

Wiltshire Council

Cabinet Member Delegate Decision 10 July 2012

Subject: Award of Facilities Management Contracts (Lot 1 – Catering Services)

Cabinet Member: Councillor John Noeken – Resources

Key Decision: No R-003-12

Executive Summary

Strategic Property Services are in the process of rationalising its existing contractual arrangements for the management and maintenance of its facilities. Service Contracts relating to various aspects of Facilities Management (FM) on non-residential Council-occupied property stock are currently undertaken by a large number of contractors. Each of these contracts has its own individual service specification and contract terms, inherited from legacy arrangements that were in place prior to the creation the Unitary Authority. As such it is very difficult to ensure consistency across our facilities, and particularly difficult to manage performance, cost and risk across such a high number of disparate contractual arrangements.

In parallel with these operational difficulties, the Council is substantially rationalising its property stock, and in the process rapidly changing the way its buildings are used. The next two years are therefore seen as a period of change where the status quo of existing arrangements are untenable, but entering into long-term contractual arrangements are unadvisable due to the amount of change that will take place over a relatively short period of time. In that period of time, the operating model for new Community Campus buildings will also become clear. The proposed contracts will therefore have a term of 2 years, with an ability to extend beyond that by one year intervals subject to performance.

Cabinet (Capital Assets) Committee resolved on 21st March 2012 to delegate the decision to award contracts for Facilities Management Services to the Cabinet Member, Resources. A decision has previously been taken under this delegation by the Cabinet Member related to the award of Lot 2 – Cleaning and Lot 3 – Security.

Following completion of a procurement exercise conducted in accordance with EU procurement regulations, tenders are recommended for acceptance in Lot 1 – Catering Services.

The award of this contract will result in the termination of existing contractual arrangements in these areas with two different suppliers, and TUPE transfer of staff between contractors will be undertaken in the period between contract award and the contract start date. In a similar manner, catering provision at Monkton Park, which is currently serviced by internal Council staff, will require those staff to TUPE to the successful contractor. This position is summarised in the body of this report.

Proposal

That the Cabinet Member, Resources approves the award of a contract for Catering Services, following the satisfactory conclusion of the formal tendering processes, to Elior UK plc.

That the Cabinet Member, Resources approves all necessary TUPE staff transfers between the Council and the successful contractors where this applies, whilst noting that transfers between outgoing contractor and the new contractors will take place in the period after award of the contracts.

Reason for Proposal

To put in place the means to consistently and cost effectively manage the Council's built facilities over a period of significant change in both service levels and number of occupied properties.

Dr Carlton Brand
Corporate Director

Wiltshire Council

Cabinet Member Delegated Decision 25th May 2012

Subject: Award of Facilities Management Contracts (Lot 1 – Catering Services)

Cabinet Member: Councillor John Noeken – Resources

Key Decision: R-002-12

Purpose of Report

1. To seek authority from the Cabinet Member, Resources to award the contract for Catering Services.

Background

2. Strategic Property Services are in the process of rationalising its existing contractual arrangements for the management and maintenance of its facilities. Service Contracts relating to various aspects of Facilities Management (FM) on non-residential Council-occupied property stock is currently undertaken by a large number of contractors. Each of these contracts has its own individual service specification and contract terms, inherited from legacy arrangements that were in place prior to the creation the Unitary Authority. As such it is very difficult to ensure consistency across our facilities, and particularly difficult to manage performance, cost and risk across such a high number of disparate contractual arrangements.
3. In parallel with these operational difficulties, the Council is substantially rationalising its property stock, and in the process rapidly changing the way its buildings are used. The next two years are therefore seen as a period of change where the status quo of existing arrangements are untenable, but entering into long-term contractual arrangements are unadvisable due to the amount of change that will take place over a relatively short period of time. In that period of time, the operating model for new Community Campus buildings will also become clear.
4. Cabinet (Capital Assets) Committee resolved on 21st March 2012 to delegate the decision to award contracts for Facilities Management Services to the Cabinet Member, Resources.

Main considerations for the Council

5. Catering services for staff will be offered from three Council office locations – Monkton Park, Shurnhold and the new atrium at County Hall. Catering functions at other Council sites have not been considered “in-scope” for this current procurement exercise, principally due to their overlaps with the delivery of specific services on those sites. The facility at Shurnhold is expected to run until the middle of 2013 ahead of the closure of the building.

