

Committee: Cabinet

Date: 6 December 2021

Wards: ALL

Subject: Award of term building services contracts for the planned preventative maintenance and reactive repairs of building services, plant and equipment

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Tobin Byers, Cabinet Member for Finance

Contact officer: Nick Layton, Compliance and Maintenance Manager

Exempt or confidential report

The following paragraph of [Part 4b Section 10 of the constitution](#) applies in respect of information within Appendices A-D and they are therefore exempt from publication:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Members and officers are advised not to disclose the contents of Appendices A-D.

Recommendations:

- A. To award new term contracts for the maintenance of the council's buildings for a period of 4 years to the contractors listed in Appendix A with potential extensions of 2 years plus one, starting from 01 April 2022.
- B. In accordance with Contract Standing Orders (CSO 24.3) that authority be delegated to the Director of Corporate Services to exercise, in consultation with the Cabinet Member for Finance, the council's option to grant the extension of the contract term for any period up to three further years beyond the expiry of the initial contract term on 31 March 2026.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to explain the procurement process for a set of new term building maintenance contracts and to recommend that Cabinet approves the award of the contracts to the bidders contained within Appendix A.
- 1.2 The tender process involved contractors bidding for a basket of 6 separate contracts (LOTS) following a pre-qualification exercise, fully in line with CSOs and the Public Contract Regulations 2015.
- 1.3 A total of 5 contractors are recommended to be appointed. Due to the commercial sensitivity the details of assessment results have been circulated as a confidential appendix to this report.
- 1.4 The recommended contractor's offered overall best value for money in the procurement process.

2 DETAILS

- 2.1 This report outlines the key features and benefits of this recommendation and the impact that this will have on overall improvements in service quality, cost control and value for money.
- 2.2 The contracts are for the provision of fabric, mechanical and electrical (M&E), air conditioning, legionella, fire alarms and data centre planned preventative maintenance (PPM), reactive repairs, and emergency attendance up to £10k and project works up to £50k, beginning April 2022.
- 2.3 The contracts include for statutory and mandatory compliance testing and certification to meet the requirements of the Health and Safety at Work etc. Act and all relevant regulations made under it, such as the Gas (Installation and Use) Regulations, the Electricity at Work Regulations etc.
- 2.4 The existing term contracts expire on 31st March 2022.
- 2.5 Services progress on the issue of a valid purchase order, with each PO generally not exceeding £10k. Average PO values are currently in the order of £440 per job.
- 2.6 Servicing and inspections are carried out against an agreed priced activity list. The number of assets will change during the course of the contract and the costs will be reconciled during each financial year to ensure the London Borough of Merton only pays for the services it receives.
- 2.7 Reactive works are carried out against agreed labour rates and % add on costs for plant and materials.
- 2.8 The contracts allow for orders to be placed up to a maximum value of £50k under emergency works which otherwise could lead to a serious health and safety risk or imminent closure of a premises.
- 2.9 The total annual value of the term contracts, and estimated total value over the full contract term can be found within Appendix A.
- 2.10 There is no guaranteed minimum level of spend or volume of work under the contracts and the council has the ability to procure services outside of these contracts should it wish to do so.
- 2.11 During their term, these contracts will provide sufficient flexibility to account for changes in the property estate.
- 2.12 The contracts cover maintenance of all properties within the FM portfolio of operational buildings, including offices, day centres, libraries, community centres, E&R and Greenspace buildings. Call off arrangements have been allowed for, so that Merton schools can take advantage of the contract terms and conditions and rates should they wish.

Procurement Process

- 2.13 The procurement was undertaken via a two stage restricted tender. The OJEU/Find a Tender (FTS) notice and Selection Questionnaire (SQ) was published on 20th May 2021. The submission deadline was 22nd June 2021.
- 2.14 The procurement process was managed via the Merton Councils electronic tendering system 'The London Tenders Portal', in line with the Councils Contract Standing Orders (CSO's), and in collaboration with the Commercial Services team.
- 2.15 40 bidders submitted a response during this stage, and 27 were successfully shortlisted and invited to tender as per stage 2 of the process.
- 2.16 Following the pre-qualification exercise, the Invitation to Tender (ITT) was published on 25 August 2021, with a submission deadline of 12 noon on 27 September 2021. The ITT was published via the London Tenders Portal under the following LOTS:

Lot	Service	Description
1	Fabric	Mainly reactive maintenance services to the fabric of buildings such as roofs, walls, floors etc. Fabric Services includes plumbing.
2	M&E	Planned preventative and reactive maintenance to mechanical and electrical systems within buildings including gas boilers and water heaters, ventilation systems, electrics and lighting.
3	Air Conditioning	Planned preventative and reactive maintenance to air conditioning systems; excludes that solely serving the data centre and comms. rooms within the Civic
4	Legionella	Legionella risk assessments and planned preventative maintenance to plant and equipment associated with the control of legionella.
5	Fire Alarms	Planned preventative and reactive maintenance to fire alarm systems, the gas suppression system at Gifford House and portable fire-fighting equipment.
6	Data Centre	Responsibility for ensuring the built environment within the data centre and comms rooms at the Civic Centre are within the limits to ensure no disruption of supply. This involves monitoring of the environment 24/7 and carrying out planned preventative and reactive maintenance to the data centre plant and equipment such as air conditioning, fire services and the UPS.

