

**TITLE OF REPORT : NEW CONTRACTOR FOR THE PROVISION OF STATUTORY TESTING, INSPECTION, REPAIR & MAINTENANCE SERVICES AND UPDATE ON PROGRESSION OF LONG TERM CORPORATE MAINTENANCE SERVICE STRATEGY**

**BUSINESS CASE**

**Key Decision No: NH R68**

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

10th May 2021

**CLASSIFICATION:**

Open

**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 As noted in the past, the Council has to sustain a testing, inspection, responsive repair and maintenance service for its buildings, in order to meet its statutory duties and to maintain a fit for purpose estate. This report seeks authority to enable the Council to step into the next phase of a long term strategy prepared in 2014. That strategy was revised in 2017/18 to allow time for the Council to develop proposals for increasing the instance of insourcing of such services, in line with evolving policy. To inform the potential for insourcing maintenance services, a review has been completed, identifying the opportunities and risks associated with differing degrees of insourcing, and has given a basis for confidence in pursuing defined steps in that direction.
- 1.2 The Council will still require services to be procured from the market, and as intended, for the past 9 months, the Council has been reviewing the market for maintenance services, while trialling the government best practice contract form, and strengthening its asset data.
- 1.3 As set out in this report, officers will continue a programme of work to refine the Council's proposals for further in-sourcing. More immediately, it will make substantial investments in internal staffing and technical infrastructure, to create a strong and stable platform from which to drive future performance and sustainable change.
- 1.4 This approach supports 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. Meanwhile, the Council is building a track record in, and accumulating knowledge around this agenda, having very nearly completed the insourcing of its vehicle maintenance service at the time of writing, in addition to 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.
- 1.5 The past 9 months have provided a discrete period within which 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. Benefits have arisen, and lessons have also been learned, which have been analysed, tested and are informing the refinement of the next contract, and indeed, the approach to market and Hackney's own, internal clienting arrangements. 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.

- 1.6 As noted above, 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.

## **2 GROUP DIRECTOR'S INTRODUCTION**

**NB This report is circulated late as there were unavoidable delays in completing it due to competing demands on officer time and availability of key personnel. While pressures exist and can be managed in normal times, the additional workloads imposed by a need to respond to the pandemic at the same time limit capacity to flex and manage to suit every deadline when the input of a limited number of key individuals is essential.**

- 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 5<sup>th</sup> 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 4<sup>th</sup> May 2020.

- 2.2 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.
- 2.3 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, with a scope tailored to Hackney; 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.
- 2.4 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.
- 2.5 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.
- 2.6 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 which is scheduled to complete at the end of this year.

- 2.7 Research and focussed resource planning during this interim phase has allowed the Council to position itself, to face 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.

The interim period has been used to progress the following activities:

- 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.
- 2.8 Meanwhile, Council officers have been refining the Corporate Landlord Model further, commencing a review of budget allocations and consultation on the potential for insourcing structures and models in the Hackney corporate maintenance environment.
- 2.9 Issuing tender documents based on the NEC Term Services Contract (TSC) to contractors via the Crown Commercial Services (CCS) framework recognises the benefits of NEC over the JCT - based Measured Term Contract, which is subject to a schedule of rates. The proposed NEC 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).

2.10 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.

2.11 The fixed price element of the new 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.

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.

2.12 The contract excludes schools and the housing stock, as well as Hackney Education, Hackney Museum and Hackney Library which are maintained under a PFI and separate contracts.

2.13 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 provides 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.
- 2.14 As noted above, the principal changes from the previous long term contract will be in its professional form (NEC, not JCT) and length, with a minimum 5 years and not 3. Research suggests that contractors can more safely and willingly invest in their service provision from the very earliest stage, if they have sufficient contract term from which to realise the benefit.
- 2.15 As noted elsewhere in this report, modern and focussed Key Performance Indicators will be included within the contract, to encourage high standards of service. However, in the event that the contractor fails to perform, the Council will have the right to obtain services from other sources.
- 2.16 Where a need for capital works arises, these will be subject to tender, and the maintenance contractor can bid for this work. The contractor will not be exclusively entitled to it.

### **3 RECOMMENDATION(S)**

- 3.1 That Cabinet Procurement & Insourcing Committee is recommended to authorise the issue of the tender for provision of statutory testing, inspection, repair and maintenance services to the Crown Commercial Services framework (Hard FM (Facilities Management) Maintenance and Capital works - sub lot 1b).**
- 3.2 To note the Council's planning activity towards a new mixed economy of insourced and externally sourced services, starting with investments in internal staffing of a stabilised maintenance administrative team, and in supporting technical infrastructure.**

### **4 RELATED DECISIONS**

- 4.1 Report to Cabinet Procurement Committee 8th March 2021 to update on progress since June 2020 CPC Report (4.2 below) - For Information Update Report.

- 4.2 Report to Cabinet Procurement Committee 8th June 2020 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 - Award Report.

