

TITLE OF REPORT

PROGRESSION OF LONG TERM CORPORATE MAINTENANCE SERVICE STRATEGY INCLUDING THE PROCUREMENT OF INTERIM 18 MONTH CONTRACT FOR PROVISION OF STATUTORY, TESTING, INSPECTION, REPAIR AND MAINTENANCE SERVICES IN PREPARATION FOR COMPETITION AND POTENTIAL INSOURCING OF SERVICE ELEMENTS

CONTRACT APPROVAL

Key Decision No. FCR Q65

**CPC MEETING DATE
(2020/21)**

8 June 2020

CLASSIFICATION:

Open with Exempt Appendix 1

By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 Appendix 1 is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

WARD(S) AFFECTED

All Wards

CABINET MEMBER

Mayor Philip Glanville, Property

KEY DECISION

Yes

REASON

Spending/ Affects two or more wards

GROUP DIRECTOR

Ian Williams

Group Director of Finance and Corporate Resources

1 CABINET MEMBER'S INTRODUCTION

- 1.1 The Council has to sustain a testing, inspection, responsive repair and maintenance service for the Council's buildings to meet its statutory duties and to maintain a fit for purpose estate. This report prepares for the next phase of a long term strategy prepared in 2014. That strategy has since been revised to allow time for the Council to develop proposals for increasing the instance of insourcing of such services. The Council will still require services to be procured from the market, and requires the time afforded by an interim period as set out in this report, to define that in such a way that an increase in insourcing can be delivered. It is a commitment for which the Council must make some important preparations so that it can approach the market confidently and with a clear and revised mandate. It is also important that the market is settled and stable when the Council commits, which has not been the case in the aftermath of the failure of Carillion and ensuing uncertainty around private sector providers across the industry. It is clear that the existing outsourced model is rightly facing much more scrutiny.
- 1.2 As the Council continues to move towards greater insourcing of its contracted services, and the future scope of corporate maintenance services is being evaluated in that context. With a clear focus of moving on from a standard outsourced 'business as usual approach' to a more inhouse mixed economy as we work to bring a wider range of facilities and Hackney Council Corporate Estate services back in house. To ensure that this happens a detailed work plan will need to be developed over the next 6 months to ensure that by 2022 the Council is ready to alter its approach, which will involve benchmarking with other authorities who have successfully insourced services. While it is disappointing that more can't be done around this agenda with this contract, the Council is making substantial progress to insource services including school cleaning and elements of highways maintenance with more services inscope in the coming months - including the aligned aspiration to expand our Housing Services Direct Labour Organisation.
- 1.3 To mitigate these risks and to facilitate informed scoping of insourced services, this report recommends pursuing an interim period of service delivery with the incumbent contractor while the Council scopes the

opportunity for insourced elements prior to commencing the procurement of the next contract(s). It will also use the period to pilot the operation of a more modern form of contract and establish new internal procedures and funding arrangements that can facilitate a more user-friendly service, improve the quality of and usability of the service being delivered and further strengthen accountabilities. This will all combine to form the basis of the next procurement and clienting arrangement. During the life of this contract I will be putting in place more robust political oversight of the financial and quality performance aspects of the delivery of the contract.

- 1.4 A long term strategy was conceived in 2014 and focused on prioritising the rationalisation and strengthening of accountabilities in relation to statutory compliance across the Council's corporate estate. To this end, the Council established a new internal structure, and procured the Measured Term Contract (MTC), through which the Council has achieved a number of key objectives that were set to enable it to move to a more advanced method of meeting its statutory obligations and maintenance requirements at the next procurement. Those achievements have made Hackney a more attractive client organisation to bid to, than it was in 2015, and they enable it to adopt a more effective, less administratively burdensome contractual form, commensurate with the best practice deployed in organisations of comparable status and maturity, and which a wide range of suppliers are well used to pricing. This is the next step in the evolution of the service.
- 1.5 While the market disruption created in 2017 and the subsequent decision to delay the Council's approach to market was not anticipated in 2014, this interim step aligns with, and strengthens the Council's long term strategy for evolving and developing the efficient and effective maintenance of its physical property assets and insourcing services.

2 GROUP DIRECTOR'S INTRODUCTION

NB This report is circulated late as final negotiations with the Contractor have been undertaken in the context of competing demands on officer time in responding to the operational demands of the COVID 19 pandemic.

- 2.1 In 2014 the Council's Corporate Property and Asset Management team conducted a root and branch review of the Council's corporate maintenance service and contractual arrangements. This exercise identified a need to strengthen the Council's knowledge of its assets by building a comprehensive database and incorporating the output of a programme of rolling condition surveys. It also identified a need to rationalise accountabilities and regularise and strengthen the approach to statutory maintenance and compliance across the Council. Subsequently in 2014, the Measured Term Contract (MTC) commenced on the 5th May 2015 for an initial period of 3 years and was extended under the terms of the contract for a further two years with a resultant expiry date of 4th May 2020.

