



**Reigate & Banstead**  
BOROUGH COUNCIL  
Banstead | Horley | Redhill | Reigate

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<b>TO</b>	Executive
<b>DATE</b>	21 February 2019
<b>EXECUTIVE MEMBER</b>	Portfolio Holder for Property and Acquisitions

<b>KEY DECISION REQUIRED</b>	Y
<b>WARDS AFFECTED</b>	(All Wards);

<b>SUBJECT</b>	STRATEGIC PROCUREMENT OF FACILITIES MANAGEMENT MECHANICAL SERVICES CONTRACT
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#### **RECOMMENDATIONS:**

**That the Council award a three year contract to the successful contractor, set out in the exempt report in Part 2 of the agenda, based upon annual orders being placed for mechanical services for an initial three year term, commencing on 1<sup>st</sup> April 2019 – 31<sup>st</sup> March 2022, with the option for up to two one year extensions (the extensions being subject to satisfactory performance and budget affordability).**

#### **REASONS FOR RECOMMENDATIONS:**

As a result of changes to the Council's property portfolio and service requirements, and to ensure best value, the Council needs to procure a new Mechanical Services contract.

Executive authority is required for this contract as this is a Strategic Procurement under the Council's Contract Procedure Rules (CPRs 8.2) and approval is sought to enter into an agreement with the successful tenderer following the conclusion of this strategic procurement exercise.

The existing mechanical services included within this contract, are either currently placed on an annual basis or due to come to an end imminently.

The recent tender having been procured in line with EU Procurement Regulations and the Council's procurement procedures and has demonstrated current Best Value in the

marketplace.

The new contract consolidates a number of existing contracts / services, providing both centralisation and simplification for management purposes, along with formalising a 24hour 365 day responsive service for the elements included within this contract.

It is anticipated that these annual orders be placed from existing revenue budget provisions.

#### **EXECUTIVE SUMMARY:**

The works have been tendered under the heading of Mechanical Services Contract, combining a number of mechanical and housekeeping operations, these services include the servicing and maintenance of heating and plumbing installations, building management systems (BMS), instantaneous water heaters, air conditioning installations, pumping stations, washhand systems, the testing and maintenance of fire sprinklers and fire-fighting mains and the regular testing for Legionella and water hygiene monitoring, which are either required to be undertaken by the Authority under Health & Safety legislation or what would be deemed as good practice. Presently these works have been undertaken by a number of different contractors. There is therefore the opportunity to aggregate the various contracts into one contract thereby creating management as well as other efficiencies including formally providing a 24hour 365 day responsive service. Based upon the successful tender submission it is anticipated the costs for Years 1-3 of this contract (1st April 2019 - 31st March 2022) will be as follows:

		3 Year Costs
Annual Order Value	£ 47,960.68	£ 143,882.04
Annual Call Out / Dayworks Provision	£ 90,889.16	£ 272,667.48
One off Costs	<u>£ 23,087.40</u>	<u>£ 23,087.40</u>
	£ 161,937.24	£ 439,636.92

With the option of extending on a yearly basis for a further two years.

In addition, it is proposed to carry out future approved Capital Mechanical Works under this contract and will be funded from within the existing Capital Programme.

The Council currently has an opportunity to award a contract for the services of mechanical services. This process is a legal requirement and could result in improved services and / or reduced costs.

It is recommended to award a three year contract to the successful contractor, based upon annual orders, with a performance review being undertaken towards the end of year three (March 2022) and if applicable, (March 2023), to decide upon possible one year extensions to the contract.

The indicative aggregative value of this contract makes this a Strategic Procurement under the Council's Contract Procedure Rules (CPRs) and therefore Executive approval is needed for the award of this contract.

**Executive has authority to approve the above recommendations.**

## **STATUTORY POWERS**

1. Service contracts of a total value estimated at £181,302.00 and above must comply with the requirements of EU Procurement Regulations.

## **BACKGROUND**

2. The current contracts for the respective elements of the services that have been included within this contract have been in place for a number of years and it is necessary to re-tender them in order to comply with both Council policy and Health & Safety legislative compliance / EU Procurement Regulation.
3. The current specifications for these services are out of date, having been adapted over the years rather than being comprehensively reviewed and re-written. Tendering has provided an opportunity to review the documentation and has enabled the inclusion of the management of the Council's statutory requirements under Health and Safety legislation across the current portfolio.
4. Changes in ways of working and technology have presented further opportunities and going to the marketplace has given companies interested in bidding a chance to demonstrate more efficient ways of providing the services.
5. The changes in the Council's property portfolio and / or requirements over the years could have meant that we were not getting the best value for the services provided.
6. The options and issues are set out below.

