

Item No. 10.	Classification: Open	Date: 15 May 2012	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval Communal Lighting and Lightning Protection Contract	
Ward(s) or groups affected:		All Wards	
Cabinet Member:		Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	

FOREWORD – COUNCILLOR IAN WINGFIELD, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING MANAGEMENT

Good estate lighting plays an important role in deterring crime and making residents feel safe and secure in their neighbourhoods. When lights fail it is clearly important that they are repaired quickly to avoid the inconvenience outages cause for residents.

I have taken a personal interest in the performance of our estate lighting contractor and recently chaired a meeting of the communal repairs working party. The meeting took evidence on the performance of the service and crucially the lessons that can be learnt. Chief amongst these were responding to outages quickly, undertaken proactive inspections to identify problems early, particularly in the autumn and winter months, and keeping residents informing of repair work at all times. It was pleasing to note that repairs costs for estate lighting have reduced consistently over the last four years and the feedback from residents is on the whole the service is a good one. That said, there is always room for improvement. The proposed new contract will bring together estate lighting and lighting protection which should not only provide better value for money but also mean service delivery is more efficient and responsive. The new contract will also allow the council to fully explore the use of LED lighting. This will offer lights that last longer, provide better lighting and reduce CO2 emissions.

It is my expectation that this procurement will build on much of the good work achieved to date and deliver the excellent service residents deserve.

RECOMMENDATION

1. That the Cabinet approves the procurement strategy outlined in this report for the Communal Lighting and Lightning Protection Contract at an estimated cost of £2,542,293 for a period of 3 years from 1 October 2013 to 30 September 2016 with the potential for two 12 month extensions to 30 September 2018, subject to performance, making an estimated contract value of £4,237,155.

BACKGROUND INFORMATION

2. The Communal Lighting Contract is a borough wide service to provide external communal lighting on council estates. The lighting includes all essential lighting in all communal areas on estates including (but not limited to) lamp posts, bulk head lighting, emergency lighting, security lighting, electrical power supply systems and wiring associated with these appliances.

3. The service is currently being provided to the council by Spokemead Maintenance Ltd (Spokemead) at an estimated annual cost of £731,540. This contract will expire on 30th September 2013.
4. The intention is to competitively tender the communal lighting service, as set out in this report for a period of 3 years (with the potential for two 12 month extensions) to ensure competitive costing of the contract, and long term stability of the service delivery.
5. In considering the tender process to be followed, the Engineering & Compliance team consider it prudent to package the council's lightning protection service with the communal lighting service, providing a single point of responsibility for both. This strategy is consistent with the recommendations set out in the Engineering Contracts Strategy which identified that such an arrangement would benefit from technical and operational synergies. It is envisaged that there will also be potential cost benefits by combining the engineering disciplines.
6. Like the communal lighting service, the lightning protection service is also a borough wide requirement. The service is currently provided by Central High Rise Ltd, on an ad-hoc, basis without any annual maintenance planning. This is not an efficient or cost effective way of maintaining the equipment.
7. It should be noted that the council has no budget provision for the lighting protection service, but the annual cost for 2011/12, based on 'actual spend' to-date, stands at £115,891. For the purpose of this report, this cost has been used as the estimated annual budget for the service, going forward. It has therefore been included in the costs cited in paragraph 1 above.
8. Based on the annual expenditure for both services detailed in paragraphs 3 and 7 above, the total estimated value of the proposed contract stands at £4,237,155 broken down as follows
 - (i) Total cost for 3 year term = £ 2,542,293
 - (ii) Total cost for additional 2 year term = £1,694,862
9. The intention is to award a contract for the whole service to one individual contractor, subject to a rigorous OJEU tender process, as set out in paragraphs 15 and 16 below. A single contractor is considered sufficient to cover the whole service. In the event of any failure on the part of the contractor, to undertake any aspect of the service, or should there be any insufficiencies in the performance of the contractor, the council shall have the right to invoke an agreed interim back-up arrangement and instruct an alternative approved contractor from the approved list of contractors and consultants, to undertake the service as required. Such instruction shall be subject to the contractor being issued with a Default Notice by the council, and all costs for the service carried out by the alternative contractor, shall be borne by the contractor.
10. Alternative contractors shall be selected from the approved list, and the works for which they are selected will not exceed the EU threshold. Such work will be subject to a mini competitive tender exercise, with a minimum of three approved contractors. Where time is of the essence, or in the event of emergency works being required, the council's in-house contract (Public Realm Asset Management) shall be instructed to carry out the works.

