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| Item No. | Classification: Open | Date: 12 th November 2022 | Meeting Name: Strategic Director of Environment and Leisure |
| Report title: | | Gateway 1 Procurement Strategy Approval Leisure Insourcing Commercial Cleaning Services using the Exceeding Framework Agreement via Constellia Public Limited | |
| Ward(s) or groups affected: | | All wards | |
| From: | | Head of Leisure Insourcing | |

RECOMMENDATION

1. That the Strategic Director of Environment and Leisure approve the use of the Exceeding Supply of AEC Neutral Vendor Framework Agreement with Constellia Public Limited as a vehicle for the procurement of Commercial Cleaning Services for the in-house Leisure Service for a period of two years commencing 20 June 2023 at an estimated cost of £604,750 per annum and an estimated total cost of £1,209,500, to include a payment of a usage fee equivalent to 2.5% of the contract value, which the Strategic Director of Environment and Leisure notes that the contractor will pay to Constellia.

BACKGROUND INFORMATION

2. Following the decision to bring the leisure service back in-house in June 2023 at the expiry of the current contract with Sports and Leisure Management Limited (operating as Everyone Active), plans have been progressed to procure the services and contracts required to manage and operate the facilities when transferred.
3. The mobilisation of the plan to insource the leisure services is underway and one of the most important elements of that work is identifying how the cleaning services will be delivered across all facilities, post transfer.
4. A review of the current approach concluded that the methods and contract arrangements in place achieve a satisfactory outcome and reasonable level of customer satisfaction.
5. The recommended plan to achieve continuity of service and seamless transfer of services to council management and operation is to replicate the approach currently taken by Everyone Active and secure the services of a commercial cleaning services company to deliver the same level of service at transfer for a period of two years. During which

time a review of the process and arrangements can be completed and amended where necessary.

Summary of the business case/justification for the procurement

6. There are over 2.5 million visits a year to Southwark leisure sites. Customer perception of cleanliness contributes a significant amount to the overall customer experience and perceived value for money. It is essential that this service is planned and delivered to the highest standards achievable.
7. The approach taken by Everyone Active is a cleaning service contract with a commercial cleaning company covering all basic cleaning requirements across seven leisure sites. This is supplemented by specialist and high level cleaning contracts. This is controlled, monitored and reviewed through a detailed service specification and cleaning standards agreement. The cleaning contractor provides all resources required to deliver the service including; staff, equipment, materials and consumables. This approach ensures consistent standards, work methods and outcomes across all facilities.
8. The aim of the Council to achieve a seamless transfer and have minimum impact on customers using the service and staff employed in the facilities. Replicating the current arrangements will enable continuity of service and minimum disruption.
9. The selected route for procurement and provider is a contract award through the Exceeding Framework via Constellia Public Limited. This framework has been used by the council on previous occasions, most notably on procurement of services for trees.
10. This procurement route allows for consideration of contract award through the framework by Constellia Public Limited to Rapid Commercial Cleaning Services, the current cleaning service provider used by Everyone Active.
11. The use of alternative methods of cleaning and delivery would be unknown at the time of transfer and could create a reputational risk for the council if the current standards were not at least maintained. This procurement approach allows some certainty around the delivery methods, standards and costs.
12. The value of the contract that will be placed is estimated to be £604,750 per annum. This includes an additional fee of equivalent to 2.5% of the final value (around £14,750 per annum). The contract value, will be paid to Rapid Commercial Cleaning Services on a monthly basis by Constellia Public Limited, in accordance with the contract between these two parties. Constellia Public Limited will invoice the Council for the contract value and fee. This arrangement is considered to offer

value for money and significantly enhance the potential for a successful transfer of services in June 2023.

