

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Minor Maintenance and Responsive Repairs Term Contracts 2020

Final Decision-Maker	Cabinet
Portfolio Holder(s)	Councillor David Scott – Portfolio Holder for Property, Major Projects and Strategic Engagement
Lead Director	Lee Colyer – Director of Finance, Policy and Development (S151 Officer)
Head of Service	David Candlin – Head of Economic Development & Property
Lead Officer/Author	Diane Brady – Property and Development Manager/Paul Doherr – Architectural Surveyor
Classification	Part Exempt Exempt Appendices A exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended): Information relating to the financial or business affairs of any particular person including the authority holding that information
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To approve the appointment of contractors to carry out its minor maintenance and responsive repairs as recommended in Exempt Appendix A; and
2. To delegate to the Director of Finance, Policy and Development in consultation with the Monitoring Officer, the Portfolio Holder for Finance and Governance and the Portfolio Holder for Property, Major Projects and Strategic Engagement the authority to accept the contractors in Exempt Appendix A as recommended, complete negotiations and legal formalities, complete the procurement process and enter into contracts for the delivery of the minor maintenance and responsive repairs.

This report relates to the Corporate Priorities in the Five Year Plan:

- A Prosperous Borough - by maintaining land and property assets for the benefit of residents and businesses in the Borough.
- A Green Borough – by maintaining assets to ensure that they perform as efficiently and as sustainably as possible.
- A Confident Borough – by maintaining the Council’s properties to provide safe environments for residents, businesses, visitors and the local community.

Timetable	
<i>Meeting</i>	<i>Date</i>
Agreed for publication by Head of Service	5 September 2019
Management Board	11 September 2019
Agreed for publication by Portfolio Holder	16 September 2019
Finance and Governance Cabinet Advisory Board	1 October 2019
Cabinet	24 October 2019

Tunbridge Wells Committee Report, version: March 2019

Minor Maintenance and Responsive Repairs Term Contracts 2020

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Council's existing term contracts for minor maintenance and responsive repairs will end on the 31 December 2019. Contractors need to be appointed to service new term contracts which will start on the 1 January 2020. Tenders have been obtained for five 'Lots' one each for general building, electrical, mechanical, lifts and alarms and this report seeks approval to appoint the successful contractors.

2. INTRODUCTION AND BACKGROUND

- 2.1 TWBC is responsible for the upkeep and maintenance of a number of properties of varying types including offices, sports facilities, depots, commercial buildings, residential properties, car parks and toilets.
- 2.2 For the past 7 years the minor maintenance and responsive repairs for the Council's properties has been delivered through 5 maintenance term contracts. These contracts expire on the 31 December 2019.
- 2.3 The contracts were retendered on the basis of the Most Economic Advantageous Tender to provide value for money via the Kent Business Portal in accordance with the European Procurement Directives (OJEU) using the following lots:
- Lot 1 Emergency Call Out, Responsive Repairs & Minor Building Maintenance Works
 - Lot 2 Electrical Planned Maintenance, Emergency Call Out & Responsive Repairs
 - Lot 3 Mechanical Planned Maintenance, Air Conditioning, Water Hygiene, Emergency Call Out & Responsive Repairs
 - Lot 4 Passenger & Good Lift Planned Maintenance, Emergency Call Out & Responsive Repair
 - Lot 5 Fire & Security Systems Planned Maintenance, emergency Call Out & Responsive Repair
- 2.4 Full details of the results of the tender are contained in Exempt Appendix A.

3. AVAILABLE OPTIONS

- 3.1 Option 1: Do nothing. This is not an option as the Council would not be able to effectively maintain and repair its properties and may have to close any that become unsafe or breached health and safety regulations. The Council's building portfolio would deteriorate and reduce in value.