- 2.2 Due to practical constraints caused directly by the COVID-19 pandemic, it has been necessary to extend the programme of introducing the interim arrangements. This period between the MTC and the new interim contract is being covered by a short-spanning bridging arrangement.
- 2.3 The MTC largely defined the first cycle in the long term development and maturation of the Council's approach to maintaining its estate, expected to evolve over a projected 2 cycles of procurement, with the MTC being followed by a more user-friendly contract form with a more substantial element of fixed pricing and associated risk profile.
- 2.4 It was anticipated that at the end of the MTC, the Council would have established a comprehensive set of asset data through the workings of the contract and its associated reporting and database arrangements, and a stable, consistent corporate approach to statutory maintenance with clear accountabilities between client and contractor. The next step would be to procure a new contract based on prevailing best practice deployed by mature client organisations, the procurement of which would materially benefit from:
- The Council's ability to offer a much greater volume of work than was available in 2015;
 - An established bank of contract management knowledge and experience;
 - An informative asset data set;
 - And the stability of an embedded corporate landlord approach.
- 2.5 This would draw substantially more interest from the marketplace than was expected (and transpired) from the 2015 procurement, as the increased scope of work would be relevant to a broader range of provider types and sizes, the quality of data would enable genuinely informed risk pricing, and the Council's experience and established internal management arrangements would make it an attractive client to contract with.
- 2.6 However, in 2017 as the Council embarked on its next review of the service, Carillion failed, throwing a spotlight and sustained scrutiny on longstanding unsustainable practices in the industry, on the parts of clients and providers alike. Profit warnings from other major providers such as Interserve followed. This combined with the disruption arising from the failure of a major contractor providing services to a large portion of the market, pitched that market into an unpredictable period of instability.
- 2.7 This necessitated a re-evaluation of the methodology under-pinning the Council's long term development strategy. Unwilling to take the risk of entering a changing market while providers scrambled to pick up the spoils of Carillion's failure, and others reviewed their business plans and bidding strategies, officers revised Hackney's strategy, extended the MTC and introduced the interim phase proposed by this report.

- 2.8 This interim phase will lead the Council towards a new mixed economy of insourced services combined with the procurement of the anticipated new, modern form of 5 year service contract with options to extend.
- 2.9 The interim period has been proposed at 18 months in anticipation of a 12 month procurement period, preceded by a phase of scope development and internal changes, including:
- A review of the scope for and benefits of insourcing elements of corporate maintenance, in line with the Council's ambition to insource more of its contracted services;
 - Benchmarking of strong mixes of insourced services with comparable organisations;
 - Improvements to the internal funding structure for corporate maintenance;
 - Establish and pilot the improved form of contract using the incumbent contractor's knowledge of the corporate estate to minimise mobilisation and operational uncertainties associated with the adoption of new arrangements;
 - Upgrade and improve the resourcing of the Council's management arrangements and procedures.
- 2.10 This interim contract is for a fixed term of 18 months from June 2020 to December 2021 which will ensure the Council continues to meet its statutory maintenance obligations, deliver continuity of critical services whilst the Council officers and their advisers develop the Corporate Landlord Model further, with budgets centralised and consultation on the potential for insourcing structures and models in the Hackney corporate maintenance environment.
- 2.11 A direct award is necessary because:
- The Council has to ensure its statutory obligations are met without interruption, and to run a procurement now would disrupt this;
 - It wishes to limit the length of this contract to an 18 month term in preparation for a major procurement (see Public Appendix 2 - indicative 18 month programme for procurement of main contract). An 18 month term would not be viable to compete for and would therefore not attract competition amongst informed and responsible bidders, which the Council wishes to engage in bidding for the long term new contract form;
 - In the hypothetical scenario of a new contractor delivering the interim contract, there would need to be a much more intensive and demanding mobilisation period and if this were not to go perfectly, the efficacy of the interim period could be materially compromised by the knock on effects of a compromised mobilisation period.
- 2.12 This award recognises the benefits of moving from the JCT - based Measured Term Contract, which is subject to a schedule of rates, to a single supplier appointed under the NEC3 Term Services Contract (TSC). The proposed

NEC3 TSC is on the basis of a fixed price for statutory compliance service, planned preventative maintenance (to industry standard specification SFG20 and/ or manufacturers recommendations) and reactive repairs and remedial works up to an inclusive threshold of either £1,000 or £500 (dependent upon Property Group and service based property criticality).

- 2.13 These services are necessary to provide testing, inspection, responsive repair and maintenance services for the Council's buildings and maintain the Council's portfolio of administrative and public buildings in a statutorily compliant condition, maintaining a good quality of environment for staff and service users alike.
- 2.14 The fixed price element of the interim contract provides benefits to the Council including:
- A high level of cost certainty (it is anticipated that in the region of 80% by volume of reactive repairs will fall within the threshold values based on close monitoring of activity and billing over the course of the MTC contract);
 - A significant reduction in the administrative burden of managing valuations and payments;
 - A tried and tested methodology for obtaining and approving quotations for services/ works outside the fixed price threshold in advance of execution of the service/ works, meaning payments will be on the basis of accurate and up to date applications from the Contractor.
- 2.15 Further non-cost benefits include:
- Improvements in the provision of Management Information including transparency in compliance with property related statutory obligations;
 - A single accessible platform to contain statutory records inclusive of services completed by third parties directly appointed by the Council.
- 2.16 The contract excludes schools, housing stock, The Learning Trust, Hackney Museum and Hackney Library which are maintained under a PFI and separate contracts.
- 2.17 The philosophy of this approach to service delivery was taken forward on the basis of the following principles, which will continue under the new arrangements:
- (a) It provided the ability to call off works with a value above the inclusive threshold quickly using defined schedule of labour and materials/ plant uplift rates: where works can be called off flexibly without the need for a competitive tendering process up to £30k.
 - (b) Improved accountability for statutory compliance duties enabling the Council to assign some significant Health and Safety risks effectively by single-point responsibility.

- (c) The majority of reactive maintenance work requests and remedial repairs that follow on from statutory test and inspections and planned preventative maintenance included within the fixed price.

2.18 As noted above, the provision of an interim contract for an eighteen-month period is necessary to provide continuance of service and maintain statutory health and safety standards, testing new structures and informing options for insourcing pending a competitive tendering exercise under OJEU public procurement regulations.

3 RECOMMENDATION(S)

- 3.1 To award the contract for the Interim Provision of Statutory Testing, Inspection, Repair & Maintenance Services to Contractor A, being the incumbent, under new terms and conditions as the appointed Contractor, for a period of eighteen months commencing 22nd June 2020.
- 3.2 To note the Council's planning activity to inform the scope of a new mixed economy of insourced and externally sourced services, and progress the changes to internal arrangements as set out above.