- 2.17 A total of 31 submissions were received across all LOTS and the evaluation of the bids was carried out in line with the evaluation methodology set out in the ITT.
- 2.18 Tenderers were required to answer a set of method statement questions to assess the quality of their bid, along with a completed price list.
- 2.19 The tender evaluation comprised of three stages: the first of which was a tender compliance check, on a pass/fail basis; the second was the quality and technical evaluation in line with the methodology prescribed in the tender, and; the third was the assessment of price.

- 2.20 The quality and technical evaluations were carried out by panels of officers from Facilities and an officer from IT for the Data Centre LOT. Each compliant tender was evaluated individually by members of the evaluation panels.
- 2.21 The panels, along with an officer from Commercial Services, met between 11th and 14th October to discuss individual scores and comments for each question in order to arrive at an agreed, moderated score.
- 2.22 The names of the bidders and their respective scores are included within Appendices A and B.
- 2.23 The ITT stated that the contracts would be awarded on the basis of the most economically advantageous tender, based on a 30% Quality and 70% Price split. A quality threshold was contained within the evaluation methodology. Bidders who failed to meet this threshold would be disqualified from the process, and would not progress to stage three – price assessment. Two of the bidders for LOT 6 – Data Centre Services failed to meet the quality threshold and was rejected from further consideration for this contract.
- 2.24 The bids were evaluated against the following seven method statement questions to assess the quality of each bidder:

No	Method Statement Questions	Weighting
Q1	<p>Tenderers are to provide details of their proposed management and staffing arrangements for the contract including:</p> <p>An organisational chart showing the structure of the proposed company and proposed key maintenance contract team detailing job title, role and qualifications and experience. Include in your chart where proposed subcontractors fit into the overall structure;</p> <p>How do you propose to manage and supervise your day to day operational activities in order to provide the Services? Please provide a flow chart of your proposed processes, in particular how you deal with reactive maintenance and PPM tasks.</p>	5%
Q2	Tenderers are to provide details of any proposed subcontractors including the arrangements for selecting and managing those subcontractors.	3%
Q3	<p>Good communication and liaison with the Client and the building occupiers is key to the success of the contract. Tenderers are to explain the procedures they will put in place to ensure that good communication is maintained at all times.</p> <p>Your approach to customer care, how you will be sensitive to and accommodating of individual customer operational needs and how this will be applied to the contract to ensure a high level of satisfaction among building users and occupiers, including how you manage and resolve customer complaints.</p>	3%
Q4	Under what circumstances will bespoke method statements and risk assessments (RAMS) be provided and what level of detail is proposed to be incorporated within RAMS documents. Provide one example RAMS from a previous contract (it can be anonymised if you wish) that relates to the Services being tendered.	5%

Q5	<p>Tenderers are to provide a transition plan (in the form of a Gantt chart) setting out how they would propose to manage the mobilisation and handover phase of the contract.</p> <p>Also as part of the transition plan the tenderer explains:</p> <p>The steps you will take to ensure that you have the necessary staff, subcontractors, administrative and support systems in place for commencement of service delivery and how you will manage communications with the Client?</p> <p>How you will ensure that IT and reporting systems are designed, tested and recording data in the agreed format from contract commencement.</p> <p>How you will ensure that your contract team, including your subcontractors are familiar with the contract requirements.</p>	5%
Q6	<p>Financial and data management of the contract is key to its success. How do you propose to provide timely financial and contract delivery information in accordance with the contract requirements?</p>	4%
Q7	<p>Completion of Social Value Charter</p>	5%

2.25 The bidders provided a completed Price List as part of their tender returns. The Price List consisted of a series of rates and percentages against a comprehensive asset list and assumed number of reactive orders (based on historical work volumes).

2.26 The evaluation panel returned to bidders (where required) with post tender clarifications to remove any areas of uncertainty, and respond to any caveats contained in the bid prices to prevent any ambiguity in resultant contracts.

3 ALTERNATIVE OPTIONS

3.1 An options appraisal was undertaken to determine the most appropriate way to package the services and presented to Procurement Board in February 2021.

3.2 The preferred option was to have a mixture of medium sized contractors for M&E and Fabric Services and smaller 'best of breed' providers for specialist services, which are often subcontracted by larger contractors. This model is preferred to having one large FM provider as it provides a certain level of security of provision (not all our eggs in one basket) and by reducing a contractor's reliance on subcontractors it should provide the London Borough of Merton with better value for money. The approach also ensured that SME's could have competitive access to the opportunity to stimulate the market for local and/or small businesses.