- 3.2 Option 2: Appoint the contractors recommended in Exempt Appendix A to provide minor maintenance and responsive repairs for all the Council's buildings. This would provide the means to properly maintain and repair the Council's properties and prevent deterioration.
- 3.3 Option 3: Use an alternative Local Authority term contract or framework agreement to provide the services. The main disadvantage of this would be that the alternative term contract or framework would not exactly fit the Council's requirements and may be more expensive due to fees charged by the Local Authority running the alternative contract.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option 2 to appoint the contractors recommended in Exempt Appendix A. Using a term contract created by the Council will enable the appointed contractors to provide the exact service that the Council requires for the most economical cost to the Council's portfolio.

The Council's maintenance requirements have been compliantly advertised in the Official Journal of the European Union and subjected to a full tender process. These contracts will be let under a recognised term contract, the Joint Contracts Tribunal (JCT) Measured Term Contract 2016. The initial term will be for five years with the provision for two annual extensions at the Council's discretion.

A recognised national schedule of rates is to be used as a basis for labour and task costs. Each bidder has proposed percentage variations to these rates to reflect their own costs, overheads and profit, and their ability to manage the contracts economically and efficiently. Using a standardised schedule of rates, it will be easier to check invoices and make payments.

The contracts can be monitored against our agreed Service Level Agreements (SLA's) via planned contract meetings.

Potentially, TUPE will apply to three current employees of the incumbent contractor for Lot 1 Emergency Call Out, Responsive Repairs & Minor Building Maintenance Works.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Feedback from the Council's building operators and other departments on the existing term contracts has been used to make changes to the specification for the new term contracts.

RECOMMENDATION FROM CABINET ADVISORY BOARD

- 5.2 The Finance and Governance Cabinet Advisory Board were consulted on this decision on 1 October 2019 and agreed the following:

The Recommendations set out in the report be supported.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If the recommendations are approved the successful and unsuccessful candidates will be notified in writing and there will then be a contract standstill period (Minimum 10 days) to allow contractors to respond to the notifications.
- 6.2 Providing there are no issues arising from the standstill period the contracts will be finalised during November 2019. There will be a lead in period to allow the successful contractors to mobilise resources ready for the start of the term contracts.
- 6.3 Providing there are no issues arising from the standstill period the new term contract will start on the 1st January 2020. The initial term will be for five years with the provision for two annual extensions at the Council's discretion.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	Cabinet approved the Asset Management Plan report on the 7 February 2019 and this was adopted by Full Council on the 27 February 2019. The report referred to the need to procure new property maintenance and servicing contracts to replace the current term contracts.	Lucinda MacKenzie-Ingle Team Leader Contracts and Commissioning 05/09/2019
Finance and other resources	<p>These contracts have a total budget value of £955,000 (2019/20).</p> <p>This tender process, whilst ensuring compliance with Procurement legislation and the Constitution, also ensures that best value for money is enjoyed. The total cost of these tenders fits within the existing budget envelope.</p> <p>The contract will be managed by the Property and Estates department using existing staff, as only companies offering suitable quality of service have been permitted to proceed through the process.</p>	Jane Fineman Head of Finance & Procurement 04/09/2019
Staffing establishment	There are no staffing issues.	Nicky Carter Head of HR, Customer Service & Culture, Executives & Heads Of Service 05.09.19.

<p>Risk Management</p>	<p>The appointed contractors could fail to perform satisfactorily. Performance will be continually monitored by the Property & Estates department with regular meetings with the contractors and regular checks on completed work.</p> <p>Contractors could stop operating in the appointed function or stop trading altogether. Contractor's financial health will be continually monitored to provide an early warning of any financial problems.</p> <p>Contractors may have underestimated the quantity of work or cost of fulfilling their contract obligations or misunderstood the scope of the work. This may lead to requests for additional costs or them refusing to do some parts of the work. Tender clarifications were sought from contractors where their costs were low and any that did not provide adequate responses were excluded from the tender process but this risk cannot be completely mitigated if contractors stand by their low costs.</p>	<p>Paul Doherr Architectural Surveyor 03/09/2019</p>
<p>Data Protection</p>	<p>Contractors will be given contact details and addresses of residents and businesses to enable them to arrange for maintenance and repair work to be carried out. Under the terms of the contracts all contractors will be required to keep all personal details private and only issue them to their operatives when absolutely necessary to enable the works to be carried out.</p> <p>Where contractors keep personal details on an electronic system they will be required to use systems that are totally secure and process the data in accordance with the General Data Protection Regulations and the Data Protection Act 2018.</p>	<p>Ingrid Weatherup Corporate Governance Officer</p> <p>Paul Doherr Architectural Surveyor 05/09/2019</p>
<p>Environment and Sustainability</p>	<p>As part of their tender submission all contractors had to provide details of how they will improve the sustainability of their company in the future including details of how they will reduce carbon emissions, improve energy efficiency in their buildings and operations, reduce the</p>	<p>Paul Doherr Architectural Surveyor 03/09/2019</p>