4 RELATED DECISIONS

- 4.1 Report to Cabinet Procurement Committee 18th July 2017, for the procurement of an additional contractor to provide statutory testing, repair and maintenance services to the Council.
- 4.2 Report to Hackney Procurement Board Meeting 11 February 2014 – RP2, Business Case. Permission to go to tender, noting the move away from delivery of the service by 2 smaller specialist firms to one main contractor and 20 January 2015 CPC – Award Report.

5 REASONS FOR DECISION/ OPTIONS APPRAISAL

- 5.1 The purpose of this report is to provide CPC with the reasons behind the need to undertake an eighteen month interim contract, by direct award, prior to the procurement of a new competitively tendered contract to commence December 2021.
- 5.2 The Council has a statutory duty to keep its estate in a health and safety compliant state. This interim contract is required immediately, to sustain an uninterrupted delivery of statutory testing and repairs.
- 5.3 In 2014, when it reviewed its corporate building maintenance arrangements and established a new long term strategy, the Council anticipated executing that strategy in 2 principal stages, starting with the procurement of the MTC which allowed procurement of critical services with the limited asset data available,

followed by the procurement of services on a more user friendly, efficient and up to date contract form with informed risk pricing in a practical fixed price component.

5.4 The introduction of a short interim contract between the two, via a direct appointment was brought about by a combination of factors:

- The disruption in the market following the collapse of Carillion, and the need for the Council to avoid procuring a long term contractual commitment in such uncertain conditions;
- The need to commit to new “normals” in the post Carillion world including minimum 5 year contract terms;
- The need to accommodate the Council’s agenda to insource more of its contracted services, and allow time for focussed work on scoping this insourcing potential ahead of the next formal procurement;
- In the context of a disrupted market, the need to mitigate the possibility of a poor or failed procurement, and;
- Also in the context of a disrupted market, pilot the new form of contract, establish a body of internal experience in managing it, and establish revised and improved, centralised internal funding arrangements in advance of the new “mixed economy” of insourced delivery and externally sourced elements;
- The COVID 19 pandemic has made more acute officers’ preference to pilot the new arrangements with a known partner whose most senior management is already conversant with the Council’s estate, stakeholder context and its particular challenges.

5.5 The period of the execution of the MTC has delivered the outcomes required of it to facilitate moving to the next stage, including the establishment of comprehensive asset data, well established in-house contract management knowledge, and a much more comprehensive understanding of end-user requirements.

5.6 However, in addition to the reasons for inserting an interim stage as set out above, there is the very practical reality that if such a short term contract as the proposed interim arrangement were competed, no responsible organisation could sensibly and economically bid for it. A new contractor has to invest substantially at the beginning of a contract with a new client, and to under invest is to set up the organisation for future failure in service standards.

5.7 So the interim contract will adopt the new contract form proposed for the next procurement and will be executed with the locally experienced incumbent service provider. The adoption of the new contract form is a fundamental component in the road to more efficient and user friendly services.

5.8 Ahead of moving into a new 5 year contract, the Council needs to have taken some key steps in preparation, particularly in its ability to manage the contract effectively. That involves moving the end users of the Council as well as the managing team to a new contractual culture and structure, most likely involving a material element of insourced services, at the operational core of which is the

centralisation of maintenance budgets, and how works are ordered, committed to, and paid for.

- 5.9 For the client management team meanwhile, the MTC has been very demanding in its administration, as it has also been for the Contractor's staff, and this has resulted in a significant backlog in the valuation of variable tasks, and a very high cost of administration for both client and contractor. The MTC included a high level of auditing and valuation of individual tasks. Under the proposed new arrangement a large proportion of the expenditure will be within the fixed price element. Officers anticipate that in excess of 80% by volume of reactive and remedial tasks will fall within the fixed price threshold and will therefore not require audit or individual valuation, although the contract allows for audit which ratchets up if performance weakens sufficiently. This, in turn, will free a significant proportion of the LBH contract management team's time to concentrate on proactive management of the services and the estate rather than retrospectively dealing with the valuation of tasks.
- 5.10 The use of the NEC3 Term Service Contract is recommended by the UK Government for all public sector service contracts and is well understood by the sector market.
- 5.11 Furthermore, the market has shifted since 2017, and contractors in the sector have no appetite for a short-term contract based upon the JCT MTC and a nationally published schedule of rates.
- 5.12 The service delivery requirements have been based on the objectives needed to operate a comprehensive repairs, maintenance and estates statutory compliance service; and also to improve on the limitations found in the MTC by implementing a new form of contract:
- a) Providing a single point responsibility for the management and coordination of all building, mechanical and electrical repairs and maintenance services, simplifying and improving accountability, visibility of cost, performance, condition and compliance;
 - b) The optimum use of available technology to maintain and update plant asset information, to centralise work management, billing and payment processes and rationalise the excessive amount of orders currently being raised and audited;
 - c) A contract structure that has a high level of defined fixed deliverables (particularly more sites in scope) from the start of the contract and a clear definition of any variable deliverables with structured costs;
 - d) Contractor profit at risk variable on measured performance via Low Service Damages, which could reduce their charges as part of a monthly monitoring process;
 - e) A contract, which aids the effective management of landlord/ tenant relations by distinguishing statutory compliance requirements (legal

requirements to test and inspect) and any other form of maintenance that can be varied by budget holders' prerogative. Under the new contract, the deliverables of statutory compliance testing and inspection are brought into scope as part of the fixed cost.

- 5.13 The contract will be based upon the NEC3 Term Service Contract 2013 with LBH specific amended clauses and insurance risk requirements incorporated within the main terms.
- 5.14 The benefits arising from this approach are set out in further detail in section 8 (Savings) below. This will contribute significantly to the achievement of Value for Money by more appropriate use of available resources.

