

Subject:	Corporate Procurement for Legionella Monitoring - Control, Prevention & Risk Management Services Contract for 2010-2015 (5 years)		
Date of Meeting:	17 September 2009		
Report of:	Director of Finance & Resources		
Contact Officer:	Name:	Angela Dymott	Tel: 29-1450
		Ian Sharpe	29-4590
		Nigel Lee	29-6203
	E-mail:	angela.dymott@brighton-hove.gov.uk	
		ian.sharpe@brighton-hove.gov.uk	
		nigel.lee@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: CAB11597	
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 To seek authority to undertake a competitive tendering exercise for a 5 year service contract from April 2010 – March 2015 for the provision of Legionella Control, Prevention and Risk Management Service to ensure full compliance with Code of Practice & Guidance for Legionnaires Disease for public and civic, education and adult social care buildings.
- 1.2 The report sets out the proposed procurement rationale and procedure under the EU regulations for the legionella control, monitoring, routine inspection, maintenance, and remedial works to meet the legal requirements and duties of 'The Control of Legionella Bacteria in Water Systems – Approved Code of Practice and Guidance (L8)' to comply with the current legislation.

2. RECOMMENDATIONS:

- 2.1 That Cabinet gives approval for the tendering of water treatment services contract for a five year contract, with the option to extend by a further 2 years at the council's discretion, in accordance with the tendering timetable included at paragraph 3.9 to enable these services to commence on 1 April 2010.
- 2.2 That Cabinet delegates authority to the Director of Finance and Resources, in consultation with the Cabinet Member for Central Services, to award the contract to the successful bidder following evaluation and recommendations of the evaluation team.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Legionella bacteria are common and can be found naturally on environmental water sources such as rivers, lakes and reservoirs, usually in low numbers. Legionella bacteria can survive under a wide variety of environmental conditions and have been found in water at temperatures between 6°C and 60°C. Water temperature in the range 20°C to 45°C seems to favour growth. The organisms do not appear to multiply below 20°C and will not survive above 60°C. They may, however remain dormant in cool water and multiply only when water temperatures reach a suitable level.
- 3.2 Legionnaires disease is a potentially fatal form of pneumonia caused by a member of the legionella family of bacteria. It can affect any body and principally affects those who are susceptible because of age, illness, smoking etc. It is therefore essential that water hygiene is carefully managed in premises in accordance with the HSE Approved Code of Practice (L8) to avoid Legionella colonies becoming established.
- 3.3 The largest outbreak of legionnaires disease in the UK occurred in Barrow during 2002, seven members of the public died and 180 people suffered ill health at a council-owned arts and leisure facility in the town centre of Barrow-in-Furness, Cumbria. The outbreak was traced to an air conditioning system contained within the Council's Art Centre resulting in seven counts of manslaughter charges.
- 3.4 The Approved Code of Practice and Guidance relating to the risk from Legionella bacteria, 'The Control of Legionella Bacteria in water systems (L8)' is published by the Health and Safety Commission (HSE). This gives practical advice on the requirements of the Health and Safety at Work Act 1974 (HSWA) and the Control of Substances Hazardous to Health Regulations 1999 (COSHH) concerning the risk from exposure to legionella bacteria. The Code of Practice came into effect in January 2000.
- 3.5 A standard for the Control and Management of legionella bacteria in water systems was compiled by the council's Health and Safety team and made available in December 2004. The Council has the responsibility to determine the Council's risk of persons contracting the legionella bacteria from water and cooling systems contained within its buildings together with water features located within its parks and gardens. Following an Internal Audit Review in 2005 one of the main recommendations stated that Property & Design submit an Annual Assurance Statement of Compliance from information obtained from each directorate. The annual assurance statement is subsequently submitted to the Corporate Health & Safety Committee annually.
- 3.6 Currently Property & Design manage two water services contracts. One covers a broad range of properties including our civic offices, libraries, museums, sports pavilions and public conveniences comprising approximately 200 sites. The second includes education and adult social care sites numbering approximately 160.

Proposed Contract and Procurement Route

- 3.7 It is proposed that the tendered contract will consist of three lots thereby allowing the council greater flexibility when awarding the contracts dependant on quality and value for money criteria. The further significance of sub dividing this contract into three lots is to provide local companies the opportunity to tender for part or all of this work. Details of the three lots that represent a total contract sum of £360,000 per annum are as follows:
- Lot (1) - Adult Social Care at £45,000 per annum
 - Lot (2) - Education at 75,000 per annum
 - Lot (3) - Public Buildings at £240,000 per annum
- This represents approximately £1.8m over the proposed 5 years.
- 3.8 The proposed contract will service a wide variety of building types, including schools, libraries, parks, civic buildings, leisure centres and water features. There will be provision in the new contract/s for other sites to join at a later date if they so wish. It is proposed that the contract/s will be for a five year period with an option to extend for a further 2 years based on the successful contractor's performance over the contract period.
- 3.9 The tender process follows the EU Restricted Route for Supplies & Services. There will first be a Pre-Qualification Questionnaire (PQQ) that will be used to make a shortlist of bidders that will then be invited to tender. The proposed procurement timetable is shown below:

Task	Date
Cabinet Meeting	17 September 2009
PQQ ready for Consultation	22 September 2009
OJEU Placed	25 September 2009
PQQ Placed on Website and Trade Magazines	25 September 2009
Closing date for PQQ's	2 November 2009
Evaluate PQQs	23 November 2009
ITT sent out	5 December 2009
Closing date for tenders	16 January 2010
Evaluation of Tenders	31 January 2009
Clarification Meetings	27 February 2009
Select Preferred Bidder	28 February 2009
(Standstill Period - 10 days)	10 March 2009
OJEU Award Notice	14 March 2009
Contract Start	1 April 2010

- 3.10 Bidders will be invited to submit a formal tender and supply sufficient supporting documentation to demonstrate their ability to deliver the service and make improvements to include staff resources, experience, specific requirements, relevant contracts, service overview, subcontractor arrangements, sustainability, equality, financial and health and safety information.
- 3.11 The tenders will be evaluated on a 60% technical / quality and 40% price split. It has been decided to make the technical part of the split higher because it is important that the quality of the work carried out is to a high standard for the safety of all. High standards of Legionella monitoring and management will

minimise associated risks. A cross - functional evaluation panel consisting of representatives from procurement, property & design, finance, legal, human resources, service clients and health & safety will evaluate the tenders according to a methodology set out in the invitation to tender and evaluation guidelines.

- 3.12 This contract will also feature site specific specifications where each site will have a 'core' specification and logbook plus additional requirements that are needed to ensure that the legionella is properly monitored and managed for all the sites to comply with the requirements set out in 'The Approved Code of Practice and Guidance- *The Control of Legionella Bacteria in water systems*' (L8):
- 3.13 The property portfolio falling under Housing Management is excluded from this contract for a number of significant factors. Discussions took place with Housing Management and Property & Design to determine if partnering would be beneficial to our respective water treatment contracts. It was agreed that partnering of this particular contract was not suitable at this time due to misalignment of contract termination dates and the need for Housing to implement a robust water treatment contract as quickly as possible following an inspection undertaken by the HSE on Housing procedures.
- 3.14 Housing are currently procuring a new specialist water hygiene contract and Contractor and have interim L8 measures in place via competent water management contractors to provide levels of legionella protection whilst the procurement and implementation of their new specialist water hygiene contract takes place.
- 3.15 To ensure that consistency is achieved across the council when delivering similar contracts Property & Design have assisted and advised Housing on their water treatment policy, procedures, training and service contract and will continue to provide technical assistance to Housing Management in the quest to ensure the Council have robust and efficient L8 quality management control and total compliance.

4. CONSULTATION

- 4.1 Consultations are taking place with all client and technical officers of the relevant departments and the evaluation team.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The tender will be prepared on a basis to maximise efficiencies and value for money achieved through site specific specifications.
- 5.2 It is difficult to anticipate tender prices compared to current costs until proposed tender amounts have been submitted by contractors. Should significant financial implications arise from the tender process it may be necessary to report these to members at a later date. The total current budgetary provision for the corporate, Education and Adult Social Care buildings is £360,000 per annum.

Finance Officer Consulted:

Patrick Rice

Date: 13/08/09

Legal Implications:

- 5.3 Contracts for the Legionella Monitoring - Control, Prevention & Risk Management Services services fall under 'Part A Services' of the EU Procurement Directive and accompanying UK Regulations. As a result, any such contract is subject to the full application of both the Directive and Regulations. The tender process will need to be undertaken in compliance with the relevant legislation. Contracts over £75,000 must be prepared in a form approved by the Head of Law. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

Lawyer Consulted:

Sonia Likhari

Date: 12/08/09

Equalities Implications:

- 5.4 These issues will be addressed in the tender documentation

Sustainability Implications:

- 5.5 Sustainability issues will be addressed in the pre-qualification and specification documents. The new contract will contain the following sustainable efficiencies:
- The successful contractor will be sourcing products to compliance with the Water Regulations Advisory Scheme (WRAS).
 - It will be a requirement of the contract to train all staff how to use chemicals correctly.
 - All of the contractor's suppliers must be accredited with British and European standards.

Crime & Disorder Implications:

- 5.6 There are no direct implications in respect of the prevention of crime and disorder within this report although certain items of identified work will try to minimise vandalism through design and the use of relevant materials.

Risk & Opportunity Management Implications:

- 5.7 Full risk assessments will be undertaken by the successful Contractor in conjunction with the Contract Manager. Key risks identified will need to be dealt with and regularly reviewed and updated by the respective parties. It will also be a requirement at tender stage that the tenderers provide example risk assessments for evaluation purposes.

Corporate / Citywide Implications:

- 5.9 The tendering of this contract will achieve value for money and help to protect the public, employee and contractors from Legionella bacteria.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 It is the legal duty imposed by the Health and Safety at work act 1974 that under the approved code of practice L8, Brighton and Hove City Council shall identify

and assess sources of water management risk, prepare a scheme for preventing or controlling the risk, implement, manage and monitor precautions, appoint a person(s) to be managerially responsible.

- 6.2 The existing corporate civic and education and social care legionella water management contracts both end in March 2010 and it is considered that the tendering exercise could offer the opportunity to merge all or some of these water treatment contracts which may provide significant benefits in terms of consistency regarding the standardisation of service provision, the monitoring of contractor performance, assurances of compliance and contract management through a designated team providing a central comprehensive and accurate record of information and auditing of the contract/s.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 A new contract is needed with the current contracts expiring in March 2010 to ensure that we continue to manage the risk of legionella bacteria and the safety to the public, contractors and council's employees.
- 7.2 The new contracts will be managed by the legionella officer, Property & Design to provide consistency and provide opportunities for small local companies to tender for this work as well as national companies.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None