	<p>impact of transport, reducing consumption of water, reduce the environmental impact of the goods & services they procure and manage waste materials throughout their business.</p> <p>Also how they will educate and raise awareness amongst their staff of sustainability practices and monitor & measure their environmental performance against targets.</p> <p>During the contract the Council will monitor the progress each contractor makes in achieving their targets.</p>	
Community Safety	<p>All contractors are obliged to make sure that their method of working does not encourage crime. For example, ensuring that the properties they are working on are always fully secure and that any buildings that will be left unoccupied are completely secured before they are left unattended.</p> <p>Other than due regard to the above, no adverse community safety issues arise from this report.</p>	<p>Terry Hughes Community Safety Manager 03/09/2019</p>
Health and Safety	<p>Build maintenance and repair work is inherently a potentially dangerous operation. All contractors have provided copies of their health and safety policies and details of the people that have responsibility for health and safety in their company.</p> <p>All contractors are required to carry out risk assessments and produce method statements before starting any work. All must be CHAS registered and ensure that their operatives and any sub-contractors receive regular health and safety training and updates.</p> <p>Anyone engaging contractors has health and safety responsibilities, both for the contractors and anyone else that could be affected by their activities. Contractors themselves have legal health and safety responsibilities that are key to ensure are being carried out effectively.</p> <p>It is therefore crucial to ensure during the procurement process that adequate</p>	<p>Mike Catling Corporate Health and Safety Advisor 04/09/2019</p>

	<p>SLA's and KPI's are installed into the contracts to aid the managing of the contractors going forward. It is also key to ensure that the Property Team have the resources to be able to manage the contractors effectively with the required checks being able to take place. As poor management of contractors can lead to injuries, ill health, additional costs and delays. Working closely with the contractor will reduce the risks to employees, the public and the contractors themselves.</p> <p>If works are classified as construction or building work, as the client TWBC has specific duties under the Construction (Design and Management) Regulations 2015 that require to be carried out effectively, alternatively added responsibility for the works undertaken are claimed.</p>	
<p>Health and Wellbeing</p>	<p>All contractors must provide, or provide access to, adequate welfare facilities for all operatives when working on Council properties.</p> <p>Contractors are required to carry out all work without posing a threat to the health and wellbeing of the public or colleagues and must use the appropriate equipment or methods to achieve this.</p> <p>A no smoking policy is in place which forbids any operative smoking whilst working on our properties.</p>	<p>Rebecca Bowers Health Improvement Team Leader 03/09/2019</p>
<p>Equalities</p>	<p>The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users.</p> <p>As the contracts are for minor maintenance and repair works there is little or no apparent impact on equality rights. No major alterations to the Council's properties will be carried out using these contracts so there will be little or no impact on issues such as mobility access, and where this does occur it will be for very short periods in very small areas. The work carried out under these</p>	<p>Ingrid Weatherup Corporate Governance Officer Paul Doherr Architectural Surveyor 05/09/2019</p>

	<p>contracts will not alter the function of the facilities the Council provides.</p> <p>All contractors have good equal opportunities policies that cover their approach to equality in their workplaces, in their recruitment and training.</p>	
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8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Exempt Appendix A: Tender Report Evaluation Results

9. BACKGROUND PAPERS

- Asset Management Plan 2019/20:
http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0007/280429/Asset_Management_Plan-_19-20.pdf