

Item No.	Classification: Open	Date: 13 April 2016	Meeting Name: Cabinet Member for Housing
Report title:		Gateway 1: Procurement strategy - Communal Lighting and Electrical Testing Contracts - Contract A: North of the Borough and Contract B: South of the Borough	
Ward(s) or groups affected:		All	
From:		Strategic director of housing and modernisation	

RECOMMENDATIONS

1. That the cabinet member for housing approves the procurement strategy outlined in this report for two communal lighting and electrical testing contracts: Contract A - north of the borough at an estimated annual cost of £1.85m and Contract B - south of the borough at an estimated annual cost of £1.53m for a period of 4 years with the option to extend each contract by a further 2 year period, with an estimated start date in July 2017, making a total estimated value of £20.3m for the contracts.
2. That the cabinet member for housing notes that the rationale behind the geographical division of contract areas is based on the need to ensure efficient delivery of the services.
3. It is noted that the leader of the council on 19 February 2016 delegated his authority to agree the approval of this gateway 1 procurement strategy to the cabinet member for housing.

BACKGROUND INFORMATION

4. Currently, the council has one communal lighting and lightning protection contract which serves the whole of the borough and two periodic electrical testing and remedial works (PEITR) contracts – Contract A serving the north of the borough and Contract B – serving the south of the borough.
5. The table below details the contractors and the services that are currently delivered:

Contract	Contractor	Service delivered	Area
Communal Lighting and Lightning Protection	Spokemead Maintenance Ltd (Spokemead)	<ul style="list-style-type: none"> • Communal lighting repairs and tests • Landlord electrical repairs • Lightning protection 	Borough wide
PEITR Contract A	BCS (Electrical & Building) Ltd (BCS)	<ul style="list-style-type: none"> • Landlord periodic electrical testing • Remedial works 	North of the borough
PEITR Contract B	Lockesleys Ltd (Lockesleys)	<ul style="list-style-type: none"> • Landlord periodic electrical testing • Remedial works 	South of the borough

6. The current communal lighting and lightning protection contract commenced on 1 October 2013 for an initial term of 3 years with the option to extend by a further 2 year period. This extension was utilised on 30 June 2015 and the contract is therefore due to expire on 30 September 2018. However, due to the demand for upgrading and installing emergency lighting to reduce the fire risk rating on the council's housing blocks the approved value of the current contract has now reached its total estimated value, and therefore there is now a need to re-procure as soon as possible.
7. The current PEITR Contracts commenced on 1 January 2015 for an initial term of 3 years with the option to extend by a further 1 year period. The initial term of the contracts is due to expire on 31 December 2017. The extension period will not be utilised as by combining these services with the communal light and lightning protection work will ensure that the council can maximise the opportunities for identifying savings, introducing competition, providing back-up arrangements and also ensure that the council's exposure to a contractor's economic or performance failure is reduced. This will achieve the council's objectives while at the same time securing best value for residents.
8. The work streams for all three contracts are electrical and combining these services will give the following benefits:
 - i) Communal lighting and landlord electrical repairs programmed more efficiently based on the periodic testing. Periodic testing of the landlord's electrical installation identifies areas that require remedial works and therefore this can be completed in one visit and reduce inconvenience caused to residents.
 - ii) Lightning protection and emergency lighting tests can be programmed removing the need for multiple visits and electrical shutdowns.
 - iii) Tests can be aligned to provide a more streamlined programme.
 - iv) Two new contracts will provide more efficient services and remove duplication.
 - v) Backup arrangements to ensure service delivery.
9. The new contracts are estimated to commence in July 2017. As noted in paragraph 7 above, the current PEITR contracts expire on 31 December 2017. The periodic electrical testing element will not be included in the new contracts until 1 January 2018 as the current contractors are performing well and providing a service that provides value for money and meets targets. Therefore the contracts for this element should expire naturally.
10. It should be noted that given the large number of stock across the borough, the appointment of a single contractor for the services would not be appropriate. It is considered that such an arrangement would present a significant risk to the council should the contractor default or fail to perform. Such a risk would increase in the absence of any backup or support arrangement with an alternative contractor. Therefore no single contractor will be awarded both contract areas and two separate contractors will be appointed who will also act as backup to each other.
11. The proposed scope of the work for the two new contracts will be
 - i) Communal lighting responsive repairs.

