



DERBY CITY COUNCIL

Council Cabinet
19 July 2011

Report of the Strategic Director of
Neighbourhoods

ITEM 10a

Repairs and Maintenance Contract - Delegated Authority for Contract Award

SUMMARY

- 1.1 The three principal repair and maintenance contracts managed by the Maintenance and Energy team have expired and their contract duration has been extended on several occasions by obtaining waivers of the contract procedure rules. The current waivers are due to expire on the 15 September 2011.
- 1.2 The three contracts are due to be replaced by a single contract procured through an East Midland Property Alliance (EMPA) framework contract which is required to commence on the 16 September 2011.
- 1.3 Tender prices for this contract are due for return on the 15 July 2011. In order that the contract commencement date can be met the contract award date needs to be the 1 August 2011 to allow the contractor sufficient time to organise the team and negotiate any staff transfers from the outgoing contractors.
- 1.4 The timing of the tender return dictates that a decision to award the contract is required before the next council cabinet scheduled for the 6 September 2011. In order to allow a decision to be made before this date it is recommended that delegated authority be granted to the Leader of the Council and the Strategic Director of Neighbourhoods to consider the recommendations of the Head of maintenance and Energy following the tender evaluation, and to approve the award of the contract if appropriate to do so.
- 1.5 The tender return is estimated to be in the region of £2.5 to £3.0 million and will be funded from the revenue maintenance budget and the schools maintenance package fund.

RECOMMENDATION

- 2.1 To grant delegated authority to the Leader of the Council and Strategic Director of Neighbourhoods to approve the appointment of the successful EMPA contractor to deliver the repairs and maintenance for the councils building stock (excluding Derby Homes managed properties).

REASONS FOR RECOMMENDATION

- 3.1 To allow the appointment of the successful contractor to be made by the 1 August 2011 to allow them sufficient time to set up their teams to commence the contract on the 16 September 2011. A further waiver to extend the current repairs and maintenance contracts will be required if the decision is deferred until the 6 September 2011 cabinet meeting.

SUPPORTING INFORMATION

- 4.1 The Maintenance and Energy team currently manage three principal repair and maintenance contracts through two external contractors and Derby Homes. All three contracts were awarded following competitive tendering exercises. All three contract durations have been extended through a series of waivers.
- 4.2 The reactive mechanical repairs for all corporate buildings (excluding schools) are delivered by MITIE. The contract commenced April 2004 with a contract duration of five years and waiver extensions to the 1 April 2011.
- 4.3 The reactive mechanical repairs for schools are delivered by Midland Counties Heating Services Limited. The contract commenced April 2004 with a contract duration of six years with a waiver extensions to the 1 April 2011.
- 4.4 The reactive building and electrical maintenance repairs for corporate and school buildings are delivered by Derby Homes (Previously Environmental Services). Contract commenced August 2003 contract duration six years with waiver extensions to the 1 April 2011.
- 4.5 A further waiver was granted by cabinet on the 15 March 2011 to extend these contracts to the 15 September 2011 to allow the tendering process through the EMPA framework. The briefing note at Appendix two explains the role of EMPA.

- 4.6 The Maintenance and Energy team have been working with EMPA over the last 12 months to procure a replacement repair and maintenance contract which will deliver all the key maintenance requirements including building, electrical and mechanical repairs.
- 4.7 The EMPA framework contact was awarded in April 2011 following a tendering process based on six regional areas around the East Midlands.

In the Derbyshire Region three contractors were selected:

Derbyshire County Council
Enterprise
Kier Group

- 4.8 The final part of the tender process requires a mini competition to be run involving the three contractors bidding competitively against the Derby City Council (DCC) repair and maintenance specification. These tenders will be received back for evaluation on the 15 July 2011 and an award of contract will need to be completed by the 1 August 2011. This will allow a seven week lead in period required by the contractor in order to commence the delivery of the repairs and maintenance on the 16 September 2011.
- 4.9 The recommendation is that delegated authority is granted for the Leader of the Council and the Strategic Director of Neighbourhoods to consider the tender evaluation and cost of the contract. This will to allow a decision to be made on whether to agree to the use of the EMPA repairs and maintenance contract without going back to council cabinet on the 6 September 2011 which will be too late for the start of the contract on the 16 September 2011.

