

CABINET

28 OCTOBER 2014

GATEWAY 1 PROCUREMENT COMMENCEMENT: HOUSING REVENUE ACCOUNT (HRA) ESTATE SERVICES

Portfolio Holder: Councillor Howard Doe, Housing and Community Services

Report from: Robin Cooper, Director of Regeneration, Community and Culture

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SUMMARY

This report seeks permission to commence the procurement of a service provider to deliver the Housing Landlord Service Estate Services function (Caretakers).

This Gateway 1 report has been approved for submission to Cabinet after review and discussion at the Regeneration Community and Culture Directorate Management Team Meeting on 25 September 2014 and Procurement Board on 8 October 2014.

The Regeneration Community and Culture Directorate Management Team have recommended that this project be approved as a Category B, high-risk procurement.

This is a high profile service, which attracts significant interest from residents and has never been competitively tendered.

1. Budget and Policy Framework

- 1.1 The estate service function (Caretakers) is subject to charges applied via tenant rent accounts and leaseholder service charge accounts.
- 1.2 Any cost incurred by a landlord for undertaking work to a communal area which is normally the responsibility of tenants is expected to be fully recharged to tenants via service charges.
- 1.3 The Housing Revenue Account (HRA) business plan is currently being revised. Tendering this service will add to the robustness of this plan, as it has been identified that efficiencies can be made.

- 1.4 Service charges are expected to increase annually in line with inflation, but with the caveat that an authority is expected to fully recover the cost of providing the service.
- 1.5 As part of the 2012-2013 budget setting, above inflation increases of 15% a year were agreed for three years in order for the estate services to be fully recharged to tenants by 2014/15.
- 1.6 Although the estate services cost is now fully recoverable from tenants and leaseholders, the cost of providing this service remains high when benchmarked, and is not offering customers value for money.
- 1.7 In 2009 a Housemark review of the Estate Services costs and key performance indicators placed Medway in 36th (most expensive) place out of 40 local authorities in terms of costs per property and 17th from 25 housing organisations in the London and South East region.
- 1.8 The duration of the contract is proposed for a period of 5 years initially with the option to extend for up to a further 5 years. It is expected that the service provider, through innovation, good management and skill and experience, shall aim to deliver the service below the tendered figure, demonstrating savings on the target price. At quarterly intervals the actual spend will be validated and reconciled and any savings will be shared on a 50/50 basis between the service provider and Medway and the prices for the following year will be set at the lower value. The profit share is also subject to achieving the relevant key performance indicators set out in the contract documents. Should the service provider spend more than the target price per property, they will carry that loss.
- 1.9 A price ceiling will be applied to all aspects of this contract.

2. Background

- 2.1 One of the key priorities of the housing service in Medway is to provide high quality cost effective services. As a landlord Medway has a duty to ensure the communal areas of its housing stock are kept tidy and safe.
- 2.2 1,294 tenanted and leasehold flats and Homes for Independent Living sheltered homes receive the estates services.
- 2.3 In 2012 an independent review was commissioned by an external company to assess the costs of the service, how it was delivered and resources needed to maintain this service. The review concluded that the service was expensive and did not represent value for money.
- 2.4 Pending the award of the repairs contract, the decision was taken to set up a formal Service Level Agreement with Mears Limited to manage the service as an interim, as part of the existing repairs contract.

- 2.5 As a result of this in November 2012 it was agreed that the Estate Services function should be included within the repairs and maintenance tender.
- 2.6 The HRA repairs and maintenance contract was tendered in May 2013. This process had to be terminated in August 2013 as 4 of the final 6 selected contractors chose to withdraw from the process, due to concerns and TUPE related costs. The decision was made to remove the Estates Services from the repairs contract following this feedback from bidders.
- 2.7 Mears Limited has agreed to manage the cleaning service for common parts of most blocks of general need flats until 31 May 2015. The estate services team members are direct employees of Medway Council. 10 estate wardens and caretakers are currently employed and there is also a vacant post for a team leader.
- 2.8 Their primary function is to ensure estates are clean, attractive and safe for the residents and leaseholders. They also assist with the cleaning of external areas of sheltered accommodation, with responsibility for external cleaning.
- 2.9 A residents' survey carried out in 2013 by Medway shows a satisfaction level of 76% for internal cleaning and 71% for external cleaning. Cleanliness of external and internal cleaning was one of the biggest concerns for residents. Overall residents' satisfaction for the housing landlord service is at 85%.
- 2.10 This highlights that estate services standards are significant issues for residents and are affecting overall satisfaction with the housing service for the Council as a whole.
- 2.11 The Council has an active estate services tenant forum, leaseholders forum and homes for independent living forum that all meet regularly with officers to review service provision, performance and obtain customer feedback.
- 2.12 When the repairs contract was tendered in 2013 the vision was to include the caretaking and cleaning as part of the overall landlord service. That vision remains unchanged.
- 2.13 The current operating model has been reviewed over the last 2 years, and there are opportunities to streamline this service, improve performance and subsequently increase customer satisfaction:
 - The current service operates from four offices, in Britton Street Gillingham, Hazlemere Drive Gillingham, St Albans Close in Gillingham and Benenden Manor in Twydall, all of which are owned by Medway Council. Efficiencies could be achieved if the new operation was to be run from one centralised site office.

