

Meeting:	Cabinet
Meeting date:	Thursday 12 April 2018
Title of report:	Construction and Facilities Management Services to Herefordshire Council
Report by:	Cabinet member contracts and assets

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

The amalgamation of the council building maintenance and cleansing services contract, to be procured through an open market tender exercise. The contract period is for one year from 1 September 2018 to 31 August 2019.

The short term contract will provide a timeline for a strategic service redesign of these services to align with the council's needs and corporate objectives. This project will be undertaken in conjunction with the short term contract.

Recommendation(s)

That:

- (a) an amalgamated property maintenance and cleansing service be procured for a one year period from 1 September 2018 – 31 August 2019; and**
- (b) the chief finance officer be authorised, following consultation with the cabinet member contracts and assets, to award a contract to the successful provider following tender evaluation, with a contract value of up to £12m.**

Alternative options

1. To procure a longer term contract; this option is not recommended as a strategic service redesign is scheduled to be undertaken in spring 2018, to ensure the council procure the most efficient and effective strategic service going forward.
2. Not to procure the service; this option is not recommended as the council have outsourced this service and do not have an in-house management resource required to manage the service and deliver continuous service provision.
3. To transfer the services into the public realm contract; this option is not recommended as the council are seeking to undertake a fundamental service redesign and would therefore need to extract the service from the public realm contract to procure the service going forward and this would create unnecessary cost and work. This option will be considered should the procurement exercise be unsuccessful.

Key considerations

4. The current maintenance service contract is delivered by Integral UK Ltd and the building cleansing service contract is delivered by Interserve UK Ltd; both contracts were awarded in September 2013 and following final permitted extension are due to expire on the 31 August 2018.
5. A high level review of the services has been undertaken and consideration given to the strategic needs of the council. A short term contract for one year will enable a full strategic review, service redesign and a procurement process to be undertaken. This is to ensure the council utilise the most effective and efficient model for service delivery.
6. The amalgamation of the two service contracts will deliver a more streamlined service, potential efficiencies through a reduction in provider management requirements, improved service consistency and continuity, and will be more attractive to providers in the market.
7. The one year contract will ensure consistent service, with the delivery of key day to day maintenance and the required regular testing and servicing of plant and equipment and the delivery of cleaning to council offices and buildings.
8. The contract value has been reviewed to align with budgets for 2018/19, the contract has the potential to be utilised to deliver the capital projects relating to council owned property and to a value of up to £250k per project. Any projects will be subject to the council's standard governance process before any projects are progressed.

9. The contract will be based on the **New Engineering Contract (NEC)**, or NEC Engineering and Construction Contract. It is a formalised system created by the Institution of Civil Engineers that guides the drafting of documents on civil engineering and construction projects. The contract provides clear visibility of delivery, cost and an early warning culture for positive partnership working and effective management of budget. The council's contract management team's portfolio consists of infrastructure and construction contracts, which have well established processes and procedures for NEC3 contracts, along with a newly designed and mobilised ICT system for change control.
10. The contract is non-exclusive and the model sets out clear payment option mechanisms; Cost Reimbursable (sometimes called cost plus) is one in which the contractor is reimbursed the actual costs they incur in carrying out the works, plus an additional fee. This option is for works that are emerging or unable to define and the council hold the risk. Target Cost is agreed between the provider and council, this includes the provider's estimate of what are called "Defined Costs" plus a fee which covers the provider costs, overheads and profit. This option is shared risk between the provider and council and incentivises through pain or gain share. Lump Sum is a fixed price and interim payments are based upon the completion of activities which are included in an activity schedule. With this option the providers holds the risk and incentivises through pain or gain. Each commission will be reviewed to establish the most effective payment mechanism to provide effective cost management.
11. The council will be managing the contract and will undertake regular service reviews for continuous improvement and demonstrate value for money. This will include the provider's supply chain and subcontractors. Findings and outcomes will be shared for learning and implementation at contract level with any significant findings presented to the council's management board for cross directorate learning and improvements.
12. The contract will set out key performance indicators to monitor the performance of the service, this will be reviewed on a monthly basis through contract operational meetings. A robust contract governance will be set out in the contract for clear routes of escalation and reporting.
13. The provider will lease a premise to use as a depot and desk space for partnership working from the council for the one year period, at a commercial market rent.
14. The tender will be evaluated on a cost and quality basis, with 60% quality and 40% cost, due to the contract model, with quality questions included in the invitation to tender (ITT) being given marks which will form the basis of the quality evaluation.
15. The council will undertake market engagement in early April in preparation for the tender going out to the market. Providers have already shown an interest in the one year contract and it is anticipated tenders will be submitted
16. The proposed procurement timetable for the one year contract is:
 - Out to tender: 20 April 2018 (30 days)
 - Tender evaluation: 22 May (10 days)