OTHER OPTIONS CONSIDERED

5.1 To continue to work with Derby Homes (DH) to deliver the building and electrical repairs This could be achieved as DH are part of the Council and as such could be awarded the work without entering into competition. DH does not currently deliver the mechanical repairs and therefore this option would still leave this element requiring a tender process to secure a new contractor. The EMPA route provides a principal contractor who will deliver a full repairs and maintenance service.

DH submitted a tender return for the EMPA repairs and maintenance contract but they were unsuccessful in the second stage of the framework tender evaluation process.

5.2 The Maintenance and Energy team could prepare their own tender documents and advertise for expressions of interest through the Official Journal of the European Union (OJEU). This option was ruled out due to the lack of sufficient staff time to complete the tendering process. Through the EMPA process additional resource is provided through Scape to assist with the tendering process.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	
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For more information contact: Background papers: List of appendices:	Name 01332 255051 phil.derbyshire@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Scape/EMPA Briefing Paper
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IMPLICATIONS**Financial and Value for Money**

- 1.1 Scape has included a framework management fee in the contract payable by the contractor at a rate of 2.95% of the contract sum. This fee may be passed onto the council by the contractor.
- 1.2 The mechanism for reviewing the contract rates will be undertaken annually using the Building Maintenance Indices (BMI) which is provided by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.
- 1.3 Value for money will be monitored throughout the contract. The contractor will be required to demonstrate that they are delivering against targets within the continuous improvement plan and predefined benchmarking criteria.
- 1.4 The contractor will be required to maintain a full and accurate record of the costs of performing the service and will operate under an open book accounting arrangement. This will allow officers to compare the cost of the service against similar sized contractors delivering a similar service.

The cost of the repair and maintenance service for 2010/11 was £2.5 million funded from the maintenance revenue budget (£2.1million) and the schools maintenance package fund (£0.4 million). It is expected that the EMPA tender will be between £2.5 and £3.0 million.

Legal

- 2.1 The EMPA framework has been prepared using Brown Jacobson Solicitors (Nottingham) acting as the legal advisers to Scape.
- 2.2 The framework has also been considered by the legal team at Derby City Council and no issues have been identified.
- 2.3 Provision to utilise the Scape framework is made under the Access Agreement made under seal between DCC and Scape dated 14 July 2009.

Personnel

- 3.1 The four main contractors who currently deliver the repairs and maintenance elements included in the framework have been contacted in connection with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE Regulations).

One outgoing contractor has indicated that it is likely that all staff will be offered positions in their current company

Three have indication that staff will be subject to TUPE transfer. The initial number of employees likely to be affected is estimated as 21.

Equalities Impact

- 4.1 None

Health and Safety

- 5.1 Health and safety aspects are assessed as part of the framework tender evaluation.

Environmental Sustainability

- 6.1 Work delivered through the repairs and maintenance framework will be delivered to the minimum environmental standards to ensure legislative compliance.

Asset Management

- 7.1 The framework will deliver repairs and maintenance of the councils building assets in accordance with the maintenance strategy approved by the Asset Management Group.

Risk Management

- 8.1 It is a possibility that under the EMPA repairs and maintenance framework contract the delivery cost will be in excess of the current budget availability. If this situation arises the existing suppliers would continue delivering the service while the following options are explored:
- The Maintenance and Energy Division in Neighbourhoods re-tendering the contract
 - Negotiate with Derby Homes to deliver the repairs and maintenance as an in-house contractor
- 8.2 The transfer of staff identified under item 3.1 could delay the start of the contract on the 15 September 2011. In order to mitigate this, information has been gathered from the outgoing contractors and the tendering contractors are aware of the likely numbers of staff who could transfer.

Corporate objectives and priorities for change

9.1 The repairs and maintenance contract will assist in the delivery of two of the councils eight key outcomes:

- Being safe and feeling safe, by delivering a fit for purpose service which attends to repairs and maintenance of the councils building assets in a timely manner.
- Good quality services that meet local needs, the framework tender evaluation has identified some of the best contractors in the field of repairs and maintenance. These contractors will bring new ways of working and increased buying power through economies of scale which will benefit customers.