- There could be scope to remodel the premises in St Albans Close to create a 1 bedroom flat, which would subsequently generate income to the HRA of £4,301 per year. This income would be reinvested into the HRA service.
- The service is keen to remodel the existing service to incorporate a responsive hit squad team as well as the cleaning teams. It is the intention to explore the possibility of Environmental Services taking on the bulky waste and fly tipping service to deliver further savings.
- Service standards can be reviewed and targeted through the development of more detailed KPIs, providing training on agreed standards for Estate Wardens and by ensuring there is a scheduled series of estate inspections.
- The Estate Services team could carry out low-level post inspections of communal areas.
- The Estate Services team could carry out a gardening service at cost to residents.

3. Parent Company Guarantee/Performance Bond Required

- 3.1 A parent company guarantee will be sought for this contract.

4. Procurement Dependencies and Obligations

4.1 Statutory/Legal Obligations

- 4.1.1 As a landlord the Council has various mandatory, statutory and legal obligations it must meet. These include:
- Section 11 Landlord and Tenant Act 1985 (setting out the Council's repair obligations) where applicable
 - Various Health & Safety legislation to maintain properties in a safe manner
 - The Control of Asbestos Regulations 2012
 - Tenants' handbook (sets out the Council's obligations and timescales)
 - The landlord covenants on the part of the Council contained in leases granted by the Council
 - Health and Safety at Work Act 1974,
 - Control of Substances Hazardous to Health Regulations 2002
 - The Management of Health and Safety at Work Regulations 1999.

5. BUSINESS CASE

5.1 Procurement Project Outputs / Outcomes

As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?
1. Customer Satisfaction	Customer feedback/satisfaction cards/Repairs and Estate Services Forums.	Neighbourhood Services Manager	Monthly via Performance Management Framework (PMF) and contractor monitoring meetings. Bi monthly at resident forums.
2. Value for Money	Benchmarking via formalised and informal sharing of data with other housing organisations.	Performance Management Hub	Quarterly reports to Neighbourhood Services Manager Quarterly Strategic Maintenance Meetings
3. Cost of the service to be covered by service charges	Annual service charge accounts to leaseholders and on tenant rent accounts	Head of Housing Management and principal accountant	Annually when budgets are set each February
4. Response times to responsive cleaning tasks	Performance Matters Framework	Performance Management Hub	Monthly operational Meetings with Contractor
5. High performing service and achievement of KPIs	Performance Matters Framework	Performance Management Hub	Monthly operational Meetings with Contractor
6. Local labour	Employment Training Plan at Strategic Quarterly Meetings	Neighbourhood Services Manager	Quarterly Strategic Meetings with Contractor
7. Apprenticeships	Employment Training Plan at Strategic Quarterly Meetings	Neighbourhood Services Manager	Quarterly Strategic Meetings with Contractor

8. Sustainability and Environment	Monitoring of Sustainability Plan	Neighbourhood Services Manager	Monthly operational Meetings with Contractor Quarterly Strategic Meetings with Contractor
9. Health and Safety	Contract monitoring meetings.	Neighbourhood Services Manager	Contractor's regular in- house H&S Audits reported to strategic meetings Bi-annual external audits of H&S compliance of contractors processes. Medway's H&S Team.
10. Development of Operatives using PDAs	Contract monitoring meetings.	Neighbourhood Services Manager	Monthly operational Meetings with Contractor
11. Client Satisfaction	Performance Matters Framework	Performance Management Hub	Monthly operational Meetings with Contractor
12. Number of post inspections	Performance Matters Framework	Performance Management Hub	Monthly operational Meetings with Contractor
13. Reduction in Overheads	Strategic Quarterly Meetings	Neighbourhood Services Manager	Annually when budgets are set each February

5.2 Procurement Project Management

5.2.1 Category Management will manage the procurement process working with the HRA Management Team.

5.3 Post Procurement Contract Management

5.3.1 The HRA Neighbourhood Services Manager has operational responsibility for this service.

5.3.2 Performance monitoring will also be the responsibility of the Neighbourhood Services Manager, and all KPIs will be reviewed periodically either at the monthly contractor monitoring meetings, at which residents will be present, or at the quarterly strategic meetings led by the Head of Housing Management.

