

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

***PART 1 – PUBLIC DOCUMENT**

Any queries must be directed to the Senior Committee and Member Services Manager.

Any interest to declare/ or conflict and any
dispensation granted *[if applicable]*

DIRECTORATE: FINANCE, POLICY AND GOVERNANCE

1. DECISION TAKEN

To extend the contract for Building Compliance for a period of six and a half months (from 1st April 2018) with SSE Contracting Limited registered office 55 Vastern Road, Reading, Berkshire, RG1 8BU (company number 2317133).

2. DECISION TAKER

Ian Couper, Head of Finance, Performance and Asset Management

3. DATE DECISION TAKEN:

26th March 2018

4. REASON FOR DECISION

The procurement process for a full retender is being led by Stevenage Borough Council (SBC), and is a joint tender between SBC, North Hertfordshire District Council (NHDC), Broxbourne Borough Council (BBC) and East Hertfordshire District Council (EHDC). There have been a number of delays in getting the tender documents completed, mainly due to SBC wanting to include housing within the contract, but also due to the complexities of joint procurement. As a result there is a need for an interim contract to ensure continuation of the property compliance checks and maintenance. The existing contractor has offered to extend the contract with a 1.5% price uplift.

5. ALTERNATIVE OPTIONS CONSIDERED

It is essential for the Council to have compliant buildings to ensure that they can continue to be used and also adhere to relevant legislation. It was not considered practical to contract for an alternative contractor on a short term (six and a half months) basis.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

This proposed extension has been agreed by SBC and BBC, who are party to the current contract. The compliance contract is provided to various buildings that are operated by community groups. Whilst no consultation has been undertaken, this extension will ensure that the service continues in the same way.

7. RELEVANT CONSIDERATIONS

The Council has an obligation to ensure that its buildings are compliant. The contract also ensures that checks and minor maintenance is carried out that means that the buildings continue to operate effectively.

There has been a lot of work that has gone in to tendering for the new contract, which has been led by SBC, but with significant support from the Council's Property Services Team. Unfortunately delays have meant that the new contract will not start when the current one ends and therefore there is a need to cover the interim period. Negotiations with the current provider (SSE Contracting Limited) have been undertaken by SBC resulted in an offer to continue the existing contract with a 1.5% price increase. This is considered to be reasonable terms given the short remaining term and the difficulty with getting these provided by any other contractor. The increase is also less than the current rate of inflation.

The delays in procuring the new contract have arisen for the following reasons:

- SBC adding their housing stock in to the contract which required them to undertake a consultation process. This increases the size of the contract which should make it more attractive to providers.
- EHC becoming a party to the contract and ensuring that they were happy with the scope

8. LEGAL IMPLICATIONS

8.1 Regulation 29 of the Procurement Regulations relates to contract extensions, and requires that:

29.3 If the extension is for more than three months a single extension only may be approved by the appropriate Executive Member, following consultation with the Finance & IT Executive Member and the Strategic Director of Finance, Policy & Governance.....

29.4 In all cases, officers must demonstrate that a detailed and robust cost/benefit analysis has been undertaken and that sufficient budget is available. Evidence of the decision making process must be formally recorded in a delegated decision sheet which is filed on the relevant contract file and a copy sent to the Corporate Legal Manager.

29.5 Any extension under this section does not require reassessment of the original procurement process as a result of a change in the overall value of the extended contract if such overall value:

- (i) does not exceed any applicable limits as set out in the Public Contracts Regulations 2015; or*
- (ii) is within the limits as set out in the original contract notice; or*
- (iii) is below the applicable OJEU threshold*

8.2 In relation to regulation 29.5, SBC (as contracting Authority) have confirmed that:

- There was no period specified in either the framework or OJEU notice. Therefore the extension value does not exceed any limits set out in these notices and is also less than any other applicable limits as set out in the Public Contracts Regulations 2015
- The total revised value of the contract (including the value of the extension) is within the value of the original contract notice
- The value of the extension is below the applicable OJEU threshold, and the total value (including the value of the extension) is within the value of previous OJEU adverts (i.e. £40m).

8.3 Urgency provisions have been applied to this decision. The final version of the terms of the contract extension was only available on 23rd March 2018. To comply with procurement regulations there is a need to extend the contract before it expires on 31st March 2018. Due to the Bank Holiday on Good Friday, this resulted in less than the 5 clear working days required for call-in. The Chairman of the Council has been consulted and agreed that it is “both reasonable in all the circumstances and to it being treated as a matter of urgency” (Constitution 6.3.11 (b) (i)).

9. FINANCIAL IMPLICATIONS

9.1 It is estimated that the cost of the contract during the 6 and a half months of the extension will be under £49k. This cost will be covered by the existing budget for this service.

10. RISK IMPLICATIONS

10.1 The risks are mitigated by extending the contract with the current supplier. It is felt that seeking an interim contract could lead to no suitable contractor or paying an increased rate.

11. EQUALITIES IMPLICATIONS

11.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

11.2 There are no equalities implications in relation to this procurement.

12. SOCIAL VALUE IMPLICATIONS

12.1 As the recommendations in the report relate to a contract below £50,000 the “go local” policy was considered. However due to the nature of the contract and the specific situation it was not possible to contract with a local supplier.

13. HUMAN RESOURCE IMPLICATIONS

It would have taken much more staff time to specify and award an interim contract to an alternative supplier.

14. BACKGROUND PAPERS

None.

15. NOTIFICATION DATE

26th March 2018

Signature of Executive Member Consulted
(Executive Member for Finance and IT, and relevant service area)

Date

Signature of Decision Taker

Urgency provisions apply to this decision and therefore it is not subject to call-in.

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