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SCAPE / EMPA Briefing Note**1.0 Consortium of Local Authorities Special Programme (CLASP)**

- 1.1 Scape was formed in 2004 as a trading company for the Consortium of Local Authorities Special Programme (CLASP).
- 1.2 Prior to 2004 CLASP operated from 1957 as an unincorporated association of Public Sector Authorities. CLASP was instigated by the then Ministry of Education for the purpose of improving the construction and delivery of schools. The Consortium addressed issues of skill and material shortage together with a high demand. It turned to a systematic form of construction. One which relied on a high proportion of prefabricated elements and had the ability to be built on sites with poor ground conditions including mining subsidence.

Further information can be found on the Clasp website at :

<http://www.clasp.gov.uk/>

- 1.3 The system was designed for education projects, which included primary, secondary and Universities. Cambridge, York and Bath Universities all have significant CLASP buildings as part of their estate.
- 1.4 CLASP moved on to cover most building types found in the public sector. Hospitals, primary health care and buildings for all the emergency services have been constructed using the CLASP system.
- 1.5 The CLASP technology was also developed to meet the changing needs of its members. As standards of regulation have raised so the system has been developed to respond. Early CLASP buildings were flat roofed and often concrete clad. In 1984 CLASP moved to have its main expression as pitched roof and brick clad. In the 1990's curved sheeted roofs were introduced together with composite wall claddings.

Various versions of the building design exist. In Derby we have 29 school sites with CLASP buildings and construction dates ranging from the early 60's up to 2004

2.0 Scape System Build Ltd

- 2.1 In 2004 CLASP reviewed its technology with the objective of making sustainability its key driver. As a result the technology moved on and changed so significantly that it was renamed Scape.

Further information can be found on the Scape website at :

<http://www.scapebuild.co.uk/>

Scape System Build Ltd is a Local Authority controlled company; Derby City Council is a shareholder along with Derbyshire County, Gateshead, Nottingham City, Nottinghamshire County and Warwickshire County Councils.

Scape's company's objectives are to bring economy and efficiency to the whole building process, both new buildings and refurbishment projects. It does this through the development of standard designs and strategic procurement arrangements.

3.0 **East Midlands Property Alliance (EMPA)**

- 3.1 As well as acting at CLASP's trading company, Scape is also the managing agent for the East Midlands Property Alliance (EMPA)

Further information can be found on the EMPA website at :
www.em-pa.org.uk .

- 3.2 Membership of EMPA is open to any East Midlands Authority and currently has 38 such members who have signed up to a memorandum of understanding.
- 3.3 The Aims of the EMPA Members, are to enable its members to improve the delivery of their property function for the benefit of their communities.

EMPA achieve this by :

- Developing areas of mutual interest on matters which have a bearing on the efficient provision of services;
- Making environmental, economic and social sustainability the prime driver
- Providing training and staff development on property related matters to harmonise methods of operation and procurement;
- Developing the suppliers in the region to enhance their contribution;
- Promoting Best Practice in all activities;
- Improving systems of Performance Management;
- Developing continuous improvement programmes;
- Obtaining external development funding;
- Facilitating the co-operation of Local Authorities working in clusters;
- Facilitating the establishment of themed work groups to direct the establishment of regional frameworks; and
- Establishing regional framework arrangements for the provision of property related works where it is deemed appropriate and legally acceptable to do so.

3.4 The Maintenance and Energy team work closely with Scape to develop various framework contracts through empa.

The following contracts are currently available:

- Intermediate Projects Framework: £2.0M -£7.5M. Launched 14/12/2008
- Minor Works Framework: Value bands £10 - £500K & £500K - £2M. Launched 10/08/2009
- Large Projects Framework available for projects valued over £7.5m. Launched 01/04/2010
- Repairs & Maintenance Framework: Value bands £0- £25K. Launched 15/04/2011
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The minor works framework is used extensively on Derby City Council (DCC) building repair and refurbishment projects.

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