Summary of the business case/justification for the procurement

11. The work proposed under the proposed new contract will form an essential service to council residents of all wards.
12. Residents rely on the council to ensure that all communal areas are properly lit to ensure a safer environment and ease of access. The council also needs to ensure that appropriate levels of lightening protection is maintained on all buildings in accordance with BS EN 62305 2006 and the councils standard building risk assessment methodology. The provision of these services is considered to be essential to the health, safety and quality of life of council residents.
13. By tendering these services, the council will avail itself of the current market forces within the relevant electrical contracting sector, and any commercial and technical benefits that may be available to promote a regime of continual improvement and cost reduction.

Market considerations

14. There will be significant benefit in opening up these services to the market, to explore the options that are currently available. This does not only refer to costs, but includes better working methodologies and efficiencies, such as LED lights for instance, that could benefit the council and users of the service.
15. With the contraction in the economy over the last three years and current knowledge of the market for this type of work, it is anticipated that proposals will be highly competitive.

Proposed procurement route

16. Procurement will be carried out in accordance with an EU Restricted Procedure. In response to the notices, contractors interested in tendering will be required to formally express an interest in order to receive a Pre-Qualification Questionnaire (PQQ).
17. In accordance with the requirements of an EU Restricted Procedure, a minimum of 5 contractors will be invited to tender following the short listing process.

Options for procurement including procurement approach

18. The Engineering and Compliance team considered the following options before determining the procurement strategy set out in this Gateway 1 Report:
 - Do nothing – This is not an option open to the council. As a landlord and an employer the council have a statutory obligation to provide communal lighting and lightening protection across its housing stock. The council must therefore provide this essential service at all times.
 - Use an existing framework agreement – The council has no existing framework agreements in place for this type of work and there are no external arrangements that meet the council's requirements. This has been precluded as an option.

- Shared Services – there are no other neighbouring local authority currently seeking a shared service arrangement for this type of work. Their contracts are in general ring fenced arrangements with their internal workforce or external contractors. This has therefore been precluded as an option.
- The council provides these services in-house – Consideration was given to a single source transfer of the service, to the council's in-house contractor, PRAM. However, this was not taken further due to the Leaseholder Valuation Tribunal (LVT) implications, as advised by HOU. Also, in the absence of any up to date cost/rates comparison data from the market, there is no current evidence to support that such a transfer would achieve best value.

PRAMS are currently engaged on the street lighting contract for the council and it is recognised that there are synergies between these works, and the communal lighting works. So, whilst the latter may not be transferred to PRAM directly (on a single source basis), there has been dialogue with them concerning their participation in the competitive tender, process for the proposed new contract. PRAM has confirmed that they will tender for the service.

- Go out to tender - This is the recommended option see paragraphs 15 and 16 above

19. The 'Go out to Tender' option above, is considered to be the best option as it is anticipated to attract considerable interest and achieve best value for the council. In precluding the other options from further consideration, the council is obliged to use an EU compliant process to procure a new contract for the service. It is proposed that the service is tendered under an EU Restricted Procedure.

Identified risks and how they will be managed

20. The table below identifies a number of risks associated with this procurement, the likelihood of occurrence and the control in place to mitigate the risks.

R/N	Risk Identification	Likelihood	Risk Control
R1	Gateway 1 approval delayed	Low	Ensure report submitted on time with all concurrents in place
R2	Procurement process becomes delayed	Medium	Continual review of the procurement process. In the event of a possible delay, re-visit /re-evaluate the process and escalate as necessary within the Engineering and Compliance team
R3	Deadline for advertising delayed	Low	Re-evaluate and adjust the programme for procurement
R4	Challenges to procurement outcome	Low	Ensure procurement process is transparent and conducted in accordance with CSO governance and OJEU. Continually monitor throughout the procurement process.
R5	Contract award delayed	Medium	Engineering and Compliance to liaise with Legal. If necessary, approach incumbent contractor to provide interim arrangements and extend contract.
R6	Security for insufficiencies in Performance	Medium	Contractors will be required to provide Performance Bonds and/or Parent Guarantees (subject to ownership by a parent company)

KEY ISSUES FOR CONSIDERATION

Key decisions

21. This report is a strategic procurement and is therefore a key decision.

Policy implications

22. The provision of a communal lighting and lightning protection service is required in order that the council fulfils its duties and obligations as a landlord and employer. The maintenance of communal lighting is also important in contributing to community safety objectives, reducing the fear of crime and deterring vandalism of property.

