

Commissioning and Procurement Sub-Committee – 15th September 2020

Subject:	Procurement of Mortuary Services		
Corporate Director(s)/ Director(s):	Richard Henderson – Director of HR and Customer		
Portfolio Holder(s):	Cllr Sally Longford - Portfolio Holder for Energy, Environment and Democratic Services		
Report author and contact details:	Jo Pettifor, Category Manager – Strategy and People Email: jo.pettifor@nottinghamcity.gov.uk Telephone: 0115 8765026		
Other colleagues who have provided input:	Lucy Lee – Head of Customer Service Paul Ritchie – Category Manager - Products		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total value of the decision: £1.527m per year over 5 years (total contract value £7.635m); Nottingham City Council expenditure £0.764m per year (total £3.818 m)			
Wards affected: all	Date of consultation with Portfolio Holder(s): Cllr Longford– 20 th August 2020 Cllr Sam Webster – 26 th August 2020		
Relevant Council Plan Key Theme:			
Nottingham People			<input checked="" type="checkbox"/>
Living in Nottingham			<input checked="" type="checkbox"/>
Growing Nottingham			<input type="checkbox"/>
Respect for Nottingham			<input type="checkbox"/>
Serving Nottingham Better			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
In September 2018, Sub Committee approved the procurement of Mortuary Services through a competitive tender process and agreed the extension of the existing contract for these services to allow for the completion of the tender process. The tender process undertaken did not result in the award of a new contract therefore this report now seeks to award a negotiated contract to the incumbent provider, Nottingham University Hospitals Trust (NUHT) for the delivery of Mortuary Services for a period of 5 years. Approval is also sought for Nottingham City Council expenditure on the proposed contract.			
Exempt information:			
None			
Recommendation(s):			
1 To approve the award of a negotiated contract for Mortuary Services to Nottingham University Hospitals Trust, subject to satisfactory conclusion of negotiations.			
2 To delegate authority to the Director of HR & Customer to award and sign the contract on conclusion of the negotiation for a period of 5 years.			
3 To approve expenditure by the Council on the proposed contract of £763,694 per year for 5 years; total £3,818,471.			

1 Reasons for recommendations

- 1.1 The Council is under a legal obligation to provide a mortuary and post mortem service as required by HM Coroner and the proposed contract award will enable this obligation to be met.

- 1.2 The proposed award of a negotiated contract is necessary to secure mortuary services in the City due to the absence of competition in this market. A competitive tender process was undertaken in November 2018 to secure a provider, and this was preceded by market engagement to encourage participation however no suitable bids were received. Negotiations have taken place with the existing provider, NUHT in relation to the continued delivery of these services and the proposed contract will secure provision for five years. Ongoing dialogue has taken place with other hospital trusts but none have capacity for Nottinghamshire's work, even if split as it is the largest jurisdiction in the country.
- 1.3 Negotiations have been undertaken with NUHT to secure reduced costs in comparison with the price received through the tender. These negotiations have reduced the cost of the contract from £1.820m per annum to £1.527m per annum. It is proposed to award an activity based contract, and these costs are projected based on average activity levels over the last 3 years.

2 Background (including outcomes of consultation)

- 2.1 The Council is legally obliged to make provision for mortuary services for HM Coroner. This includes provision of mortuary and post mortem facilities and technical staff for the provision of the Coronial Service within timescales agreed with HM Coroner. This must be done whilst ensuring that the deceased is handled with respect and dignity, recognising cultural and religious preferences where reasonably possible.
- 2.2 HM Coroner's area covers the Nottingham City Council and Nottinghamshire County Council boundaries. The total cost of this contract will therefore be split between Nottingham City Council and Nottinghamshire County Council in accordance with agreed terms. The contract covers storage of bodies on behalf of HM Coroner for Nottingham City and Nottinghamshire County Councils, providing mortuary facilities including post mortem examinations, body storage and payment for pathologists.
- 2.3 In September 2018, Sub Committee approved the procurement of Mortuary Services through a competitive tender process and agreed the extension of the existing contract with NUHT to allow for completion of the procurement process.
- 2.4 A competitive tender process was undertaken for Mortuary Services in November 2018, however no successful tenderer was selected because no bid was received that represented value for money. Negotiations have taken place with the existing provider, NUHT in relation to the continued delivery of these services to ensure seamless provision is in place.