6 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

- 6.1 The following parameters have been considered prior to the decision that a direct award should be progressed with the rejection of the additional following options:

Options considered and rejected for the provision of works:

- a) Existing Frameworks – The appointment of a Contractor via an existing framework on a direct award basis could only be made on the basis of the framework standard terms, conditions, payment mechanism, performance measures and service specifications. This is considered not to offer the required flexibility or bespoke features necessary for the proposed LBH service.
- b) In-house or by Hackney Housing – The Direct Labour Organisation (DLO) management team were approached and they considered that their current technical capabilities (residential rather than commercial trade accreditations and skill sets) and capacity and the restrictive nature of their current base accommodation would preclude them from considering taking on the wider estate related services for a period of 4 – 5 years. At present, the Corporate Property and Asset Management team does not have the capacity or trade management experience to manage a separate and dedicated DLO for the corporate Property Groups. This is an area that needs to be explored at pace in the next year.

7 PROJECT PROGRESS

7.1 Developments since the Business Case approval.

- 7.1.1 The Council has been able to fulfil much of its ambition during the life of the MTC and officers are currently engaged in looking at alternative ways of securing its ultimate ambitions. This work is necessary to further develop and improve Facilities Management (FM) within the Council and in the longer term to facilitate greater risk transfer for maintenance costs and potentially reduce costs.

7.1.2 The Council's infrastructure for meeting statutory obligations is being strengthened, improving the process by which the estate is maintained.

7.1.3 No direct Council staff are impacted under TUPE.

7.2 Whole Life Costing/Budgets:

7.2.1 The project budget, as held by the Corporate Property Services division is for the Core Corporate Estate and is for planned preventative maintenance and subsequent remedial works, and is under review as part of the evolution of a Corporate Landlord model. For all other buildings, either individual directorates and budget holders hold budgets to carry out necessary work, or there is no specific budget provision.

7.2.2 The combined estimated contract value, taking into account the factors above is £4.4m per annum based on current prices.

8 SAVINGS

8.1 The contract is available for all public buildings across Hackney. A total of 148 locations were included in the tender exercise and a Service Matrix was employed to identify services to be delivered to all individual sites. This enables prices received to be benchmarked against selected and appropriate comparator organisations.

8.2 Overall, significant improvements to the service have been secured and value has been tested against current market benchmarks.

8.3 Far greater cost certainty is possible throughout the term of the contract as a much more significant proportion of services are now included within the Fixed Price element.

8.4 Significant annual savings on internal management costs are anticipated. These arise from the effect of centralising budgets to within the remit of the Corporate Landlord, vastly reducing the internal consultation and, or even internal negotiation required, and from a greater fixed price component, commensurate with market norms.

8.5 The repairs and maintenance sector market has changed substantially since the letting of the previous contract in 2015. The failure of Carillion and financial difficulties experienced by other public sector focused contractors has resulted in a shift in the market. Contractors are now significantly more selective in the opportunities they pursue, have increased margin expectations in pursuit of a sustainable business model, and are being more realistic in pricing risk transferred to them. Consequently, price increases have been experienced over the last 2 years, and officers see this as a long required correction in the market, following a sustained period of overly competitive unsustainable

bidding. While higher prices might be expected to cancel out the savings potential, properly funded contracts will cost less to administer.

9 SUSTAINABILITY ISSUES

9.1 The proposed interim arrangements have been negotiated in the context of the Council's current Sustainable Procurement Strategy. There are limitations to what can be achieved when negotiating a necessarily time-limited contract of less than two years, but the Contractor has shown a good level of compliance with some of our key ambitions, and agreed to take on contractual commitments in this area of sustainability.

9.1.1 As noted, the contract is very short, and not typical of current market practice. Bidders typically pursue long-term arrangements which by the nature of their length, make it viable for them to make a range of investments in the services they provide, and how they want to go about delivering them, in all sorts of ways from operational efficiencies to adding social value locally.

9.1.2 The following section is set out in line with the principal tenets of the Council's Sustainable Procurement Strategy, and shows what the contractor has committed to deliver during the short-term interim contract.

9.1.3 It is still relevant to note, that this contractor has no certainty of work from LBH beyond the end of this interim arrangement, when a competition will be held for a long term concession, the scope of which is yet to be determined following work by the Council to scope out the potential for insourcing areas of work. It is anticipated that it will wish to join the bidding competition for the next contract.

9.1.4 The ambitions of the Sustainable Procurement Strategy will be part of the next procurement process and bidders will be measured on their commitments to deliver against them.

9.2 PROCURING GREEN

9.2.1 The contractor has a number of environmental policies and holds the following accreditations: ISO9001, ISO14001 AND ISO 45001.

9.2.2 The Contract allocates the following commitments to the contractor:

9.2.3 To consider the impact on natural resources when choosing goods and materials and reduce the supply of natural resources used in service delivery.

9.2.4 Collaboration between the contractor, supply chain and the The London Borough of Hackney to promote the use of alternative materials and methods to optimise the use of raw materials

9.2.5 All goods procured by the contractor are procured in line with its Responsible Sourcing policy. Suppliers are contractually obliged to provide evidence of industry accreditations, ethical sourcing or circularity.