5.3.3 There will be a mobilisation period of 2 months (maximum) and during this time there will be regular meetings with the mobilisation teams from both Medway and the preferred contractor, led by the Neighbourhood Services Manager, to discuss the set-up of the new operating model before going live on 1 June 2015.

5.3.4 The partnership between Medway and the preferred contractor will operate open book accounting, which shall be reviewed quarterly at strategic partnership meetings led by the Head of Housing Management and Neighbourhood Services Manager. The profit share from the delivery of service will be agreed and shared annually, and the following year's fixed prices set. Entitlement by the contractor to any performance related profit would depend upon achievement of incentivised KPIs.

6. PROCUREMENT APPROACH

6.1 Procurement Process Options Considered

6.1.1 Do Nothing

The option of doing nothing is not a viable option as the existing service level agreement with Mears will end on 31 May 2015, and the management and delivery of the service would have to revert to Medway. As the current service does not represent value for money there are significant changes that need to be made, achieving such change in house would be challenging and suitable resource is not available.

6.1.2 Open Tender via the Kent Business Portal Advantages

This will encourage the greatest level of competition from the market and could offer opportunities for apprenticeships, local businesses and SMEs as part of a supply chain.

Ensures fairness and transparency to the tendering process, and ensures the Council complies with its own Contract Procedure Rules and EU regulations, as the value of this contract will exceed the OJEU

threshold for a services contract. This will also comply with Landlord and Tenants Act 1985 Section 20 which states at least two estimates should be sought when carrying out works that will appear in leaseholders' service charges.

This service is funded via service charges paid by HRA tenants and leaseholders. It is essential that the council is able to illustrate to tenants & leaseholders that the service represents value for money. Carrying out an open tender exercise for the new service would provide a strong value for money argument, were tenants or leaseholders to argue otherwise.

It is also hoped that by going out to tender, the tenders will suggest innovative and different ways of providing the caretaking service. Allowing tenders from several experienced caretaker service providers will ensure that the Council can consider various different and innovative solutions and choose the most effective and value for money service provision

Disadvantages

The procurement process will lengthen the total project programme, although the completion target of 1 June 2015 is achievable. Failure to follow this option could mean the Council breaches EU procurement rules.

6.1.3 Award Contract to Medway Norse

Advantages

This will save officer time as a full procurement process will not be required.

Medway Norse have a local office so there could be a reduction in operational set up costs which could be passed on to Medway as savings to the service.

Disadvantages

This service has never been tendered and an independent review has highlighted the opportunity for significant savings and improvements to the service. If the contract were to be directly awarded to Norse, there would be no possibility of comparing the price and service proposals with other providers.

This is a high profile service with much resident interest. The current (Mears) housing repairs service is considered to be by our tenants' high quality and it is essential that the cleaning service is also of a standard to complement it.

6.1.4 Preferred Option

As the value of this contract will exceed the OJEU threshold for a services contract, this tender will follow an EU open process via the Kent Business Portal. It is proposed to issue the OJEU notice on 10 November 2014. Medway Norse can of course apply for the contract.

6.2 Evaluation Criteria

It is proposed to use 60% quality 40% price split to achieve best value.

7. RISK MANAGEMENT

7.1 Risk Categorisation

1. Risk Category: Service Delivery	Likelihood: Low	Impact: Marginal
Outline Description: Customer satisfaction reduces during the start of the new contract, quality of work drops and frontline performances dips		
Plans to Mitigate: Regular operational meetings will take place with the preferred contractor to agree KPIs around customer satisfaction and service delivery and to measure performance. A robust mobilisation plan will be agreed with the contractor to ensure continuity of service and maintain current high performance levels		
2. Risk Category: Cultural Change	Likelihood: Low	Impact: Critical
Outline Description: Transfer of the Estate Services team to the preferred contractor – cultural change and possible risk as Medway will lose management of the client function from June 2015		
Plans to mitigate: Clear roles and responsibilities will be agreed during the mobilisation period, as well as clear processes and procedures to be agreed by both parties in the partnership. The team being transferred will have full induction with the preferred contractor prior to June 2015		
3. Risk Category: Commercial	Likelihood: Low	Impact: Critical
Outline Description: Budgets exceeded – performance affected and contract is viewed as failing by senior members of both teams		
Plans to mitigate: Commercial model and open book accounting reviews. Regular budgetary reviews; contractor to take greater responsibility for budgetary controls		
4. Risk Category: Reputation/Political	Likelihood: Low	Impact: Critical
Outline Description: Ineffective or poorly managed contract may lead to poor levels of customer satisfaction, leading to increased queries or complaints to Members. Additionally tenants may perceive Members to be at fault in terms of poorly managed service. There is significant potential for adverse media coverage with reference to historical poor performance.		
Plans to Mitigate: Effective and robust management arrangements in place for contract management with suitably skilled staff		
5. Risk Category: Health and Safety	Likelihood: Low	Impact: Critical
Outline Description: Breach of H&S compliancy leads to death of tenant/employee/contractor or critical injury		
Plans to Mitigate: Dedicated Compliancy Officer in post to monitor statutory obligations and risk assessment method statements; robust performance data in place to regularly review and monitor compliancy; meetings between respective H&S and operational teams.		