Market considerations

13. The market place for delivery of front line services at present is volatile. Many frontline service operations across the hospitality, retail and leisure sector are struggling to recruit and retain sufficient staff. Continuing with a tried and tested approach, with staff already employed in roles is more likely to maintain current standards than attempting to deliver service in a different way.
14. Collaboration with other local authority leisure service providers has identified that cleaning standards are often a problem in leisure buildings, particularly where leisure staff are used to undertake cleaning roles. The Southwark approach is quite unique in employing specialised commercial cleaning contractors to undertake most of the work. Officers are confident that this is the best way to maintain continuity, deliver a seamless transfer and achieve best value for money option for leisure services and the council.
15. The framework provider will undertake a value for money assessment, benchmarking the final contract tender price against similar service providers. This will provide assurance to the council that the contract value represents value for money. In the event that value for money cannot be shown, consideration will be given to seeking an alternative company via a framework agreement.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

16. Options considered included consideration of the following options:
17. Do nothing – This is not considered an option as the council will be responsible for operation and delivery of cleaning services in public leisure facilities in June 2023.
18. Full market testing approach – This approach is not considered an option on the basis of the timeframe required to prepare and implement such an approach would present a significant risk to the project in meeting the required deadlines for planning, award and commencement of the contract.
19. In-house cleaning service – a new cleaning in-house service has recently been created by the council and implemented. However, officers from the council Asset Management division recommended not progressing this option as it would add too much complexity and delay implementation of the new service if progressed. This option could be

considered at a later stage once the transfer has been completed and a review of processes and requirements carried out.

20. Lambeth Council are currently planning the transfer of leisure Services back in house. Lambeth transfer is due to take place 1st April 2023 and this would not allow sufficient time to consider a shared approach to procurement of this service, but may form part of future discussions during the contract period.
21. Direct appointment via a framework. This option would allow appointment of the current service provider and achieve the project aim of delivering continuity of service and minimum disruption to customers and staff employed in cleaning roles. Officers have consulted with the relevant framework provider and established that they can meet the timeline requirements for planning, award and commencement of the contract by June 2023. Alternative Frameworks have been considered that include leisure activities, but there is no provision that covers provision of a full building cleaning service. Equally, the 'Bloom' Framework has been considered but would include a higher estimated cost (5% of contract value) to use this framework. The council will ensure that contract documentation and framework guidance issued by Constellia Public Limited meets the council standards.

Proposed procurement route

22. Constellia were appointed as sole supplier to the AEC Neutral Vendor Framework for Multi-Specialism Services in January 2020 through a fully compliant OJEU process. In June 2020, Constellia appointed Exceeding in a strategic partnership to deliver projects contracting works and goods, via their Neutral Vendor Solution, enabling public sector buyers to access the full suite of additional categories outside of professional services available under the framework. Suppliers of services, goods and works can be registered to the neutral vendor marketplace at any point during the six-year term.
23. Constellia were appointed via a Neutral Vendor Framework which allows contracting authorities to access the services, works or goods they are looking to procure via a neutral vendor. This Neutral Vendor Solution acts as a conduit between the authority and the suppliers, whilst providing additional levels of procurement and delivery support as required. Suppliers of services, goods and works can be registered to the neutral vendor marketplace at any point during the six-year term, through a robust onboarding process. This is a PCR compliant process which the council is able to use.
24. Procurement through the Exceeding Supply of Multi Specialism Services Framework Agreement between the council and Constellia Public Limited will enable Constellia Public Limited to enter a sub contract with Rapid Commercial Cleaning Services for provision

cleaning service at Southwark Council public leisure facilities, in line with the current level and standards of provision to the current service provider, for a two year period, commencing 20 June 2023. Experience of operating the service will enable a full review to be carried out within the 2 year contract period and alternative methods of operation and procurement considered.

25. Procurement plan to include:

- Establish, define and document specification and requirements.
- Agree milestones and timelines
- Direct award
- Identify additional strategic requirements such as social value initiatives.
- Create statement of works including specification.
- Build procurement document suite and evaluation criteria.
- Input all relevant information into procurement platform.

Evaluation

26. The agreement between Constellia Public Limited and the council will be recorded and evaluated through ProContract. Constellia Public Limited will be the sole supplier of these services on this framework.

27. Officers are confident that this is the best way to maintain continuity, deliver a seamless transfer and achieve best value for money option for leisure services and the council

28. Officers have considered the original contract between SLM and the council in respect of service specifications and standards and provided to Constellia Public Limited to be used to develop the contract specification and standards of service.