- 9.2.6 The contractor uses BES 6001, Cradle to Cradle databases along with FSC/ PEFC (Timber) and CARES for Steel. Fair Trade is also required for consumables.
- 9.2.7 To eliminate excessive packaging, with a particular focus on single-use plastics, without having a negative impact on the delivered goods.
- 9.2.8 The contractor has a single use plastic policy and has worked with key supply chain partners and manufacturers to simplify product packaging and where possible, reuse. For example, lighting rafts are now supplied in stackable crates, and pallet repatriation schemes are employed on all projects. Vegiware compostable plastics alternative is in use on the contractor's School PFI Schemes. Cleaning products are supplied in recycled and recyclable packaging along with reducing the amount of direct delivery packaging supplied.
- 9.2.9 Collaboration between the contractor, supply chain and the The London Borough of Hackney to improve energy efficiency and reduce CO2 emissions through bringing forward low carbon solutions including consideration of replacement with energy efficient plant and components, proactive management of critical spares to reduce delivery frequency, and consultation with stakeholders on opportunities through workshops during the contract period.
- 9.2.10 The contractor deploys site resource management plans detailing onsite practical CO2 reduction measures for day to day activities during the course of physical works. The measures are listed and reviewed regularly ensuring the documents remain live and relevant to the contracts in hand. Changes in process, timescales and personnel are added as the contract develops. This can be appended to a sustainability tracker document.
- 9.2.11 To develop management processes and operational procedures to prevent pollution.
- 9.2.12 To reduce waste production and divert waste away from landfill and incineration by promoting resource efficiency, recycling, and the use of recycled and recyclable materials.
- 9.2.13 The contractor uses WRAP toolkits for calculating recycled content on projects. Through its responsible sourcing policy, it procures products with higher recycled content where possible.
- 9.2.14 It is the only contractor to be part of the CE100, a pre-competitive innovation programme formed by the Ellen MacArthur Foundation to accelerate the move to a circular economy (CE). With partners the contractor has produced a guide to circular business models for the built environment. During 2019 there was an increase in interest from across the industry to move to more circular economy ways of working. The Greater London Authority (GLA) developed the Draft London Plan and included policy (S17) to incorporate CE principles. The contractor assisted the development of the CE statement guidance for this policy and participated in trials in London.

- 9.2.15 All of the contractor's appointed waste companies have to be approved and meet strict recycling rates in line with the waste hierarchy. Waste to energy, although not landfill, is recorded separately as it's not the most desirable solution. All waste management companies must achieve 90% diversion from landfill rate, evidenced by Environment Agency waste return figures. Figures are monitored each quarter to ensure the rate remains above 90%. Waste is segregated at source where possible to improve recycling rates, typically timber, metal, inert and gypsum would be separated.
- 9.2.16 To make efficient use of energy and water resources and reduce carbon footprint.
- 9.2.17 To promote the application of 'Life Cycle Thinking' when considering specifications during the design, specification and installation process to reduce the impact of buildings over their whole life.
- 9.2.18 The Contractor will be carrying out a life-cycle assessment of all assets in scope within the first 12 months of the interim contract. That provides a record of the starting point for the contract, albeit that has a short span. When specifying replacement kit, energy saved (KWh) when comparing product A to B will be considered in lifecycle calculations and value engineering exercises.
- 9.2.19 To support and give preference to procuring products which are able to demonstrate compliance with a recognised responsible sourcing scheme, certified by a third party, such as BES6001 or Cradle to Cradle.
- 9.2.20 As noted above, all goods procured by the contractor are procured in line with its Responsible Sourcing policy. Suppliers are contractually obliged to provide evidence of industry accreditations, ethical sourcing or circularity. The contractor uses BES 6001, Cradle to Cradle databases along with FSC/ PEFC (Timber) and CARES for Steel. Fair Trade is also required for consumables.
- 9.2.21 To minimise the use of materials with a hazardous content and promote the use of materials which can improve the health of building users.
- 9.2.22 To ensure that all timber and wood based products (for temporary and permanent use) are from certified legal and sustainable sources as defined by the UK Government Central Point of Expertise on Timber (CPET), delivered with full chain of custody.
- 9.2.23 The contractor imposes a corporate requirement of both its direct purchases and of subcontractors. All timber must be legally and sustainably sourced with full chain of custody using either FSC or PEFC accreditation schemes. All timber deliveries are logged, volume calculated in line with EU Timber regulations, and supplier's certification logged.
- 9.2.24 Increased on site capacity for critical spares storage to reduce frequency of supply delivery requirements.

- 9.2.25 The Contractor will store consumables and spares at Hackney premises to reduce the need for frequent service.
- 9.2.26 Ultra low emission vehicles are used for maintenance activities by the contractor, and it utilises both CLOCS and FORS logistics schemes for transport to site. Less relevant to this contract but if and where applicable, vehicles used have a minimum of euro VI engines for frequent deliveries to projects. The contractor follows non-road mobile machinery (NRMM) regulations for emissions of plant.
- 9.2.27 Require that subcontractors have an Environmental Policy and work to the Contractor's environmental procedures to ensure compliance with relevant environmental protection laws and regulations.
- 9.2.28 To encourage the supply chain to implement, or to be working towards, a UKAS accredited third-party certified Environmental Management System, and become active members of the Supply Chain Sustainability School.

9.3 Procuring for a Better Society

- 9.3.1 The Council is focused on balancing social, environmental and financial performance. The Property team will continue to work with colleagues across the Council over the short span of this interim arrangement to evolve and refine its own aspirations for deriving social value from future contracts.
- 9.3.2 For the interim 18 month contract, Contractor A will continue to use its existing workforce and supply chain who are already familiar with the estate. This knowledge of the estate is a key consideration in the request for authorisation for a direct award for the interim 18 month contract, as it significantly reduces the time impact of demobilisation and mobilisation of a new contractor. It is important that officers have the capacity to focus on preparing for, and implementing, the next stage of the maintenance strategy which requires significant consultation on insourcing options and capacity.
- 9.3.4 The fact that Contractor A has an existing contract team and supply chain in place for delivery of the Hackney contract has made it more difficult to secure absolute and immediate contractual commitments on the use of local businesses and employing local people. The workforce required to deliver a maintenance contract such as this is also skilled and in many cases specialist, and will therefore affect the ability of the local supplier and labour markets to provide the necessary skills and services.
- 9.3.5 None of the existing staff live within the Borough but the contractor will actively look to replace any future leavers, including apprentices with people residing in the Borough.
- 9.3.6 During negotiations the importance of Hackney's contract awards benefiting the local businesses and residents has been impressed upon the Contractor. They have demonstrated an understanding of this and undertaken to work with officers throughout the term of the contract towards this objective. Where there is opportunity to do so, to engage with local businesses and residents through,

for example, agreed advertising gateways that access local communities and to bring local businesses into their supply chain for project works.