6. Key requirements of the Council were defined at the outset of the procurement exercise, principally to deliver a good quality offer for staff dining and café, together with hospitality/ buffet provision. A budget “meal of the day” was a core requirement, and local and ethical sourcing were identified as being important to the Council, with bidders invited to demonstrate a strong approach in their response to this topic. The contract term is 2 years, with opportunities for extensions beyond that period subject to performance.
7. The tender evaluation methodology was developed to ensure that quality and price were objectively compared and evaluated to enable the Council to accept the most economically advantageous proposition in each lot. The tenders were evaluated on the basis of 80% Quality and 20% Cost.
8. Tenders were sought from a total of 11 contractors. Despite continued interest throughout the tender period, a number dropped out during the tender period. Two compliant tenders were received, and evaluated in full.
9. Price was evaluated on the basis of tenderers submitted commercial models. Whilst the Council originally sought a nil-cost model for staff dining and café functions, tenderers were also invited to propose a financial model which enabled them to share the risk related to volume of sales of the catering functions. No bidders proposed a nil-cost model. Significant and strong feedback was received from the market indicating that such a model was not financially viable, and placed too much risk with the contractor for too little reward, leading to the high number of tenderers withdrawing from the process.
10. The evaluation of the quality element of the tender was based on explicit criteria against which tenderers were required to provide written particulars to accompany the tender. These were scored by a panel made up of representatives from Strategic Property Services and Corporate Procurement Unit. Having scored written submissions a clear preferred bidder emerged, Elior UK plc who were subsequently interviewed to verify their scores.
11. The bid submitted by Elior demonstrates a strong understanding of the vision and aspirations of the Council in respect of the new County Hall atrium, whilst clearly demonstrating how these principles would be extended to cover other sites at Monkton Park and Shurnhold. The bid also demonstrates a coherent commercial strategy, and proposed a pragmatic sharing of risk and reward between the contractor and the Council.
12. The Award of contract at this point in time is required in order to achieve a contract start date of 3rd September 2012. This ties in with the commencement of operation of the new County Hall atrium, albeit with some transitional arrangements in place whilst the building is being reoccupied.
13. The award of this contract, coinciding with the award of others for cleaning and security, will result in the termination of existing contractual arrangements with two existing contractors, and TUPE transfer of staff between contractors will be undertaken in the period between contract award and the contract start date. Catering staff at Monkton Park are internal Council staff and there will be a requirement for those staff to TUPE to the successful contractors. The number of employees transferring from the Council to the contractor is less than 10

employees, and early engagement with these staff and union representatives has taken place already. Further consultation will now take place in accordance with the relevant regulations ahead of the transfer taking effect.

Environmental and climate change considerations

14. Contractors have provided within their tender a number of undertakings which will be incorporated into the contract in relation to Environmental Performance. In addition, both pre-qualification responses, and tender returns have been reviewed by the ECO team, and the successful contractors were noted to have given satisfactory assurances in respect of their understanding and response to the Council's ECO Strategy.

Equalities Impact of the Proposal

15. One of the criteria for short listing was that applicants were required to hold and implement an Equal Opportunities Policy.

Risk Assessment

16. The key risks associated with the contract award are listed below:
 - a. Challenge from unsuccessful bidders – this is a risk in all procurement projects. The risk is being mitigated by close adherence to Public Contracts Regulations throughout the procurement process.
 - b. Financial security of contractors – the current market place is considered to be quite tough, and there is a risk that contractors may come under continuing pressure over the term of this contract. The contract management team will be vigilant in monitoring performance of the contractors. In the event of a company failure, individual lots could be re-tendered relatively quickly now that new contract documentation has been prepared, or the next lowest tenderers approached.
 - c. Claims-based approach from contractors – with a greater level of pressure expected in the market over coming years, it is to be expected that contractors will take a stronger line in testing the boundaries of contracts. Specifications and pricing documents have been prepared to provide the contract management team with a set of robust tools for managing the contracts and the contractors, including fixed price schedules for undertaking defined categories of additional work.
 - d. Delay in contract commencement due to TUPE issues – at this stage, it is not clear entirely what the TUPE implications between new and old contractor would be. Complexities in this process could delay the award of one or both of the lots of the contract. This will be kept under review with the successful contractors, and a detailed transition programme developed for both contracts.
 - e. Additional cost incurred by the Council related to the TUPE liabilities of existing contractor's management structure – at this stage one contractor in particular has identified relatively senior members of its management team as being considered to be in-scope for TUPE. This position is likely to be contested by the incoming contractors. This may push a TUPE liability onto the Council due to the disaggregation of an existing multi-

faceted contract. This risk will be managed carefully through the TUPE consultation period.

Financial Implications

17. Under existing contract arrangements for catering, the Council pays a subsidy for catering functions in the order of £165,000. This varies from site to site, and is contractually explicit in some instances but less explicit in others.
18. The bid provided by Elixir UK plc represents a subsidy of between £80,000-120,000. The subsidy payable is dependent upon the volume of sales achieved through the café and staff dining function, but also the extent to which the Council draws on the ad-hoc buffet and function element of the service. The contractor is responsible for risk related to the cost of delivering the catering function.

Legal Implications

19. Legal Services have advised throughout on legal matters related to the procurement exercise, and the preparation of the contract. Similarly legal input into the TUPE process will be obtained at the appropriate point in time.

Conclusion

20. It is recommended that the contracts for Lot 1 – Catering Services be awarded on the basis of the procurement exercise described in this paper.

Dr Carlton Brand
Corporate Director

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Background Papers:

The following unpublished documents have been relied on in the preparation of this Report: None

Appendices:

None