29. Identified risks for the procurement

| Risk No | Risk Identified | Risk Level | Mitigation |
|----------------|---|-------------------|---|
| 1 | Legal challenge to use of the framework | Low | Paragraph 23 confirms that the council as a local authority is permitted to use this framework for provision of this service. |
| 2 | Poor vendor selection | Low | Using the incumbent methods and delivering cleaning has mitigated this risk. |

| | | | |
|---|--|--------|--|
| 3 | Implementation delays | medium | The implementation timetable has been planned and can be delivered by June 2023 |
| 4 | Supplier's finances being affected and supplier going out of business. | Low | Satisfactory financial review to be completed. |
| 5 | Delays in supplies due to Brexit. | Low | Not applicable. |
| 6 | Delays in procurement | Low | Previous experience with framework and working to agreed timeline should minimise risk. |
| 7 | Direct contract award does not achieve value for money | Medium | Experience of operating the service will enable a full review to be carried out within the 2 year contract period. |

Key /Non Key decisions

30. This report deals with a non-key decision.

Policy framework implications

31. The management of the leisure centres and delivery of excellent leisure services is directly linked to the council's commitment to a 'Fairer future for all', in particular: We want to break down barriers that prevent people from thriving in Southwark, so that whatever your background you can live a healthy life.

32. The refreshed Borough Plan 2020 - 22 sets out a series of commitments across eight themes:

- COVID -19 response
- Southwark Together
- A green and inclusive economy
- Climate Emergency
- Tackling health inequalities
- Homes for all
- A great start in life
- Thriving neighbourhoods

33. Leisure centre provision contributes to the delivery of these commitments. In particular, the Borough Plan states, 'Invest in our

leisure centres and ensure our residents can continue to access high quality leisure services.’ In addition, leisure centre provision is an important part of the Active Southwark strategy which was agreed by the cabinet in April 2019. A key theme being: Active Places – shaping our environment and facilities so that they encourage more people to be more active

Procurement project plan (Non Key decisions)

| Activity | Complete by: |
|---|--------------|
| DCRB Review Gateway 1: | 03/01/2023 |
| Brief relevant cabinet member (over £100k) | 09/11/2022 |
| Approval of Gateway 1: procurement strategy | 09/01/2023 |
| Evaluation of Exceeding framework via Constellia and supply of documents | 13/01/2023 |
| DCRB Review Gateway 2: Framework award | 23/01/2023 |
| Notification of forthcoming decision | 30/01/2023 |
| Approval of Gateway 2: Framework Award Report | 08/02/2023 |
| End of scrutiny call in period and notification of implementation of Gateway 2 decision | 17/02/2023 |
| Enter agreement for supply of Supply of Multi Specialism Services Framework Agreement with Constellia Public Limited as a vehicle for the procurement of Commercial Cleaning Services | 28/02/2023 |
| Add to Contract Register | 28/02/2023 |
| Contract / Service start | 20/06/2023 |
| Contract completion date | 19/06/2025 |

TUPE/Pensions implications

34. Will not apply if contract is awarded via Constellia to Rapid Commercial Cleaning Limited. Will apply if alternative provider contracted through the framework agreement.

Development of the tender documentation

35. Tender documents will include the development of service specification and cleaning standards to be delivered by the contractor.

36. Terms and conditions of the contract and use of framework guidance notes provided by Constellia Public Limited and agreed by Southwark Council.

Advertising the contract

37. Not applicable as the Exceeding Framework was advertised when it was tendered and awarded to Constellia.

Community, equalities (including socio-economic) and health impacts

Community impact statement

38. The proposal will not negatively impact service users of the community because there is no proposed reduction or restriction of the scope of the services that are already being offered.
39. The proposed contractor provides professional cleaning services to schools, offices, medical centres across London and the surrounding area. Local people and resources are used to deliver the contracts and will continue to provide an employment opportunities for residents of Southwark.
40. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.
- Southwark Council's leisure offer is already pioneering, providing free swim and gym and adult swimming lessons to everyone who lives in the borough.
 - Providing a comprehensive and consistent cleaning service across all buildings will ensure Southwark Council continues to provide clean and safe leisure centres residents can use to improve their health and wellbeing.

Equalities (including socio-economic) impact statement

41. The proposal will not negatively impact service users of the community because there is no proposed reduction or restriction of the scope of the services that are already being offered.