- ii) Repairs, remedial and upgrades to the landlord's electrical supply.
 - iii) Periodic electrical testing of landlord's electrical installation (from 1 January 2018 after the expiration of the current PEITR contracts).
 - iv) Emergency lighting tests and repairs.
 - v) Lightning protection tests and repairs.
 - vi) Emergency call out service.
12. The two new contracts will be awarded based on a geographical split (north and south) of the borough, each providing all of the services, with an estimated term for each contract of 4 years, with the option to extend each contract by a further 2 year period.
- a) Contract A – north - Walworth, Borough and Bankside, Bermondsey, Rotherhithe
 - b) Contract B – south - Camberwell, Peckham, Nunhead and Peckham Rye, Dulwich.
13. The estimated annual value of both contracts stands at £3.38m and is apportioned at £1.85m for Contract A and £1.53m for Contract B. These values include a contingency of £300k for Contract A and £200k for Contract B. The contingency has been included to ensure that engineering and compliance has the capacity to respond to major operational incidents and preclude extended loss of service to residents.
14. The total estimated value for both contracts stand at £20.3m broken down as follows:
- (i) Total cost for initial four year period = £13.5m
 - (ii) Total cost for additional two year period = £6.8m
15. The above contract values are composed of an estimated annual expenditure of £2.9m revenue and a contingency sum of £500k.
16. The duration and value of these proposed contracts will achieve a balance between price competitiveness and provide two attractive contracts to the market.
17. Consultation with other council departments identified that there is currently not a requirement for wider usage of these two contracts.

Summary of the business case/justification for the procurement

18. The work proposed under the two new contracts will form an essential service to council residents of all wards.
19. 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 lightning protection are maintained on all buildings in accordance with the council's 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.
20. The services proposed will also ensure that all landlord electrical installations are tested and made safe to ensure conformance with the Regulatory Reform (Fire Safety) Order 2005 and the Electricity at Work Regulations 1989.

Market considerations

21. The engineering and compliance team have a significant level of knowledge about the market for these types of services. This has been gained not only through the management of the existing contracts but also through partnership with the National Inspection Council for Electrical Installation Contracting (NICEIC). The market is, and continues to be competitive for this type of services.
22. There will be significant benefit in opening up these services to the competitive market, to explore the options that are currently available. This does not only refer to costs, but also includes better working methodologies and/or efficiencies that could benefit the council.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

23. The engineering and compliance team considered the following options before determining the procurement strategy set out in this report:
 - A. Do nothing - this is not an option to the council. As a landlord and employer it is essential that the council ensures inspection, testing and maintenance regimes are in place to meet its legal and statutory obligations.
 - B. The council provides these services in-house without a process of competition – the council did consider giving the work to the council's traded services (TS) department but precluded this as an option as the council wants to procure these services to the market which may demonstrate better value for money and progressive service improvement. TS will have the opportunity to tender for the work alongside external tenderers
 - C. The use of internal or external frameworks - there are no existing frameworks.
 - D. Shared Services - the feasibility of sharing services with neighbouring local authorities was considered by the engineering and compliance team and Lewisham, Lambeth and Greenwich's contracts precluded Southwark from utilising their contracts.
24. As none of the above options are viable and these services are estimated above the relevant EU threshold for services, it is proposed that an EU restricted tender process is carried out to procure these services.