9.3.7 The contractor is employing one apprentice in the client team. The contractor is likely to instruct 26 specialist subcontractors to support it in delivering the contract and of these subcontractors 15 have advised that they have apprenticeship/training schemes. AS should be expected, the contractor contributes to the HMRC Apprenticeship Levy and as a large company, employs apprentices across a number of work streams including Maintenance, Engineering, FM, Design, Construction, Administration and Management. It should be noted that the short term nature of the contract creates difficulties in supporting apprenticeships as there may not be time to complete training in the life of the agreement. However, the contractor has reiterated their organisation's belief and commitment to apprenticeships and training, and as stated above has undertaken to work with officer's throughout the contract to identify opportunities for apprenticeships, accredited training, professional development and work experience within the supply chain. The contractor can work with local shared apprenticeship schemes to support existing apprentices to complete or work towards completing their apprenticeship. It would also work with suppliers to support where possible apprentices already working within their organisations.

9.3.8 Work experience is supported by the contractor's own Foundations which is a newly developed tool bespoke to their company. Through the online portal, resources are available to both Contractor staff and schools and colleges to learn about the industry, plan activities, carry out examples of daily tasks, and learn about health, safety and environmental requirements of different job roles.

Supporting the Local Economy

9.3.9 The Contractor has an existing team of directly hired staff who account for a proportion of the total contract spend and workload, with the balance being made up by supply chain providers. They clearly won't be able to change the makeup of their directly hired team (which is a relatively few individuals) unless staff move on, in which case the Contractor will work with Hackney to find opportunities to source staff locally. Indeed the Contractor is proposing hosting its next apprenticeship careers day in the Borough, and should the pandemic not permit a face to face careers day, a virtual event will be run for interested residents.

9.3.10 The contractor has committed to support local economic regeneration through their procurement activities by:

- Encouraging local procurement of materials and services where feasible;
- Supporting schemes that promote the principles of the Social Values Act such as GiB timber;
- Working with their supply chain partners and local agencies to find appropriate opportunities for skills, training, work experience and apprenticeships at a local level;

- Using Hackney Works, local agencies, labour and workforce where possible, creating a positive impact on local communities and to encourage their supply chain to do so too.

9.3.11 The contractor is signed up to and adheres to the 'Prompt Payment Code'. Under the terms of the code they undertake to pay suppliers on time, give clear guidance to suppliers and encourage good practice. Payment performance is reported annually as per Government requirements.

Creating Social Value

9.3.12 The contractor has committed to create social value by collaboratively working with employees, supply chain, clients, and other key stakeholders. Their Enhancing Lives programme encompasses the array of activities that they believe will have a positive impact on communities including within the Borough of Hackney. Activities are grouped into four key focus areas essential to creating social value. Future skills and employment; supporting and growing local economies; engaging with communities; and positive environmental impact.

9.4 Procuring Fair Delivery (Responsibly):

9.4.1 The specification requires the contractor to comply with Hackney's policies and standards in relation to Procuring Fair Delivery. The contractor has committed to be a diverse and inclusive organisation. They assert that developing a workforce that reflects the diversity of their customer base, and the communities in which they operate, enhances their business. They are committed to providing opportunity and a respectful environment for everyone who works for them. A commitment to diversity underpins all their human resources policies and practices; and dealings with customers, suppliers and stakeholders. The contractor has committed to create a safe and supportive workplace environment for all its employees enabling them to develop their skills and contribute to The London Borough of Hackney meeting its own organisational objectives and aspirations through:

9.4.2 Health and safety – a commitment to continually improving the health and safety of their employees, subcontractors and those affected by their activities, including members of the public.

9.4.3 Equality and diversity – to provide an inclusive working environment where everyone feels valued and respected. Committed to equal opportunities, and ensuring that they do not discriminate against anyone on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

9.4.5 Learning and development: to promote a learning culture and provide opportunities to equip employees with the skills and knowledge they need to run the business successfully and to extend their personal development.

9.4.6 Fulfilling The Public Sector Equality Duty Including Ethical practices such as Fair Trade.

9.4.7 The contractor has chosen to partner with Constructionline for public sector PAS 91 compliance. Constructionline Gold level accreditation, is corporately mandated and includes Sustainable and Ethical Procurement within its question sets. Any Vendor (subcontractor, supplier or consultant) which does not meet PAS 91 Sustainable and Ethical Procurement are reported back to the contractor. Monitoring and checking at site level is managed by the Project Team, supported by the Sustainability Manager and fed back to Procurement to deal with any non-compliance.

London Living Wage

9.4.8 The contractor has priced for and will pay the London Living Wage. This commitment extends to their supply chain. The contractor is committed to respect human rights and treat its employees with dignity and respect, and ensures that these values are upheld by its own supply chain. For instance, by proactively addressing risks of modern slavery and following the Ethical Trade Initiative guidelines. As required under the Modern Slavery Act (2015) Section 54 (Transparency in the Supply Chain) the contractor publishes a statement annually setting out how it assesses and mitigates the risk of slavery and human trafficking in its business and supply chain, including progress since the previous statement.

9.4.9 The contractor has confirmed that as an organisation they recognise the importance of Trade Unions and, as has been noted earlier in this report, workers rights. They have stated their commitment to co-operate and maintain good relationships with Trade Unions in the environments in which they operate.

Pay and Benefits

9.4.10 The contractor is confident that their pay and benefits packages are commensurate with or better than their industry competitors. They regularly benchmark both salaries and benefits through their internal recruitment team and external recruitment agencies in order to attract and retain staff.

Grievance and Whistleblowing

9.4.11 The contractor has formal HR procedures and policies in place for employees to raise grievances. They also have an Internal Misconduct Reporting Policy if the employee does not feel comfortable reporting issues to their line manager or the Compliance Officer. In addition they offer a Director's Hotline which gives all staff the opportunity to discuss any issues or concerns in confidence with a Director.