Procurement project plan (Key decision)

Activity	Complete by:
Forward Plan (if Strategic Procurement)	May 2012
DCRB/CCRB/CMT Review Gateway 1: Procurement strategy approval report (this report)	12 Mar 2012 15 Mar 2012
Notification of forthcoming decision - Five clear working days (if Strategic Procurement)	12 Apr 2012
Approval of Gateway 1: Procurement strategy report (this report)	15 May 2012
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	25 May 2012
Issue Notice of Intention	28 May 2012
Completion of tender documentation	20 Jul 2012
Advertise the contract	23 Jul 2012
Closing date for expressions of interest	11 Sept 2012

Completion of short-listing of applicants	20 Sept 2012
Invitation to tender	21 Sept 2012
Closing date for return of tenders	22 Nov 2012
Completion of evaluation of tenders	13 Dec 2013
Completion of any interviews	20 Dec 2013
Issue Notice of Proposal	21 Dec 2013
DCRB/CCRB/CMT Review Gateway 2: Contract award report	25 Feb 2013 28 Feb 2013
Notification of forthcoming decision (five clear working days)	25 Mar 2013
Approval of Gateway 2: Contract Award Report	12 Apr 2013
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	24 Apr 2013
Alcatel Standstill Period (if applicable)	11 May 2013
Contract award	13 May 2013
OJEU Award Notice	20 May 2013
Contract start	1 Oct 2013
Contract completion date	30 Sept 2018

TUPE implications

23. The appointment of a new contractor in this proposed retender of these services will amount to a Service Provision Change and therefore it is possible TUPE will apply. Due diligence will need to be carried out in respect of both Spokemead and Central High Rise before definitive advice on TUPE can be provided. This due diligence work needs to be carried out before the tender process commences as its results need to be included in the tender pack.

Development of the tender documentation

24. The specification and contract documentation will be prepared by the Engineering & Compliance team in conjunction with the council's legal department.
25. The form of contract to be used will be JCT Measured Term Contract 2011 which will be subject to amendment as directed by the council's legal department.

Advertising the contract

26. The contract will be advertised by way of an official notice that will be published in Official Journal of the European Union.
27. Subsequent to publication of the OJEU Notice, the contract will also be placed on the council's website

Evaluation

28. The PQQ's returned will be evaluated by the Engineering and Compliance team. The selection process will be an evaluation of each contractor's economic and financial standing and their technical knowledge, experience, ability and capacity to provide the service. Those who successfully pass the short listing stage will be invited to tender. The threshold score percentage, for a successful prequalification will be 50%.
29. The tender evaluation criterion will follow the Most Economical Advantageous Tender (MEAT) protocol. The assessment of the tender will be based on price/quality ratio of 70:30.
30. Price evaluation will be undertaken by members of the Engineering and Compliance team. Method statements will be used in assessing the quality and appropriateness of working practices. Tenderers will be required to provide information on their organisation, which will include (but not be limited to) experience, organisation structure, number of personnel and their relevant qualifications, transport / logistics infrastructure, out of hours working and 24 hour helpdesk support etc., that demonstrates their ability to fulfil the requirements of the contract. The full evaluation methodology will be agreed by the Engineering and Compliance team.

Community impact statement

31. The service will affect all communities/groups in the borough and will in turn improve the security and quality of life for the residents, deter anti-social behaviour and criminal activity. Direct benefit to tenants will include limiting the incidence of defective communal lighting and defective lightning protection equipment.

Sustainability considerations

32. The contracts will adhere to the council's Sustainability Policy. Where possible, materials purchased will be from sustainable sources. However, the overriding decision on material selection will be the materials conformity to BS and IS standards to ensure maximum safety and suitability
33. Sustainability goals will be set for the contracts and where possible the communal lighting and lightning protection contractors will be required to carry out (and evidence) the following
 - Re-use of materials that can be recycled or reclaimed on site
 - Avoidance of environmentally damaging materials
 - Avoidance of materials that are potentially harmful to humans
34. The contractor shall be required to identify and submit recommendations for new low energy technologies as part of the on-going continual improvement ethos for the project.

Economic considerations

35. It is envisaged that expressions of interest will be submitted by interested parties within the EU in response to the OJEU advertisement for the contract. As the contract will also be put on the Southwark website, it is anticipated that this will also attract the interest of more local electrical contractors and afford them the opportunity to register their interest in competing for the work.

Social considerations

36. Contractors will be required to demonstrate that they operate an Equal Opportunity Policy and that they are fully aware and compliant with council's own Equal Opportunity Policy.

Environmental Considerations

37. The use of low emission vehicles and planning of journeys will be encouraged within the contracts.

Plans for the monitoring and management of the contract

38. The contracts will be managed by the Engineering and Compliance team, who will also monitor both the value and quality of the work carried out.

Resource implications

Staffing/procurement implications

39. There will be no impact on council staff caused by re-tendering these contracts. Consultants have been appointed and will be used, where required, to assist and support specific elements of the procurement process.