Proposed procurement route

25. This procurement will be carried out in accordance with an EU restricted procedure. In response to the Official Journal of the European Union (OJEU) notice, companies interested in tendering will be required to download a Pre-Qualification Questionnaire (PQQ) from Contracts Finder and submit by the PQQ deadline set.
26. A minimum of 6 organisations will be selected for the tender list for contracts A and B, subsequent to the PQQ process. This will meet the EU restricted

procurement process. There will be a 70:30 ratio applied to the Price / Quality scoring in the tender evaluation. The highest scoring tenderer will be awarded Contract A (north) and the second highest will be awarded Contract B (south).

Identified risks for the procurement

27. 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	Challenges to procurement outcome	Low	Ensure robust procurement in line with EU procurement regulations.
R2	The procurement process fails due to inadequate quality of submissions by tenderers	Low	Ensure that tender documents are drafted to facilitate submissions of required standard.
R3	The procurement process is delayed	Low	Effective procurement project management.
R4	Contractor could raise unnecessary repairs works orders following tests	Medium	Engineering undertake "witness tests" of the electrical tests.

28. A performance bond will not be required for either contract. The contract documentation will include for retention of monies in respects of planned programmed works to be withheld until satisfactory completion of each contract. An ultimate holding/parent company guarantee will be required if the successful contractor(s) has a parent company. The Commercial Team Quantity Surveyors carry out post-inspections to verify that invoiced works have been undertaken to the required standard and that the financial claims are accurate.
29. Each contract will contain a break clause to terminate the contract at will with no consideration of any loss or expense at any time.

Key /Non Key decisions

30. This report deals with key decision.

Policy implications

31. The provision of a communal lighting, periodic electrical testing and lightning protection services 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

Activity	Complete by:
DCRB Review Gateway 1:	07/03/2016
CCRB Review Gateway 1:	10/03/2016

Activity	Complete by:
CMT Review Gateway 1:(if applicable)	14/03/2016
Approval of Gateway 1: Procurement strategy report	21/03/2016
Forward Plan (if GW2 is key decision)	21/03/2016
Issue Notice of Intention	15/04/2016
Completion of tender documentation	05/08/2016
Publication of OJEU Notice	09/08/2016
Publication of Opportunity on Contracts Finder	11/08/2016
Closing date for receipt of expressions of interest	10/10/2016
Completion of short-listing of applicants	08/11/2016
Invitation to tender	15/11/2016
Closing date for return of tenders	16/12/2016
Completion of evaluation of tenders	16/01/2017
Issue Notice of Proposal	03/02/2017
DCRB Review Gateway 2: Contract award report	20/03/2017
CCRB Review Gateway 2: Contract award report	23/03/2017
CMT Review Gateway 2: Contract award report (if applicable)	03/04/2017
Notification of forthcoming decision – despatch of Cabinet agenda papers	05/04/2017
Approval of Gateway 2: Contract Award Report	18/04/2017
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision (If GW2 is key decision)	28/04/2017
Debrief Notice and Standstill Period (if applicable)	11/05/2017
Contract award	15/05/2017
Add to Contract Register	16/05/2017
Place award notice in OJEU	19/05/2017
Place award notice on Contracts Finder	23/05/2017
TUPE Consultation period (if applicable)	31/07/2017
Contract start	07/08/2017
Initial Contract completion date	06/08/2021
Contract completion date – if extension(s) exercised	06/08/2023

TUPE/Pensions implications

32. From the information provided it appears that Spokemead, BCS and Lockesleys have organised groupings of employees that carry out the work as their principal

purpose and are assigned 100% of the time to undertake the work in dedicated teams. Therefore, in the circumstances, the appointment of new contractors in the proposed procurement of these services will amount to a Service Provision Change (SPC) under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and therefore TUPE will apply.

33. A full due diligence exercise will need to be carried out in respect of Spokemead, BCS and Lockesleys before definitive advice on TUPE can be provided and to confirm if there are potential transferring employees who work in an organised grouping of employees and are assigned to undertake the work in a dedicated team. The 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

34. A project team and project board will be set up for this procurement. The project team will be responsible for producing the tender documentation and the project board will provide governance. The form of contract to be used, for each contract, will be JCT Measured Term Contract 2011, which will be subject to amendment as directed by the council's legal services department.