3.3 Lots were packaged up so that those bidding for LOTs 1 and 2 (Fabric Services and M&E) could also bid for the smaller specialist engineering contracts as some contractors will have these facilities in-house. No one contractor could win both LOT 1 and 2.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1 The approach outlined and followed for this procurement was initially conveyed at the Operational Procurement Group (OPG) in February 2021.

4.2 The Procurement Board which is representative of the council departments have considered the options presented in a business case report to them in February 2021.

4.3 Legal Services and Finance have been consulted and their comments incorporated within the report.

5 TIMETABLE

Event	Date
Pre-qualification (SQ) complete	23 August 2021
Deadline for receipt of tenders	27 September 2021
Evaluation of tenders	28 September – 14 October 2021
Procurement Board	16 November 2021
Leadership Group	22 November 2021
Cabinet	06 December 2021
Call-in period	07 December – 14 December 2021
Notification of contract award decision	14 December 2021
"Standstill" period	14 – 24 December 2021
Confirm award of contract	4 January 2022
Contract commencement date	1 st April 2022

5.1 Bidders provided a mobilisation plan at tender stage and this will be finalised and implemented during the mobilisation period, immediately after the contract is awarded so that systems and procedures are in place for 1st April 2022.

5.2 As part of the conditions of contract the contractor, within 6 weeks of the contract start produces a Contractor's Plan setting out how it will fully meet the requirements of the Scope and implement the agreed processes and procedures developed with Facilities during the mobilisation period. This Contractor's Plan, along with a set of pre-determined KPIs will be used to monitor the performance of the contractor during the contract period.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1 There has been a decrease in the number of reactive maintenance orders since 2020/21 due to COVID 19. With the relaxing of the rules around COVID 19 works volumes are beginning to increase.

6.2 From an analysis of the price lists provided at tender stage the spend is likely make the contract cost neutral.

- 6.3 The tendered rates increase 1.5% year on year for the duration of the contract. This figures ties in with the annual percentage increase incorporated in to the council's budgets. The increase is not linked to an inflation index so any increases in costs above 1.5% is at the contractor's risk.
- 6.4 A credit check was carried out on each recommended contractor, the result of which are contained within Appendix C.6.5. As part of the contract KPIs will be used to monitor the performance of the contractors. The KPIs are the same for each contract which allows a certain amount of comparison (particularly between Lots 1 and 2) although it is appreciated that not all services are directly comparable.
- 6.5 The scope of each contract and terms and conditions align as much as practicable. This will help with the monitoring of the contracts and assist the FM Helpdesk in assigning priorities to each job etc.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1 The contracts were tendered fully in-line with CSO19, in particular 19.4, (Contracts above the relevant UK procurement threshold) and in line with UK Procurement Regulations.
- 7.2 The Council will be required to publish details of the award on Contracts Finder as required by regulation 108 of the Public Contracts Regulations 2015 and enter the details in the relevant contract register in accordance with Contract Standing Order 32.
- 7.3 Section 2 of the Health and Safety at Work etc. Act 1974 created a general duty on the Council as an employer to ensure the health, safety and welfare at work of its employees. That duty specifically requires the council to provide maintenance of plant and systems at work so that they are safe and without risk to health. Under section 3 of that Act the council has a general duty to not expose persons who are not in its employment to risks to their health and safety. These contracts will be instrumental in the Council complying with these statutory obligations.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION.

- 8.1 The successful supplier must, in carrying out its functions, have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity in relation to disability, race and gender and the need to take steps to take account of disabilities, even where that involves treating the disabled more favourably than others (section 13(3) Equality Act 2010).
- 8.2 Within the tender, bidders were required to propose social value offers via the Councils Social Value charter, under 4 specific theme areas: Economy; Social; Environmental, and; Innovation. The social value offers submitted via the successful bidders across all 6 Lots will potentially generate social value to the London Borough of Merton. The value of which can be found within Appendix D. 5% of this will be specifically for 'Environmental' measures to support the Councils Climate Emergency declaration and efforts to become Carbon neutral.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1 There are no crime and disorder implications relating to the subject of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1 Only when the London Borough of Merton enters into legally binding contracts under the terms of the contracts will the contracts come in to force.

- 10.2 The London Borough of Merton does not guarantee the value or volume of instructions it may place with any of the contractors under the contracts.
- 10.3 The contracts include a termination clause, allowing the council to terminate the contracts should it wish.
- 10.4 All contractors have successfully completed satisfactory financial checks as well as checks on competency in delivery of similar contracts at the pre-qualification and tender stage of the procurement exercise.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix A – Successful Contractors (Restricted)

Appendix B – Details of Price / Quality Analysis (Restricted)

Appendix C – Credit Checks (Restricted)

Appendix D – Social Value Commitments (Restricted)

12 BACKGROUND PAPERS