## **MECHANICAL SERVICES CONTRACT TENDER RETURNS**

7. This contract was advertised in the Official Journal of the European Union (OJEU) and was tendered under an Open process which facilitated the participation of both local companies and SME's, as well as the large managed services corporations. The tender was an open process in line with EU Procurement Regulations and the Council's own Contract Procedure Rules (CPR)'s.
8. Whilst there are framework agreements in place from which the Council could procure elements of this contract, this route of procurement was not considered suitable as:
  - it would have excluded smaller, potentially local, companies from having the opportunity to bid for the contract(s). It is considered important that local companies do have the opportunity to bid, as a number of informal expressions of interest were received.
  - these framework agreements do not cover the full scope of works intended to be included within this contract.
9. The tendered contract was based upon a five year period (three plus two, one-year, optional extensions). Tenders were received on 5th December 2018 and we received seven compliant submissions.
10. Following receipt, these submissions were not only assessed against price, compared with the services currently provided by the existing incumbents, but also against the

quality of the contractors to fulfil the extended role, the results of which have been set out in the exempt report in Part 2 of the agenda.

## **OPTIONS AND RECOMMENDATIONS**

### **Option 1 – (Continue with the current suppliers).**

11. This would not be compliant with the Council's or EU Procurement Regulations.
12. The Council would have no way of knowing whether we are receiving best value for the services provided across the term of this contract.
13. The Council would have no benchmark against which to assess whether we are receiving the most efficient service for the cost.
14. There is risk of the current service declining for reasons including contractor complacency.
15. This is not the recommended option.

### **Option 2 – (Re-tender these services on an annual basis).**

16. This process could be considered as not being compliant with current legislation, which expressly forbids splitting tenders to avoid the OJEU Supplies and Services threshold.
17. This would provide some competition and an indication of whether we are receiving good value services.
18. The considerable time, effort and cost involved in re-tendering, along with the need to repeat this process every year, would not be an efficient use of Officer time.
19. Companies may decline to bid for a one year contract due the costs and time involved in them bidding.
20. Successful tenderers may not invest in equipment and resources to support the contract.
21. Costs may be more as any equipment required that they do invest in, could only be spread across a year rather than a longer period.
22. This is not the recommended option

### **Option 3 – (Award a contract based upon the recent tender process, under new five year contract to the successful contractor). [Three years plus two one-year optional extensions]**

23. This option is compliant with EU Procurement Regulations.
24. The Council will be able to get best value for the services and demonstrate that the contract has been fairly and competitively tendered.
25. The potential reward available to a contractor from the range of included services has ensured competitive bids.

26. The Council will not have to incur the time and costs of re-tendering for three to five years.
27. The Contract will be drawn up to allow the Council to terminate the contract sooner for poor or non-performance.
28. It is expected that due to the period of this contract the Contractor will invest in resources to support and run the contract efficiently.
29. This is the recommended Option.

## **LEGAL IMPLICATIONS**

### **Procurement**

30. The recommended option of a five year contract (three years plus two sequential one year options to extend) is compliant with the Council's Contract Procedure Rules and EU Procurement Regulations. The other options detailed in this report are not available to the Council as they are not legally compliant and the Council would be open to legal challenge. The Head of Legal and Governance (Monitoring Officer) has advised that this is not a course of action the Council can take.
31. The contract was advertised in the Official Journal of the European Union (OJEU).
32. The contract is to be awarded under a JCT Measured Term Contract 2016.

### **Employment**

33. Any existing staff working for the current contractors, that meet the qualification criteria, will have an opportunity to transfer to the new provider under the Transfer of Undertakings (Protection of Employment) Regulations [TUPE].

## **FINANCIAL IMPLICATIONS**

34. The financial implications of the proposed contract are set out in detail in the Executive Summary above. These costs will be covered from existing revenue budgets.
35. The Council has demonstrated best value for these services by going to competitive tender.
36. The new contract aims to combine a number of existing electrical based contracts, currently being provided by multiple contractors, with a view to appointing a Principal Contractor thus reducing administrative costs and officer time for both the Property and Finance Departments. In addition to formally provide a 24hour 365 day responsive service, for those elements included for within the contract.
37. A Dun & Bradstreet independent financial check has been undertaken by the Authority's Finance Department and the successful contractor was identified as having a low-moderate D&B Failure Score. The Authority is not considered to be at risk as all work is done with payment made in arrears. In the event of a business failure the Council would look to replace the existing Contractor.

## **EQUALITIES IMPLICATIONS**

38. None.

## **COMMUNICATION IMPLICATIONS**

39. None.

## **RISK MANAGEMENT CONSIDERATIONS**

40. Legal and Contractual risks as detailed within the Options and Recommendations Paragraphs. 11 and 16.
41. Financial and Value For Money risks as detailed within the Options and Recommendations Paragraphs 12,13,18,19 and 21.

## **OTHER IMPLICATIONS**

42. None.

## **CONSULTATION**

43. The Executive Member for Finance and Property & Acquisitions has received a briefing on this matter.

## **POLICY FRAMEWORK**

44. The potential value of the contracts makes this a Strategic Procurement under the Council's Contract Procedure Rules.

## **Background Papers:**

None.