Financial implications (JP – FIN0685)

40. The communal lighting contract is a borough-wide contract covering responsive repairs and maintenance of all light fittings on housing estates which is necessary to provide a safer environment for residents to live and work.
41. The budget for the communal lighting contract is planned to remain at £731,540 each year totalling £2,194,620 for the three years and £1,463,080 for the following two years.
42. The costs for the lightning protection program are currently covered by the Other R&M budget, which will cover the projected costs for the next 3 years. It is projected that the costs will be £165,000 annually for the next 3 years. In the past there have been problems with metal theft; however, any future costs arising from metal theft will need to be met from another budget or come off the total £165,000 allowance for Lightning Protection works.

Legal implications

43. These are contained in the supplementary advice from the Strategic Director of Communities, Law and Governance.

Consultation

44. None

Other implications or issues

45. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

- 46. This report seeks the approval of the cabinet to the procurement strategy for the communal lighting and lightning protection contract at an estimated cost of £2,542,293.00 for a period of 3 years from 1 October 2013 to 30 September 2016, with the potential for two 12 month extensions to 30 September 2018, subject to performance, making an estimated contract value of £4,237,155.00 as outlined in this report.
- 47. At this value this will be a strategic procurement and therefore the decision to approve the procurement strategy is reserved to the cabinet.
- 48. Contract Standing Orders 5.4 requires all reasonable steps to be taken to obtain at least 5 tenders following a publicly advertised competitive tendering process for services over the EU threshold.
- 49. It is considered that these services are Part A services under the Public Contracts Regulations 2006. As the estimated value of this contract exceeds the relevant EU threshold it must also be tendered in accordance those Regulations.
- 50. Paragraphs 16 & 17 of this report confirm that a restricted stage tendering procedure is proposed which will comply with EU regulations and CSO tendering requirements

Finance Director (NR/F&R/27/4/12)

- 51. This report recommends that the cabinet approves the procurement strategy outlined in this report for the communal lighting and lightning protection contract with the potential for two 12 month extensions to 30th September 2018, subject to performance.
- 52. The finance director notes the financial implications contained within the report, establishing that the costs of the proposal can be contained within existing budgeted revenue resources. Officer time to effect the recommendations can be contained within existing budgeted revenue resources.

Head of Procurement

- 53. This report seeks approval from the cabinet for the procurement strategy of a communal lighting and lightning protection contract for an initial period of 3 years with the option, at the discretion of the council, to extend for a further two, 12 month periods.

54. The proposed strategy is for the council to carry out a competitive tender process. The process described in the report is in line with the Council's contract standing orders (CSO's) and EU regulations.
55. The project timetable included within the report is achievable for the proposed procurement strategy, provided that appropriate resources are allocated to the process.
56. The report confirms that the evaluation shall be carried out on the basis of the most economically advantageous tender and in determining this shall use a price/quality ratio of 70:30 which is in line with the council's preferred ratio.
57. The report confirms that the full evaluation model is still to be agreed by the Council. The finalised evaluation model needs to be issued to interested parties during the tender process to ensure a fair and transparent process.
58. This procurement is one of a number which the engineering and compliance team has scheduled for delivery this year. It is important that good governance arrangements are put in place to ensure the successful delivery of these procurements.

Head of Home Ownership Unit

59. This contract has previously attracted service charges that are in the majority under £100. However in order to ensure that the full service charge is protected, and to enable high cost work to be carried out if necessary the contract will be treated as a qualifying long term agreement within the terms of the Commonhold and Leasehold Reform Act 2002. Consultation is required under schedule 2 of the regulations. Notice of Intention will be required before tenders are sought and Notice of Proposal will be required before a contract is placed.
60. The procuring officer should ensure that costs can be presented in such a way that they can be attributed to the relevant block and estate cost centres.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Engineering Contracts Strategy	Engineering and Compliance, 160 Tooley Street, SE1 2TZ	Gavin Duncumb, Tel: 020 7525 0685

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management		
Lead Officer	Gerri Scott, Strategic Director of Housing Services		
Report Author	David Lewis, Head of Maintenance and Compliance		
Version	Final		
Dated	3 May 2012		
Key Decision?	Yes	If yes, date appeared on forward plan	16/03/2012
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title		Comments Sought	Comments included
Strategic Director of Communities, Law & Governance		Yes	Yes
Finance Director		Yes	Yes
Head of Procurement		Yes	Yes
Contract Review Boards			
Departmental Contracts Review Board		Yes	Yes
Corporate Contracts Review Board		Yes	Yes
Cabinet Member		Yes	Yes
Date final report sent to Constitutional Team			3 May 2012