Health impact statement

42. The service will ensure a clean environment for visitors to enjoy recreational activities and enhance the user experience, encouraging them to remain active.

Climate change implications

43. Using a single commercial cleaning services provider will ensure effective and controlled use of cleaning chemical and consumables. The specification will include standards the contractor will be expected to meet to ensure an environmental friendly approach.

Social Value considerations

44. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.

Economic considerations

45. The council has a preference for in-house services wherever possible and there is a desire to have direct responsibility over the management and operation of its leisure facilities and services. This would enable the leisure service to be fully responsive to council priorities and would provide opportunities to work closely with other key council departments to deliver strategic outcomes in a more innovative and joined up way – linking the provision of leisure services with other council and partner services. The ability to manage facilities and services that are not necessarily commercially attractive, but which may maximise opportunities for residents across the borough, is also a key consideration when reviewing the future of the leisure contract.
46. The council is an officially accredited London Living Wage (LLW) Employer committed to ensuring that, where appropriate, our contractors and subcontractors pay staff at a minimum rate equivalent to the LLW rate. Rapid Commercial Cleaning services have confirmed that they meet the LLW requirements. Quality improvements and cost implications linked to the payment of LLW will continue to be monitored as part of each of the contract review processes.
47. The contractor, Rapid Cleaning, is required to continue to appoint apprentices in accordance with the terms and condition of the contract. The contractor has extensive experience of running apprenticeship and NVQ schemes and currently employs 50 apprentices across their other contracts.
48. The contractor supports the council's approach to not utilising zero hour Contracts and has a commitment to employing full and part time staff.

Social considerations

49. Southwark Council's leisure offer is already pioneering, providing free swim and gym and adult swimming lessons to everyone who lives in the borough.

50. A clean environment will encourage visitors to be more active, more often.

Environmental/Sustainability considerations

51. The methods and working practices of the contractor will be carefully checked, monitored and reported to ensure they make environmental and sustainability consideration a standard part of their service delivery.

Plans for the monitoring and management of the contract

52. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

53. The Councils new Leisure Services Division will operate a comprehensive quality monitoring and reporting system to ensure all standards specified are maintained.

54. The Leisure Services Division will provide an Annual performance report to meet the requirements of contract standing orders.

Staffing/procurement implications

55. Not applicable.

Financial implications

56. The table below illustrates the total value of the contract:

| | Cost (excl. VAT) |
|---|------------------|
| Estimated Annual Cost | £ 590,000 |
| Commissioning Costs (use of framework agreement 2.5%) | £ 14,750 |
| Total Cost per annum | £ 604,750 |
| Period of Agreement | 2 Years |
| Total Cost of Contract | £1,209,500 |

57. A base budget £2.6m per annum has been set aside for the ongoing costs of operating the leisure management services once the service is brought back in house. Officers are currently reviewing and establishing the various expenditure and income budgets for operating the leisure management service which will need to be contained within the net base budget of £2.6m.

58. The cost of this procurement will be incorporated into the operational revenue budget for leisure management services. The related costs will be monitored and reported as part of the departmental revenue budget monitoring process.

Investment implications

59. Not applicable.

Legal implications

60. Please see concurrent from the Director of Law and Governance.

Consultation

61. Current operator of the Leisure service (Everyone Active) is using Rapid Cleaning. Future consultation will take place when reviewing the leisure service, post insourcing.

Other implications or issues

62. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

63. This report seeks approval of procurement strategy to access a Multi Specialism Services Exceeding Framework Agreement with Constellia Public Limited for the procurement of Commercial Cleaning Services to enable appointment of a cleaning contractor for a period of two years, commencing in June 2023. The proposed procurement route is consistent with the Public Contracts Regulations 2015 (PCR2015) and council Contract Standing Orders (CSOs) as applicable to these services. The estimated value of the resulting contract is £604,750 per annum.

64. Headline risks associated with progression are contained at the end of paragraph 29, and reference management of implementation ahead of proposed start date in June 2023. It is recommended that this remains a focus, together with planned exit in view of potential insourcing and/or transition to an alternative provider at the cessation of the contract term.