Advertising the contract

35. The contract will be advertised by way of an official notice that will be published in OJEU.
36. After publication of the OJEU notice, an advert will also be placed on the council's website and on Contracts Finder where the documentation and guidance can be downloaded.

Evaluation

37. 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 services. The 6 highest ranked companies will be invited to tender. The short-listed companies will be invited able to bid for both Contracts A and B but the evaluation methodology will set out that each contract will be awarded to separate companies and not to a single company.
38. Tenderers will be evaluated on the basis of M.E.A.T (most economically advantageous tender) using a weighted model of 70:30 price and quality. This achieves a balance between cost and the quality of service delivery.
39. Price evaluation will be undertaken by the commercial team and checked by officers in housing
40. Quality evaluation will be undertaken by officers in the asset management division. Tenderers will be evaluated based on the method statements for:
 - Mobilisation and quality of resources available.
 - Service delivery in achieving specification, customer care, health and safety and key performance indicators.
 - Response to a scenario.

- London living wage.
41. The full evaluation methodology will be agreed by the project team and approved by the project board.
 42. As noted in paragraph 10 above, each contract will be awarded to separate contractors. Accordingly, Contracts A and B will be awarded to the two overall highest scoring contractors in terms of the total score of price and quality.

Community impact statement

43. Contracts A and B are borough wide and will support the council's commitment to providing quality affordable housing.
44. Both contracts will be of a medium impact to tenants, homeowners and other stakeholders as these services will require statutory inspections of landlord's electrical installations.

Sustainability considerations

45. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.

Economic considerations

46. It is envisaged that expressions of interest will be submitted by interested parties within the EU in response to the published OJEU notice.
47. It is also anticipated that the advertisement on the council's website will attract the interest of local companies.
48. Contracts A and B will require two electrical apprentices to be recruited for each contract for the initial four year contract period. Contractors will also be required to provide two week's work experience to local schools for each year of the contracts.

Social considerations

49. Contractors will be required to demonstrate that they operate an Equal Opportunities Policy.
50. The successful contractors are expected to meet the London Living Wage (LLW) requirements. For these contracts, the quality improvements are expected to include a high calibre of electrical skilled operatives that will contribute to the delivery of the services on site and it is therefore considered that best value will be achieved by including this requirement. As part of the tender process, tenderers will be required to confirm that they pay the staff, who will be engaged on the contracts, equal to or more than the minimum LLW hourly rate and will continue to do so through the contract term and confirm how productivity will be improved by payment of LLW and. On award, any associated quality improvements and cost implications will be monitored as part of an annual review of each contract.

51. Contractors will be encouraged to register with and seek to secure accreditation through the TfL Fleet Operator Recognition Scheme (FORS). FORS helps fleet operators to measure and monitor performance, encompassing safety, fuel efficiency, vehicle emissions and improved operations, in order to promote fleet management best practice and reduce social / environmental impacts.

Environmental considerations

52. The use of low emission vehicles and planning of journeys will be encouraged within the contracts.
53. LED lighting and smart lighting will be considered where appropriate to reduce energy costs and reduce CO2 emissions.

Plans for the monitoring and management of the contract

54. Contracts A and B will be let and managed by the engineering and compliance team.
55. Key performance indicators will be set and challenged to ensure the successful contractors' performance. In particular, targets will be set to ensure all emergency lighting, periodic testing and lightning protection inspections are completed within the statutory timescales.
56. To ensure robust contract management arrangements are in place, electrical compliance team officers will undertake audit site inspections to ensure that method statements are adhered to and repair and installation works are compliant and delivered to a high standard.
57. The commercial team quantity surveyors will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.
58. Monthly progress meetings with the contractors, to be attended by electrical compliance team officers and quantity surveyors, will be arranged and recorded to review performance and compliance.