- Contract Award: 18 June
 - Mobilisation: 18 June – 31 August 2018
 - Commencement of new contract: 1 September 2018
17. As part of the new contract further work will be undertaken to improve the council's asset management for buildings, in partnership with the incoming provider, which will be utilised and tested in contract and in readiness for the strategic contract procurement in due course.
18. The strategic review of the council's future service needs will be undertaken in conjuncture with the new contract. The review will include benchmarking and horizon scanning with other councils and service providers. Once all options have been fully tested and a preferred contract model has been identified, market engagement sessions will be held to gain further information and prepare the market for the tender. This work will be supported by a consultant to ensure the timeframes are met and the correct level of resource is provided for a short period.
19. The one year contract will have a one year extension period built in, for risk mitigation against failure to procure the strategic contract. This is considered low risk and is unlikely to be utilised.
20. The proposed procurement timeline for the strategic contract is:
- Benchmarking & horizon scanning: April – June 2018
 - Service redesign and modelling: June – September 2018
 - Cabinet decision: October/November 2018
 - Market Engagement: January/February 2019
 - Out to tender: March 2019
 - Tender evaluation: April 2019
 - Contract Award: Late April 2019
 - Mobilisation: 1 May – 31 August 2019
 - Commencement of new contract: 1 September 2019

Community impact

21. The services delivered 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 enables Herefordshire Council to react to these requirements in a timely and cost effective way.
22. Effective asset management, by using the contract will ensure the council are spending funding on areas which will have the most positive impact for individuals utilising the buildings and are in line with corporate objectives.
23. 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 enables the council to comply with these duties.
24. The contract will be used to ensure statutory compliance of our asset by providing the vehicle to deliver the appropriate servicing and inspection regime. This will enable compliance with all relevant Health and Safety legislation.

Equality duty

25. 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.
26. 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. The successful provider will be made fully aware of their contractual requirements in regards to equality legislation. This decision will have no negative impact on the council or providers compliance with this duty.

Resource implications

27. The annual contract value is up to £12m. There are three key areas of spend, as detailed below. The contract value allows the provision of additional capital projects, should funding be available:

- (i) the provision of planned and reactive building maintenance service £2.1m – included in revenue budget
 - (ii) the provision of building cleaning service £750k – included in revenue budget
 - (iii) the provision of council building renovation/improvement projects £4.5m - included in capital budget
 - (iv) there is flexibility within the total contract value to add up to a further £4.65m of additional capital projects, subject to identifying funding.
28. The rental income from the depot will help the council achieve its targeted investment income.
29. All capital projects will be subject to the council's due governance requirements.
30. 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), works identified as part of the condition surveys carried out on the council's estate and delivery of major projects.

31. The services are subject to TUPE for the existing contractor's staff and the TUPE information has been requested from the current providers and will be issued as part of the procurement process.

Legal implications

32. In common with all occupiers and landowners, the council has legal duties under legislation (including the Health and Safety at Work Act 1974 and the Building Act 1984), as well as under common law of negligence, to maintain its properties to a safe standard of repair and hygiene. Therefore the services proposed in this report should be regarded as essential to the council.
33. The procurement route recommended in this report is compatible with the requirements of the Public Contracts Regulations 2015. Additionally the competitive tendering exercise, coupled with robust performance management under the NEC3 contract model, should enable the council to demonstrate that it is meeting its statutory duty to secure best value in the delivery of these contracted services.

Risk management

34. Risks are being managed throughout this procurement process and a risk register is in place with appropriate mitigation identified. A number of key risks have been identified which are set out below:

Risk / opportunity	Mitigation
Satisfactory tenders may not be submitted	Market engagement in early April is scheduled and providers have already indicated interest in the contract
TUPE. There are a small number of staff who would be TUPE'd on LGPS pension	TUPE information will be provided at start of tender stage and engagement with HR and Pension scheme to provide full information
TUPE. The mobilisation period would normally be three months to support TUPE but due to the timeframe available mobilisation will need to be completed within two months.	The council is working closely with the current provider who is aware of the timeframes and will support the incoming provider with the reduced timeframe through as early effective engagement as possible
Delay achieving the target commencement date due to the compressed timetable for procurement and mobilisation	The council will support the appointed provider with mobilisation through a project management approach and apply sufficient resources to ensure that the target commencement date can be met
Ensuring value for money is achieved	Value for money will be tested at various stages of the commissioning process and the partnership will review ways to improve

<p>Good quality effective service is continuously delivered</p>	<p>value for the council.</p> <p>Performance will be closely monitored through Key Performance Indicators, to ensure services are delivering to target and continuously improved, where possible.</p>
<p>Slippage to the procurement timetable</p>	<p>Additional resources have been allocated to the process and technical support is available to ensure the procurement proceeds to plan. Soft market engagement has started and there is a positive response from providers</p>
<p>Potential negative perception of the council if service isn't continuous.</p>	<p>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.</p>

Consultees

35. Political groups have been consulted with as part of this decision and no comments or objections were received.
36. Soft market engagement has started and will continue to inform the service going out to market. Consultation has been undertaken with key clients from Herefordshire Council which have indicated there is an opportunity to improve a streamlined service. Wider consultation will be undertaken as part of the strategic service redesign.

Appendices

None

Background papers

None