

## Cabinet Meeting on Wednesday 15 July 2020

### The Award of the Service and Testing of Domestic Water Systems Framework Agreement (*Contract REF: IA2049*)



**Cllr Mark Deaville, Cabinet Member for Commercial said,**

“Ensuring we get maximum value and benefit from all our contracts is a key priority for this council.

This new award will not only do that, but will ensure that water systems in our buildings are inspected, maintained and remain fit for purpose.”

#### **Report Summary:**

To secure Cabinet approval for authority to approve the full procurement process to secure and manage the Framework Agreement for service and testing of domestic water systems which will commence around 1 September 2020 for up to 4 years be delegated to the Director of Corporate Services.

#### **Recommendations**

I recommend that:

- a. The Council concludes its regulated procurement in line with the Public Contracts Regulations 2015 for the Service and Testing of Domestic Water Systems (the “Framework Agreement”), in readiness for an agreement commencement of 1 September 2020;
- b. Following the conclusion of the procurement, Cabinet delegates authority for the Director of Corporate Services to approve:
  - i. the Framework Agreement to be awarded and entered into with the successful tenderer to the Framework Agreement; and
  - ii. all subsequent call-off contracts under the Framework Agreement to be awarded and entered into with the successful tenderer under this Framework Agreement;
  - iii. any novation of the Framework Agreement and call-off contracts to a new provider or variations to the terms of the Framework Agreement or call-off contracts, in accordance with the Public Contract Regulations 2015 (if applicable); and
  - iv. the 2 x 1-year extension to the Framework Agreement in accordance with the terms of the Framework Agreement (if applicable)

<b>Local Members Interest</b>
N/A

## **Cabinet – Wednesday 15 July 2020**

### **The Award of the Service and Testing of Domestic Water Systems Framework Agreement (Contract REF: IA2049)**

#### **Recommendations of the Cabinet Member for Commercial**

I recommend that:

- a. The Council concludes its regulated procurement in line with the Public Contracts Regulations 2015 for the Framework Agreement for Service and Testing of Domestic Water Systems (the “Framework Agreement”), in readiness for an agreement commencement of 1 September 2020;
- b. Following the conclusion of the procurement, Cabinet delegates authority for the Director of Corporate Services to approve:
  - i. the Framework Agreement to be awarded and entered into with the successful tenderer to the Framework Agreement; and
  - ii. all subsequent call-off contracts under the Framework Agreement to be awarded and entered into with the successful tenderer under this Framework Agreement;
  - iii. any novation of the Framework Agreement and call-off contracts to a new provider or variations to the terms of the Framework Agreement or call-off contracts, in accordance with the Public Contract Regulations 2015 (if applicable); and
  - iv. the 2 x 1-year extension to the Framework Agreement in accordance with the terms of the Framework Agreement (if applicable)

#### **Report of the Director of Corporate Services**

##### **Reasons for Recommendations:**

1. The current Service and Testing of Domestic Water Systems Framework Agreement (ref. IA1650), procured via the Public Contracts Regulations, expires on 31 August 2020 and a replacement arrangement is required.
2. One provider will be appointed to the new Framework Agreement.
3. The scope of the new Framework Agreement (which mirrors the current arrangement) includes:
  - a. the continual servicing and monitoring requirements of Approved Code of Practice L8 (the control of legionella bacteria in water systems) and HSG274 to minimise the risk from legionella bacteria and the scalding risk from hot water.

- b. ensuring that all domestic hot water and cold-water systems are maintained in a safe and hygienically satisfactory condition through a process involving biannual inspection and testing for the following properties:
    - i. 180 SCC Corporate properties
    - ii. 164 LEA Maintained Schools
    - iii. 232 Academies
    - iv. 14 Fire Stations
    - v. Stoke-on-Trent City Council properties
    - vi. Newcastle Borough Council properties
  - c. hot and cold domestic systems, together with any permanently connected equipment (e.g. Rainwater Systems) but excluding air conditioning equipment, swimming pools and hydrotherapy pools.
4. The estimated spend envisaged through this Framework Agreement over 4 years is approximately £2.8 million, the breakdown of spend across all parties is as follows:
    - a. Staffordshire County Council - £1,420,000
    - b. Entrust - £880,000
    - c. Newcastle-under-Lyme Borough Council - £76,000
    - d. Unitas Stoke-on-Trent Ltd (part of Stoke City Council) - £500,000
  5. The total procurement has been qualified up to £3.5 million to allow for flexibility in the Council's spend and to accommodate the potential additional spend of public sector partners.
  6. The scope of the services required by the Council under the Framework Agreement is to service the corporate properties and maintained schools.
  7. It is not envisaged the Framework Agreement provider will be awarded a single call-off contract valued in excess of £2 million, though it is possible that over the full term of the Framework Agreement the provider may accrue a total of work in excess of the £2 million (Cabinet) threshold.
  8. The form of contract used for the call-off contracts will be the Council's standard Framework Agreement call-off terms and conditions. Newcastle-under-Lyme Borough Council and Unitas Stoke-on-Trent Ltd (part of Stoke City Council) will also use the same call-off contract terms and conditions as and when a requirement is needed. There should be no material amendments made to the Framework Agreement or call-off contracts.
  9. There are no equivalent lotted agreements procured by any other independent 3<sup>rd</sup> party central purchasing bodies or contracting authority/local authority which uniquely hold the local providers required for such services. Conducting a procurement process not only serves as an opportunity for local providers to tender but also serves as a benchmark on value for money.

10. Without recourse to a Framework Agreement, Council Officers would be required to invest more resource into spot tendering / quoting for individual work packages which would require a plethora of separately tendered projects per annum conforming to the Council's own internal Procurement Regulations.

### **Legal Implications**

11. The potential value of spend for the services means that the processes within the Public Contracts Regulations 2015 apply to the procurement. The implications of any process failing to follow these Public Contracts Regulations 2015 could lead to serious legal challenges to the Council with the probable halt by a court on any contract award. A template framework agreement has been developed in conjunction with Legal Services to allow for the relevant services to be called off as and when required and this template framework agreement has been used to for the purposes of this Framework Agreement. Legal Services have not been involved in preparing the specific term and conditions for this Framework Agreement. The Council's call-offs will be managed by Entrust and a call-off process is detailed within the Framework Agreement point (9) above. We are not aware of any other legal implications at the time of writing this report.
12. Newcastle-under-Lyme Borough Council and Unitas Stoke-on-Trent Ltd (part of Stoke City Council) will manage their own call-off arrangements.

### **Resource and Value for Money Implications**

13. The Framework Agreement will be commissioned by the Council, led by a Strategic Property lead, and procured by the Council's Commercial Team.
14. The ongoing technical day-to-day contract management is delivered in conjunction with and managed by Entrust. There are no resource implications known at the time of writing this report.
15. The failure to conduct a competitive tender process will inevitably lead to a disaggregation of spend with each project being contracted separately when it arises leading to increase in prices, inefficiencies in the contracting process and a sharp increase in procurement and commissioning effort and therefore this is considered the best way to achieve best value.
16. The weighting for this tender will be assessed by 40% quality and 60% price, the price weighting is further split by;
  - a. costs for biannual service and maintenance is weighted at 45%
  - b. rates for labour, materials and ad hoc tasks is weighted at 15%

### **List of Background Documents/Appendices:**

Community Impact Assessment – Summary Document

## Contact Details

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