3 Other options considered in making recommendations

- 3.1 Do nothing: This is not a viable option as this is a statutory service that the Council must continue to provide. The current contract has expired and we need to ensure continuous service in order to meet statutory requirements under The Coroners and Justice Act (2009), and specifically Part 1, Section 1, Duty to Investigate; Section 14, Post-mortem examinations and Section 15, Power to Remove Body.

4 Finance colleague comments (including implications and value for money/VAT)

- 4.1 This report seeks approval to enter into a 5 year contract with Nottingham University Hospitals Trust to deliver mortuary services at a contract value of £1.527m per annum (£7.635m over the 5 year contract period).
- 4.2 The cost of this contract is split 50/50 with Nottinghamshire County Council, therefore the annual cost to Nottingham City Council in awarding this contract is £0.764m (£3.818m over the 5 year contract).
- 4.3 As part of the 2019/20 budget setting process, pressure funding was approved and awarded to the Coroners service on the assumption that the contract price could be as high as the £1.820m as offered through the tender process. This pressure funding amounted to £0.500m (which was £0.087m short of fully funding the £1.820m contract price). Because of this, there is sufficient budget provision within Coroners and therefore no additional financial pressure will be incurred as a result of awarding this contract. The service will need to fully cost the other elements of the Coroners service (in addition to this contract) to establish whether any of this pressure funding can be released back into the corporate centre to assist with the on-going financial challenge that Nottingham City Council faces. Based on this contract in isolation and the revised lower contract price (£1.527m v £1.820m), there is potential of £0.060m of surplus pressure funding. The service needs to ensure with confidence that no financial pressure will occur if this surplus pressure funding is returned.
- 4.4 The price of this contract is based on activity levels using an average over the past 3 years. Due to this, there is an inherent risk that the final annual contract price will be higher than expected. The service will need to monitor this closely with mitigation in place should there be a risk that its budget will be exceeded.
- 4.5 Alternative delivery options for this statutory service should be explored in future alongside awarding this contract to ensure best value is achieved.
- 4.6 The value of this decision is subject to satisfactory conclusions of negotiations.
- 4.7 VAT with the treated in accordance with HMRC guidance.

Philip Gretton, Strategic Finance Business Partner, 02/09/2020

5 Legal and Procurement colleague comments (including risk management issues, and including legal, Crime and Disorder Act and procurement implications)

5.1 Procurement Comments

No suitable proposals were received via the tendering process and we have therefore entered into negotiations with NUHT to secure the best possible price and levels of service for the delivery of this procurement.

Justification for this course of action is provided under Paragraph 32 (2) (a) of The Public Contracts Regulations 2015, relating to the use of the negotiated procedure without prior publication in circumstances where no suitable tenders have been submitted in response to an open or restricted procedure.

5.2 Legal Comments

The Council sought approval to and undertook a tender process for the provision of mortuary services back in 2018. The outcome of such was that no suitable tender was received. It is understood that there is a clear absence of market interest despite advanced engagement with the market prior to the procurement process. As a result, the Council has entered into negotiations with the incumbent supplier with a view to providing the services as tendered for.

The Council has followed its constitutional requirements to tender for these services and as a result an award can be made following negotiation in accordance with Regulation 32 (2)(b) of the PCR. The new contract should be in line with the initial conditions of contract as tendered.

Dionne Screamon, Solicitor, Contracts and Commercial. 1st September 2020.

6 Social value considerations

- 6.1 Nottingham is a diverse city with a variety of citizens with specific cultural needs. It is important to ensure that deceased persons are treated with dignity and respect, and that cultural requirements are met (within the remit of the law) and the best pathologists and technicians are employed in this capacity. The proposed contract award to a City based supplier will contribute to the Council's priorities around local jobs and local spend.

7 Regard to the NHS Constitution

- 7.1 Local authorities have a statutory duty to have regard to the NHS Constitution when exercising their public health functions under the NHS Act 2006. In making this decision relating to public health functions, we have properly considered the NHS Constitution where applicable and have taken into account how it can be applied in order to commission services to improve the health of the local community.

8 Equality Impact Assessment (EIA)

- 8.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because the report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council

9 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

- 9.1 None

10 Published documents referred to in this report

- 10.1 None