65. Alignment with the Fairer Future Procurement Framework (FFPF) is evidenced, and references council aspirations re: access to leisure activities (paragraphs 49 and 50) and creation of employment opportunities (paragraph 47). The report also confirms that the appointed provider will be required to pay the London Living Wage (LLW) at paragraph 46.

66. Proposed methodology for performance/contract monitoring is detailed within paragraphs 52 – 54.
67. The Community, Equalities and Health Impact Statements are set out in paragraphs 38 – 42.
68. The Climate change, Social Value, Economic and Environmental / Sustainability statements are set out in paragraphs 43 – 51.

Director of Law and Governance

69. This report seeks approval of the procurement strategy for commercial cleaning services for the in-house leisure service, involving the use of the Exceeding Neutral Vendor Framework Agreement operated and managed by Constellia Public Limited.
70. The nature and estimated value of the services required is such that their procurement is subject to the application of the Public Contracts Regulations (PCR) 2015 which, amongst other things would require expressions of interest to be sought through the publication of a contract notice on the UK Find-a-Tender portal. However, the report proposes the use of an existing (Exceeding) framework which has been procured in line with the PCR and which the council has been formally permitted to access. Therefore, the council is not required to undertake a separate tendering exercise and instead will receive the services from a neutral vendor, in line with the process set out at paragraphs 23 and 24.
71. The proposed procurement strategy is also consistent with the council's Contract Standing Orders, which reserve to the Strategic Director of Environment and Leisure the decision to approve the recommendation of this report.
72. The Strategic Director will be aware of the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010. At each stage, in exercising its function (and in its decision making processes) the council must have due regard to the need to:
 - (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
 - (c) Foster good relations between person who share a relevant protected characteristic and those who do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are protected in relation to (a) only.

73. The community impact and equalities and health impact statements of this report note the benefits that the proposed procurement is intended to generate. However, the Strategic Director should satisfy herself that the PSED has been complied with when considering the report's recommendation.

Strategic Director of Finance and Governance (EL22/086)

74. The strategic director of finance and governance notes that the cost of this procurement will be incorporated into the operational revenue budget of the leisure management service.
75. Staffing and any other costs to be contained within existing departmental revenue budgets.

Director of Exchequer (for housing contracts only)

76. Not Applicable

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature



Date 25 January 2023

Designation Strategic Director Environment & Leisure

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

1. DECISION(S)

As set out in the recommendations of the report.

2. REASONS FOR DECISION

As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

As set out in the report.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION *

* Contract standing order 6.4.1 states that for contracts with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before a procurement strategy is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

I declare that I was informed of the conflicts of interests set out in Part B4.*

(* - Please delete as appropriate)

7. CONSIDERATION GIVEN TO WHETHER, AS A NON-KEY DECISION, THIS SHOULD BE FORWARDED TO THE CONSTITUTIONAL TEAM FOR PUBLICATION IN ACCORDANCE WITH REGULATION 13(4)*

The decision taker should consider whether although a non-key decision, the decision is sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available. Where there is any doubt, having considered the importance and/or sensitivity of a decision, it should be deemed that Regulation 13(4) would apply.

I consider that the decision be made available for publication under Regulation 13(4).*

or

I do not consider that the decision be made available for publication under Regulation 13(4).*

(* - Please delete as appropriate)

* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

BACKGROUND DOCUMENTS

| Background Documents | Held At | Contact |
|----------------------|---------|---------|
| Not applicable | | |

APPENDICES

| No | Title |
|----|-------|
| | None |

AUDIT TRAIL

| | | |
|--|---|--------------------------|
| Lead Officer | Caroline Bruce, Strategic Director of Environment and Leisure | |
| Report Author | David Pugh, Head of Leisure Insourcing | |
| Version | Final | |
| Dated | 23/01/23 | |
| Key Decision? | No | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Strategic Director of Finance and Governance | Yes | Yes |
| Head of Procurement | Yes | Yes |
| Director of Law and Governance | Yes | Yes |
| Director of Exchequer (for housing contracts only) | NA | NA |
| Cabinet Member ` | Yes | No |
| Contract Review Boards | | |
| Departmental Contract Review Board | Yes | No |
| Corporate Contract Review Board | No | No |
| Cabinet Member | No | No |
| Date final report sent to Constitutional /Community Council/Scrutiny Team | | N/A |