Staffing/procurement implications

59. There will be no impact on staff as the existing electrical/ lift contract management team are already performing the contract management functions.

Financial implications (FIN0874 – JP)

60. These contracts are due to commence in July 2017 and will be subject to budget decisions to be agreed by cabinet as part of budget setting for 2017/18 and subsequent years.
61. However, the current budgets available for 2016/17 are -
 - a) Estate lighting budget (including lightning protection works) of £868k;
 - b) FRA works budget, from which the electrical testing works are funded, is £2.45m for 2016/17, and £1.23m has been set aside for electrical testing; and

- c) A growth bid of £775k has been agreed for emergency lighting testing and remedial works as part of the 2016/17 budget setting.

- 62. This totals £2.9m which would currently be sufficient to cover the expected costs, although contingency works need to be subject to future budget availability. Further information on the prices obtained and the likely budget requirements will be provided as part of a subsequent report when the contracts are recommended for award.

Investment implications

- 63. None.

Legal implications

- 64. Please see concurrent from the director of law and democracy

Consultation

- 65. Consultation with residents will be held at the monthly TRA meetings.
- 66. Tenant Management Organisations have been contacted and have confirmed that they wish to be included in this procurement but with an option to opt out at anytime. The contract documentation for each contract will include the necessary clauses to cover this process.

Other implications or issues

- 67. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

- 68. This report seeks approval for the procurement strategy of two communal lighting and electrical testing contracts. The report explains the two contracts will be based on a geographical split and provides justification for having two separate contracts.
- 69. The report advises that the services are essential to ensure that all communal areas are properly lit for ease of access and a safer environment and appropriate levels of lightning protection are maintained on all buildings in accordance with the council's standard building risk assessment methodology.
- 70. The options for procuring these services have been explored and the report concludes that the most viable option is for the council to carry out a competitive tender process following an EU restricted procedure. The process described in the report is in line with the Council's contract standing orders (CSO's) and EU regulations.
- 71. 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.

- 72. The project timetable included within the report is achievable for the proposed procurement strategy, provided that appropriate resources are allocated to the project at the appropriate time.
- 73. The report confirms that both project team and project board will be put in place which will help support successful delivery of this procurement.

Director of Law and Democracy

- 74. This report seeks the approval of the cabinet member for housing for the procurement strategy to procure 2 contracts as further detailed in paragraph 1.
- 75. The nature and value of these services are such that they are subject to the tendering requirements of the Public Contract Regulations 2015 (PCR 2015). Paragraphs 25 and 26 of this report confirm that an EU restricted procedure will be followed which will comply with PCR 2015 and contract standing order (CSO) tendering requirements.
- 76. As this procurement strategy falls within the circumstances noted in CSO 4.4.2 a), the decision to approve the procurement strategy is usually reserved to the cabinet or cabinet committee, after consideration of this report by the corporate contracts review board (CCRB). However, it is noted at paragraph 3 that the leader delegated the authority to approve this procurement strategy to the cabinet member for housing.

Strategic Director of Finance and Governance (H&M 15/026)

- 77. The financial implications arising from the proposed contract procurement are contained in the report.

Director of Exchequer (for housing contracts only)

- 78. This is a qualifying long term agreement under the terms of the Commonhold and Leasehold Reform Act 2002. The work stream referred to is for service chargeable costs and consultation will be required under schedule 2 of the regulations. It is necessary to complete the Notice of Intention consultation before tenders are invited for this contract.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 2 Periodic electrical testing and remedial works	Engineering & Compliance 160 Tooley St, SE1 2QH	Gavin Duncumb x50685

APPENDICES

No	Title
None	

AUDIT TRAIL

Lead Officer	David Markham, Director of Asset Management	
Report Author	Gavin Duncumb, Commercial Manager	
Version	Final	
Dated	13 April 2016	
Key Decision?	Yes	
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 Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	13 April 2016	