10 EQUALITY IMPACT ASSESSMENT AND EQUALITY ISSUES

- 10.1 The impact identified in the Procurement Impact Assessment (PRIMAS - assessment tool used to evaluate the impacts on equality, the environment and efficiency of Hackney procurements in line with its Sustainable Procurement Strategy) was low and no issues have been identified as part of the tender evaluation of the Contractor's submission to indicate that there will be any change to this level of risk. Their submission in respect of Staff Development and Training identifies that a good level of training has been allowed for. The Contractor has committed to a suitable recruitment and training procedure and has been an Investor in People since 2008.
- 10.2 The current contractor will continue to have adequate control measures in place. They have previously demonstrated a commitment to a robust approach to Health and Safety including the appointment of an HSEQ (Health, Safety, Environment and Quality) Manager, and Company Group support on Health and Safety requirements. Environmental requirements are clearly set out in the contract specification, with particular reference to improving building efficiency, sourcing of materials, waste, vehicles and plant.

11 TENDER EVALUATION

11.1 Evaluation:

- 11.1.1 Employer's Requirements were issued to the tenderer on 28th January 2020 and were refined during the pricing period through to the submission date of 2nd March 2020.
- 11.1.2 The Review Team comprised:
- a) Corporate Maintenance Contract Manager
 - b) Corporate Employers Agent
 - c) Senior FM Contracts Advisor
 - d) Senior FM Cost Consultancy Advisor
- 11.1.3 The Price List received from Contractor A was analysed and agreement reached at levels representing value for money by benchmarking against appropriate comparator benchmarks. This included the review of basic salaries, the associated allowances to provide total costs, output levels, key subcontracts costs, overhead and profit additions to reflect market conditions.
- 11.1.4 This bottom up approach was supported by benchmarking costs undertaken prior to the exercise giving a likely cost of the core service provisions and reactive repairs arising from Planned Preventative Maintenance (PPM) visits to a maximum value of £30K in a competitive market of £3.9M - £4.4M.
- 11.1.5 Planned Preventative Maintenance is a scheduled maintenance regime to ensure assets (property and equipment) are checked and maintained at regular intervals to ensure statutory compliance, and to optimise operational time and lifespan.

11.1.6 Final post submission clarifications were completed on 13th May 2020 and Contract costs were benchmarked against appropriate comparators as follows:

| Benchmark Cost (£/M2 GIFA) | Minimum | Mean | Maximum | Contractor A |
|-----------------------------------|----------------|-------------|----------------|---------------------|
| <i>Maintenance</i> | £20.23 | £27.64 | £40.69 | £25.37 |

We have received and scrutinised very granular open-book cost data from the contractor including: the full build-up of management and operative people costs; full headcount details; the allocation of time to task categories; resource efficiency details and a full list of subcontractors with costs.

The contractor has the benefit of a detailed knowledge of the estate so understands the practicality of operating the contract and this minimises the risks normally associated with commencing service provision to a new estate and customer. They propose addressing the identified stresses on the current service provision by identifying additional management, administration and trade operative resources and developing improved CAFM (Computer Aided Facility Management) and MI (Management Information) capability. Profit and overhead rates are in line with the market and overall costs are close to the mean rates in the hard FM cost benchmark database used.

11.1.7 Computer Aided Facility Management is IT software, applications and systems designed to support facility management through the collection and supply of data and information.

11.1.8 Management Information Systems are IT systems used for the coordination, control, analysis and visualisation of data and information to support better management and decision making.

11.1.9 Based on Value for Money benchmarking, we recommend that Contractor A be awarded the interim Contract on an eighteen month fixed term from 22nd June 2020.

11.1.10 A qualitative assessment was carried out based upon how closely the contractor's plan complied with the Employer's Requirements in terms of services to be delivered, responsiveness, management information reporting, quality of works, compliance with employer policies and procedures and levels of management and supervision (see Exempt Appendix 1 - Tender Assessment).

11.1.11 Value for money benchmarking was completed against selected appropriate public authority comparators.

11.2 CONTRACT MANAGEMENT ARRANGEMENTS

11.2.1 Resources and Project Management (Roles and Responsibilities):

The contract will be managed by Strategic Property Services', Corporate Property & Asset Management (CPAM) service area, specifically by the Corporate Building Maintenance team, through the Maintenance Contract Manager and Service Manager. This will be done using the following tools:

- Monthly contract meetings;
- KPI reporting, including before and after photo records of jobs;
- Random site checks;
- Performance reports from Helpdesk software;
- Certification of the monthly fixed price element and associated quoted task orders;
- Quantity surveying checks on submitted task order quotations for reactive and remedials tasks above the inclusive threshold .

11.2.2 The tender submission provided a detailed mobilisation plan from Contract Award through to the end of the first three months of the service period showing the relationship and interaction between the Tenderer and its stakeholders. There is to be a clear demarcation in the completion of the existing contract, and the commencement of the new, ensuring that the new procedures are successfully embedded. A contractor's plan is required under the contract with delivery in advance of a site start. The Corporate Building Maintenance Team will work closely with The Contractor to ensure that there is a smooth transition and implementation.

11.2.3 Without an efficiently operated and managed contract and sound performance by The Contractor, there is a likely risk that the Council's portfolio would soon deteriorate and statutory maintenance would not be systematically completed, putting the health and safety of staff and service users at risk, and the Council at corporate risk. The structure of the Team will be reviewed to ensure that it is appropriately resourced to manage the new form contract in accordance with the price list forming part of the tender documentation. TUPE and associated costs do not apply as there are no staff transfers. Training will be provided to staff and stakeholders on the key contract elements and roles, responsibilities and options. Where necessary, new procedures and systems will be put in place to assist in the management of the new contract including performance of The Contractor.