8. Consultation

8.1 Internal (Medway) Stakeholder Consultation

Category Management
Finance Services
Legal Services
HRA Management Team

8.2 External Stakeholder Consultation

Leaseholder Consultation

Section 20 Landlord and Tenant Act 1985 provides that Medway Council as the landlord is obliged to consult with the tenants of any properties, which are subject to long leases, before entering into a long-term agreement for the provision of services. The new procedures provide for two separate 30-day periods for leaseholders to make observations.

All leaseholders were notified on 15 August 2014 of Medway's intention to start the procurement process prior to the OJEU notice being published. Further notices allowing for comment will be issued following receipt of the final tenders on 2 March 2015, and leaseholders will also be advised which supplier has been awarded the contract should this be approved at Cabinet in May/June 2015.

Tenants and Leaseholders will also be consulted on the development of the specification, at regular forum meetings, which are held quarterly. Residents will be represented on the interview panel in March 2015 by the chair of the Estate Services Forum.

9. Procurement Board

9.1 The Procurement Board considered this report on 8 October 2014 and supported the recommendation set out in paragraph 12 below.

10. Service Implications

10.1 Financial Implications

10.1.1 The procurement requirement and its associated delivery, as per the recommendations at Section 12, will be funded from existing HRA revenue budget.

10.1.2 Further detail is contained within Section 1.1 Finance Analysis of the **Exempt Appendix** that accompanies this report.

10.2 Legal Implications

10.2.1 The proposed contract constitutes a contract for services under the provisions of the Public Contracts Regulations 2006 ("the 2006 Regulations").

10.2.2 The proposed services exceed the current OJEU financial threshold and so require that an OJEU-compliant procedure be used.

10.2.3 Using the OJEU Open Procedure ensures that the procedural that the requirements of the 2006 Regulations are met.

10.2.4 Using the OJEU Open Procedure gives a high degree of confidence that the Council's primary objectives for procurement are met, as required by Rule 1.2.1 of the Council's Contract Procedure Rules ("the CPRs").

10.2.5. The services should also be advertised on the Kent Business Portal in order to comply with the Contract Procedure Rules advertising provisions (rule 3.3.1).

10.3 TUPE Implications

10.3.1 The appropriate consultation processes will be followed for the Estate Wardens and led by the Human Resources team at Medway.

10.4 Procurement Implications

10.4.1 As per the Contract Procedure Rules under section 3.3.1: 'All requirements above £100,000 must be advertised on the Council's Website, the Kent Business Portal and in the OJEU (where above the EU tender thresholds for goods, services or works).'

10.4.2 The value of this procurement means the works should be advertised to comply with these rules, and to support the Council's procurement strategy to provide best value.

10.4.3 Category Management will run a full OJEU open procedure for this procurement as the value will exceed the EU threshold for a services contract of £172,514.

10.4.4 Section 20 of the Landlord and Tenant Act 1985 requires at least two quotes to be obtained when carrying out any work that requires the leaseholder to pay in excess of £100 per year for a long-term agreement. Tendering this service to the open market will satisfy this requirement.

10.4.5 All required stages of consultation with leaseholders will be carried out throughout the process.

10.5 ICT Implications

10.5.1 It is anticipated that the operatives will use handheld equipment of some form, and that will require input from ICT to ensure that such devices are in line with corporate standards and that any development work required to integrate with existing systems is scheduled and costed appropriately.

11. Other Considerations

11.1 Social, Economic & Environmental Considerations

This service will contribute to achieving a higher customer satisfaction for the Council's housing service overall, by providing a safe and clean environment for tenants and leaseholders and offering better value for money.

This procurement supports the council's strategic priority of safe, clean and green Medway by ensuring there is a cost effective efficient service in place that means the council honours its duty as a landlord to ensure the communal areas of its housing stock are kept tidy and safe.

12 Recommendation(s)

- 12.1 The Cabinet is requested to approve the procurement of a service provider via the Kent Business Portal to deliver the Housing Landlord Service estate services function.

13 Suggested Reasons for Decision

- 13.1 Approval of the tendering of this service contract will provide a quality service and value for money for tenants and improve the customer satisfaction level for the overall landlord housing service.

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Background Papers: None