

To: Delegated Decision of the Board Member, Finance and Efficiency

Date: 22nd December 2011

Report of: Head of Business Improvement

Title of Report: AWARD OF CONTRACT FOR THE PREVENTION, RISK MANAGEMENT AND CONTROL OF LEGIONELLA AND ASSOCIATED WORKS

Summary and Recommendations

Purpose of report: To advise on the procurement route that has been undertaken and to request that a contract for the control of legionella and associated works be awarded to Eaton Environmental Services Ltd.

Key decision? No

Executive lead member: Councillor Ed Turner

Policy Framework: An efficient and effective Council

Recommendation(s):

That the Board Member, Finance and Efficiency:

- 1) Approves the award of a corporate contract for the risk management and control of legionella to Eaton Environmental Services Ltd. This contract will be in place for the period January 2012 to 31st December 2015 with the option to extend for up to a further two years at the Council's discretion. The total contract value over 5 years is likely to exceed £250K.
- 2) Note that this arrangement has been put in place by Oxford City Council on the basis that it may also be used by Cherwell District Council. In the event that Cherwell makes use of this arrangement, it will enter into its own contract with the supplier.

- 1.1 This report sets out the procurement route that has been taken to put in place a single contract for the prevention, risk management and control of legionella and associated works.

2. Background

- 2.1 Currently the Council does not have a single contract in place providing these services to the Council. Each building is subject to a separate annual order. A review by the Procurement Team of the Council's spend by category identified this service as one suitable for packaging into a single supply contract. Eaton Environmental Services Ltd is currently the Council's main supplier for these services with a yearly minimum spend of approximately £49K. This figure does not include any of the associated works that are then purchased to monitor and prevent the risk of legionella. The total annual expenditure is approximately £85K.
- 2.2 This is an extremely important service provided to the Council and it is essential that the supplier who provides this service has in place all the required skills, competencies and accreditations to ensure that the buildings that require this service are kept safe.
- 2.3 The current individual contracts expire on various dates but as the current contracts operate on a month by month basis they can be terminated to suit the start of the new contract. The current arrangement is not compliant with EU Procurement Regulations and does not offer any opportunity to obtain financial leverage and efficiency from having a single contract in place. The current arrangement has also not been subject to market competition.
- 2.4 Cherwell District Council requested that they be listed on the tender advert so that they could also enter into a contract with the successful supplier on the same terms.

3. Tender Process

- 3.1 The Council's aggregated spend including the additional works equates to in excess of £70K each year. The value therefore required the Council to carry out a tender in accordance with the EU Procurement Regulations. Cherwell District Council estimate their annual spending at £15K a year.
- 3.2 There are a large number of providers in the market able to offer this service. An open tender (single stage) process has been used as this made the process easier for smaller local companies to apply for the opportunity.
- 3.3 The tender opportunity was advertised in OJEU and on the South East Business Portal.

- 3.4 Seventy two suppliers looked at the tender opportunity on the portal. Eighteen tender responses were received.
- 3.5 The tender responses were evaluated by a panel of Council officers. Five submissions were immediately rejected as these were non-compliant. A further nine submissions were rejected as these exceeded the Council's budget for this service.
- 3.6 The remaining submissions were then fully evaluated taking into account technical competence, quality assurance, environmental policies, continuity plans and corporate social responsibility, insurance, health and safety, equality and diversity. The Council's Finance team undertook a full financial assessment on the bidders. The tenders were evaluated on 40% cost with 60% being allocated to the technical specification.
- 3.7 Four suppliers were invited to a meeting to clarify parts of their tender submission. Eaton Environmental Services Ltd scored highest on quality and provided the most competitive pricing.

4. Other Options

- 4.1 The Constitution and Procurement, Commissioning and Supplier Strategy advises that the Single Member Decision Process considers what other options are available before awarding a contract over £100K. These are detailed below:
 - a) Use an existing framework contract, set up by another organisation. There is no suitable contract that meets the needs of Oxford City Council.
 - b) To carry on as we are. This is not compliant with the EU Regulations and is not providing value for money.

5. Savings and other benefits of this contract

- 5.1 By carrying out the tender process and awarding a new contract the Council is ensuring it is compliant with the EU Procurement Regulations and the officers responsible for managing our properties no longer have to set up annual contracts.
- 5.2 Compared with the tender price for the same works this year the new contract will result in the new charge of £39K. This represents a saving of 19% overall and a saving to the Council of £48k over the three years.
- 5.3 Operational benefits include:

- Contract includes for the Contractor arranging access for tenanted properties as required. Previously arranged by Housing Projects in Housing areas.
- Fixed prices for 3 years unless the supplier can provide quantifiable evidence of any requested price increase.
- Includes electronic reporting and billing.
- Risk - the appointed contractor will be responsible for the control of legionella and associated works in accordance with their duties under L8 - the approved code of practice and guidance for the control of legionella bacteria in water systems.

5.4 Value for Money can be demonstrated by:-

- Cost benefits delivered through the aggregation of spend across both councils.
- Benchmarking which has taken place against current suppliers as well as
- Savings against the current pricing arrangements.

6. Financial Implications

6.1 The Council has a budget to fund the provision of this service and the savings will contribute to the Council's savings target.

7. Legal Implications

- 7.1 This contract has been procured compliantly and enables other contracting authorities to draw down its own particular contractual requirements from the appointed provider.
- 7.2 No minimum level of business is guaranteed to the provider from either of the named authorities.
- 7.3 The operating terms and conditions of the contracts have been agreed by Oxford City Council on behalf of the other contracting authority and this Council will act as the manage the contract administration by way of carrying out financial checks, insurance certificates each year. Each contracting authority will enter into its agreement to meet its own particular requirements.

8. Risk Management

Risk	Likelihood	Mitigation
Preferred supplier experiences financial difficulties	M	Regular financial monitoring will be conducted.
Contract no longer satisfies Oxford City Council needs.	L	This is a call off contract and no level of business has been guaranteed.
The Council not aware of presence of legionella bacteria	L	The appointed contractor will be responsible for the control of legionella and associated works in accordance with their duties under L8 - the approved code of practice and guidance for the control of legionella bacteria in water systems. The results of any monitoring, inspection, test or check carried out, and the dates will be issued to the Council.

9. Climate Change/Environmental Impact

9.1 No impact

9.2 The Councils will be serviced from the following location:

- Cumnor, Oxford.

10. Equalities Impact

10.1 The recommended provider supports and will adhere to the Council's Living Wage Policy.

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List of background papers: None
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