a single contract covering building maintenance services and building cleaning. This procurement will be carried out under the EU open procedure and this report seeks delegated approval to conclude this process and award a contract following consultation with the cabinet member for contracts and assets. The services covered in this contract will be procured under standing orders and the governance in place at the time, to ensure that members have visibility of works going through the contract, and offering maximum opportunities for local small and medium sized enterprises (SMEs) to tender for such work. The volume of work under the contract will likewise be monitored to ensure that the contract spend is within the limits published in the OJEU notice.
9. The approach taken aims to re-commission the services to ensure value for money, deliver savings through our ability to reconfigure the existing services and processes and meet corporate plan objectives in addition the amalgamation of the two contracts should save internal Herefordshire Councils resource time and produce lower contractors overhead costs as there will be one contractor rather than two enabling saving due to less management overheads.
10. The two existing contracts detailed below are to be brought together to provide a single point for the management of the contract, this will enable the council to start the subsequent tender for an outcome specification form a single contract rather than two contracts.
 - Building Services; these cover the regular servicing of plant and equipment, day to day maintenance which equates to a value approximately £1.2m; a further £900k a year in relation to the Councils Enterprise Zone works; and approximately £5m a year capital works to council buildings in the current contract.
 - Building Cleaning; these cover the cleaning of offices etc., and the provision of accessories such as *cleaning products* etc. The cost is approximately £700k per year.
11. The contract is to be set up to allow the existing provision to be procured on a , term contract and NEC3 contract, (this is the industry standard civil engineering contract) basis in line with the existing arrangements this will allow the development of a future contract of an outcome specification at the end of the present proposed contract.

12. The maximum value of spend has been determined to allow the use of the contract for one off capital schemes in council owned buildings. Each such scheme will continue to be subject to its own governance before progressing and that governance would include clarification as to whether this contract or another procurement option is deemed to offer best value.
13. The new contract will be evaluated on a cost and quality basis on a 40% quality and 60% cost basis, with quality questions included in the ITT being given marks which will form the basis of the quality evaluation.
14. The proposed draft procurement timetable is as follows, out to tender in November 2017, return in December 2018, evaluate in January 2018, award at the end of January 2018 and contract start date in April 2018.
15. The appointed contractor will be expected to obtain his subcontracted work packages, in line with Herefordshire Councils procurement rules to ensure best value principals are followed and is visible for scrutiny purposes.
16. The review of the future direction of construction and cleaning services, considering an outcome specification for the next procurement process following on from this procurement exercise, will be reported to cabinet in due course. An outcome specification would follow a similar model to that used in the existing Public Realm contract with the core services being subject to annual review and an agreed sum for the total of work required. Payment for that work along with the outcomes will be agreed as part of this yearly process. The outcomes expected would, at high level, be to ensure the safe continuation of the use of the property stock to an agreed standard. Part of this would also include the cost reduction targets for the year. The committee is invited to consider the merits of establishing a time limited task and finish review group to inform a decision regarding the potential move to an outcomes based procurement of these services.

Community impact

17. The services covered by this procurement are critical to the Council to enable it to ensure that its buildings are maintained in a condition that is safe for community users and staff. This contract enable Herefordshire Council to react to these requirements in a timely and cost effective way.
18. Preserving our stock in a good condition, by using the contract will save money on reactive works, and procurement costs by reducing the work involved in tendering.
19. The council has a duty of care to ensure the safety of the users of our buildings both visiting public and our staff, this contract enable us to comply with these duties.
20. The contract will be used to ensure statutory compliance of our stock by providing the vehicle to deliver the appropriate servicing and inspection regime.

Equality duty

21. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
22. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

23. The current expenditure on the services within the scope of the procurement is in approximately £7.8m per annum covering capital approximately £5m per year and revenue approximately £2.1m per year for Herefordshire Council. Building cleaning of £700k per year. A power point presentation is attached as appendix 1 to this report giving more break down of the existing spend.
24. The re-procurement of services will be conducted on the clear understanding that savings can and will be achieved on both the revenue and the capital works, *a target saving of 10% has been set on the core service* The expenditure in relation to these services will be managed within the funding available whilst working with providers to deliver efficiencies and improvements. The council will need to work with its chosen provider to continually review and improve the delivery of services. The contract will seek to ensure that the chosen provider is clearly focused on achieving on-going efficiencies capital and revenue and savings on for the benefit of Herefordshire. The costs associated with the procurement of these services have been budgeted for within the current financial year.
25. Expenditure in relation to construction services covers both revenue and capital elements. Expenditure in recent years has varied in line with demands placed upon the service (for example reflecting severe weather conditions) and delivery of major projects.
26. There are costs in re-procuring both in staff resources and hard costs with fees required for both specification development and legal fees in developing the overarching contract. These fees are estimated in the region of £150,000, if required this will need to be sourced from the revenue allocation for maintenance work in 2017/18.
27. The TUPE rules apply to some of the existing contractor's staff and this is being worked through at present with advice being taken from Herefordshire Councils HR service. No Herefordshire Council staff are involved in TUPE on these contracts.

Legal implications

28. Given the value of the works and services a full EU compliant procurement process must be followed as set out in the contract procedure rules.

Risk management

29. Risks are being managed throughout this procurement process and a detailed risk register is in place with appropriate mitigation identified. A number of key risks have been identified which are set out below.
30. **Risk:** Slippage to the procurement timetable outlined above could present a risk to service continuity and savings. **Mitigation:** Additional resources have been allocated to the process to guarantee that specialist and technical support is available to ensure the procurement proceeds to plan. The existing providers have been asked to indicate if they are prepared to extend the existing contract if necessary to enable the procurement process to be completed. Both have signalled their willingness to do so.
31. **Risk:** The services within scope are high profile front line services and any break in service or reduction in service quality during transition could negatively affect the reputation of the council. A relatively short mobilisation period has been allowed for within the plan which may result in service delivery risk during transition. **Mitigation:** A robust approach to mobilisation planning is being incorporated into the procurement to ensure the provider puts in place service delivery arrangements for the complete range of services to be provided. This will include clear communication plans to explain the new arrangements to our customers and stakeholders. We have been working closely with Integral UK Ltd and Interserve UK Ltd to manage this process and commitments have been made to ensure full cooperation during the transition. In the procurement process all bidders are required to provide fully resourced programmes setting out how they will undertake mobilisation.
32. **Risk:** The nature of the contract is deliberately flexible to be able to respond to changing priorities, needs and budgetary constraints. Service delivery needs to be planned in advance of each financial year but will not be the same in each financial year. **Mitigation:** Whilst the provider will be expected to take the lead in planning the delivery of services (based on sound asset management principles) the council will need to be properly resourced to set the appropriate strategic objectives and manage and interrogate cost information in order to better understand the true cost base for the services and continue to drive efficiency, innovation and improvement.
33. **Risk:** Given the scale and complexity of these services the risks will be many and varied over the term of the contract. It is essential that both the client and provider recognise and work to manage risks, as they are apportioned between them, if they are to achieve the council's objectives through the contract. As such it is essential that the council mobilises the appropriate client contract management resources and supports their effective operation throughout the term of the contract, if the potential for enhanced value for money realised through the procurement of services is to be realised. **Mitigation:** Client mobilisation will be run in parallel with the mobilisation of the provider of services.

Consultees

34. Soft market testing with Integral, Interserve, Midas and Balfour Beatty has been carried out. Political groups were consulted but no comments have been received.

Appendices

Appendix 1 - Interserve and Integral spend through existing contracts presentation

Background papers

None identified.