11.2.4 There are mechanisms within the contract to manage performance including KPI's and Low Service Damages Indicators, Compensation Events and Defects Notices. There is less administrative burden in the payment process due to the greater fixed cost element of the contract. Fixed costs will be certified on a monthly basis with the option to serve Defects Notices for elements not

delivered and apply deductions if not rectified. Reporting, percentage checks and the requirement to evidence all work undertaken will be in place. The increased fixed cost element of the contract certified on a monthly basis will give budget holders and Finance colleagues improved visibility of expenditure and cost certainty.

11.3 Key Performance Indicators:

11.3.1 A set of KPI's/ Low Service Damages Indicators was selected (see Public Appendix 1 - KPI's/ Low Service Damages Indicators) to monitor contractor performance against targets comprising:

- Response and rectification times
- Completion of statutory tests and inspections and PPM
- Timeliness of the submission of quotations
- Compliance with environmental, health and safety legislation, procedures and policy
- Performance of the service desk
- Customer satisfaction levels
- The provision of planned resources
- Timeliness and accuracy of financial management
- Timeliness of the submission of accurate MI

11.3.2 The KPI / Low Service indicator table includes target scores, methods of measuring scores and a low service deduction mechanism.

11.3.3 The Low Service Damages are linked directly to contractor profit margins in accordance with public sector guidance and industry best practice to ensure that potential damages are proportionate and do not impact upon the contractor's ability to deliver the services.

12 COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

12.1 The estimated value of the interim FM contract that will be charged to revenue is estimated at £3.4million per annum. It is estimated that a further £1m (based on an annual average of works charged in the existing five year contract) of separately quoted works will be charged to capital. This brings the total estimated annual contract value to £4.395m.

| Contractor A - annual contract value | | £000 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------|
| Planned Maintenance/Compliance Works/Statutory Testing, Materials & Management and Reactive and quoted works below £500 or £1000 thresholds (depending on building group) (fixed) | | 2,514 |
| Reactive & Quoted Works over threshold (estimate) | | 881 |

| | |
|------------------------------------------------------------|--------------|
| Total estimated charge to revenue | 3,395 |
| Estimated quoted works charged to capital (annual average) | 1,000 |
| Total estimated annual contract value | 4,395 |

12.2 Thresholds of £1,000 & £500 have been set for Reactive & Quoted works to the Core Corporate Campus and non-Corporate buildings respectively, whereby jobs valued at less than these threshold amounts are included within the main fixed contract price. An estimate of reactive and quoted jobs that exceed these thresholds has been made, based on information we have on jobs done within the existing contract, in order to provide an indicative total charge to revenue.

12.3 The prorated, whole of contract value, is thus estimated at £6.6million for the 18 month term.

12.4 The current budget for building maintenance within revenue (i.e. not capital related reactive and quoted works) across LBH, including the HRA is £2.437m. An estimated £3.395m contract value for revenue creates an annual pressure of £1,162k in the General Fund, and a small underspend of £204k in the HRA, assuming no other maintenance works are charged against these budgets. However as mentioned above, the actual cost of the contract will depend on the level of reactive and quoted jobs done above the £1,000/£500 thresholds.

| Contractor A - contract value revenue | Budget £000 | Estimated 1 year contract cost £000 | Pressure £000 |
|---------------------------------------|----------------|----------------------------------------|------------------|
| General Fund | 1,709 | 2,871 | 1,162 |
| HRA | 728 | 524 | (204) |
| Total | 2,437 | 3,395 | 958 |

12.5 Whilst there has been revenue budget pressure in the existing Contractor A contract, Contractor A have struggled on the administrative side of the existing contract, and we continue to receive invoices from all years of the existing contract, going back to 2015/16. This has made quantifying the precise budget pressure challenging. For the 2019/20 financial year, for example, Contractor A has invoiced for around 50% of planned maintenance works done. It is understood that Contractor A has implemented process improvements for the new contract which should mean fewer issues. However it should be noted that Contractor A continues to be required to evidence works done, and this needs to be done in a timely manner.

12.6 Any budget pressure which arises from this contract will be met by reserves in the first instance. Once we can be certain around the ongoing need

for additional budget, this will be considered through the annual budget build process.

VAT Implications on Land & Property Transactions

12.7 Not applicable

13 COMMENTS OF THE ACTING DIRECTOR, LEGAL & GOVERNANCE SERVICES

13.1 The contract for Statutory Testing, Inspection, Repair & Maintenance Services for the Council's premises has recently expired and this Report sets out the reasons why it has not been possible to appoint a service provider to perform the new service prior to such expiry. To undertake a procurement in order to appoint a short term provider to commence the service immediately would be economically disadvantageous for the Council in terms of the price of tenders received and therefore it is proposed to extend the current contract whilst the Council undertakes a substantive procurement exercise for a long term service provider.

13.2 It should be noted that there is, therefore, some risk to the Council that a challenge to the award of the interim contract could come from competitors the Council have not approached to undertake the services. If such a challenge were successful it is likely that the Council would be liable to pay the lost profits of a party who has successfully challenged as well as the costs of bringing such a challenge. This should be considered in the decision to approve the award in this Report.

14 COMMENTS OF THE PROCUREMENT CATEGORY LEAD

14.1 The Acting Director, Legal and Governance Services has set out elsewhere in this document the procurement risk relating to this contract award.

14.2 The success of the new approach to the delivery of the Statutory Testing, Inspection, Repair & Maintenance Services Contract, being trialed in this interim contract, will be measured by improvements in performance, administrative savings and minimising budget pressures.

14.3 It is critical that the procurement of the new Statutory Testing, Inspection, Repair & Maintenance Services Contract is awarded and mobilised prior to the expiration of this interim contract.

APPENDICES

Public Appendix 1 - Table of KPI's/ Low Service Damages Indicators

Public Appendix 2 - Indicative 18 month programme for procurement of main contract

EXEMPT

Exempt Appendix 1 - Tender Assessment - LBH Interim Repairs & Maintenance 2020

By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 Appendix 1 is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

None

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|--------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
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