## **5 OPTIONS APPRAISAL AND BUSINESS CASE (REASONS FOR DECISION)**

### **5.1 Key Issues and Reasons for Decision**

- 5.1.1 The Purpose of this report is to set out the business case for procuring a contract for the provision of necessary statutory testing, inspection, repair and maintenance services.
- 5.1.2 The report seeks approval to formally issue the tender to the Crown Commercial Services (CCS) framework (Hard FM Maintenance and Capital works - sub lot 1b) with the intention to appoint a single contractor to provide the service.
- 5.1.3 Hard FM services are defined for the purposes of this report as activities associated with assets that cannot be removed from the premises and directly relate to the fabric of the building. Such services ensure the health, safety and welfare requirements of buildings are adhered to and many are required by law.
- 5.1.4 The Council has a statutory duty to keep its estate in a health and safety compliant state. The current contract is due to expire in December 2021 and the Council must have a new arrangement in place by this time in order to sustain an uninterrupted delivery of statutory testing and repairs.
- 5.1.5 Alongside seeking authority to issue the tender the report also provides an information update on activities associated with developing the longer term aim to move to a more insourced service delivery model in line with the Council's wider aspirations for self-delivery of services where practical and financially viable.
- 5.1.6 A report into the current capacity and options for developing a more insourced delivery model identified that the service does not currently have the ability to self deliver maintenance services. It did however highlight some key areas to focus on to develop the capability to move towards more



insourcing as part of a longer term plan. This includes recommendations to first put in place a permanent and stabilised structure for the internal management team, invest in technical infrastructure for data management and develop a corporate landlord approach to allocating and managing maintenance budgets.

5.1.7 The findings of the report have informed the continued development of the long term plan and recruitment of the internal team and procurement of an asset management database have been identified as the first priorities in the next steps alongside procuring a new delivery partner.

5.1.8 The appraisal report also found that Housing Services are not yet in a position to support maintenance of the corporate estate, as they are focussed on their growth plans and insourcing opportunities, but consultation and dialogue has begun and will continue in order to explore opportunities in the future.

## **5.2 Benefits Realisation/ Lessons Learnt**

5.2.1 Whilst this is not a reprocurement of a like for like contract it is the next step in an evolution of the corporate maintenance service as outlined in both the Lead Cabinet Member and Group Director's introductions.

5.2.2 The previous long term maintenance contract expired in May 2020 and for reasons set out and approved by CPC in June 2020 (related decision listed at 4.2 above) this was followed by an interim 18 month direct award contract to the incumbent contractor. The form of contract changed from a JCT Measured Term Contract to an NEC3 Term Service Contract.

5.2.3 Following CPC in June 2020 a comprehensive assessment of the opportunities to self-deliver some or all of the Hard FM services was undertaken. A summary of the findings of the insourcing appraisal report is provided at paragraph 5.3.9 but it should be noted here that whilst undertaking this report has put pressure on the timescales for procuring the next contract, it provided invaluable insight into the current capacity and capability to self deliver, as well as identifying both short and long term opportunities to develop the maintenance delivery strategy.

5.2.4 As referred to above the timescales for this procurement are extremely challenging and using the CCS framework offers a fast, approved and compliant route to the FM services provider market. Due diligence has been undertaken on pre-qualified prospective bidders and officers have satisfied themselves that the chosen framework provides access to an appropriately

experienced and qualified range of suppliers that can fulfill the service requirement. Further details on the benefits of the CCS framework and programme are provided within Section 7 - Proposed Procurement Route.

- 5.2.5 This interim contract has provided the internal Hackney team with the opportunity to better familiarise itself and road test a new form of contract through which to deliver its maintenance services. As detailed in Section 7 of this report, a form of contract which is recommended for use by the UK Government for all public sector service contracts.
- 5.2.6 The experience of operating an NEC Term Service Contract for the interim period has provided the operational and commercial management teams, as well as service users (building occupiers) and stakeholder departments with the opportunity to work with, and better understand, the form of contract. This allows for consideration of incorporating lessons learnt into the new contract.
- 5.2.7 Through the on-going stakeholder engagement on the current interim contract and throughout the previous long term contract officers have a good understanding of the issues that are perceived to have not worked well or could be improved upon. This intelligence will be built upon through a formal 'lessons learnt' process (questionnaires, workshops, and interviews) that will feed into the final tender specification.
- 5.2.8 Some of the issues that we have experienced in managing the interim contract have been directly related to variations to the standard form of contract and the use of additional clauses. This was unavoidable for the interim contract but procuring a new longer term contract will allow the Council to include robust performance management mechanisms.
- 5.2.9 Procuring a new long term contract is expected to have the benefit of affording senior managers within the service area the time and space to focus on further developing the maintenance delivery strategy. This strategy is understood at a high level to be a direction of travel that moves away from a standard outsourced approach to a more inhouse mixed economy. This is no small undertaking and as highlighted in the insourcing appraisal report the first steps on the journey to do this in a safe and controlled environment are to stabilise the internal management team and associated maintenance budgets.
- 5.2.10 In pursuit of this more mixed economy, officers will be noting lessons learnt on previous insourcing activity by the Council, which is currently approaching completion of insourcing fleet vehicle maintenance.

### **5.3 Strategic Context**

5.3.1 The overarching strategic context in which this procurement should be viewed is that the Council has a statutory obligation to keep the buildings for which it is responsible safe and compliant and must have means to ensure this. It also has an organisational requirement to maintain buildings in a condition that provides a pleasant environment for staff and visitors who access Council services and facilities, and to minimise times when its buildings are not available. The Council does not currently have the internal structure or capacity to self-deliver the Hard FM services necessary to ensure the above across the Corporate Estate and therefore must procure a contract to deliver such services.

5.3.2 Officers recognise and support Council policy, the senior leadership team and elected members' ambition to consider in the procurement process whether all service contracts could be delivered in-house. A consideration of insourcing options for this service is discussed throughout this report.

5.3.3 In summary the insourcing options appraisal concluded that the Council is not currently in a position to self-deliver a significant amount of Hard FM service provision, but recommended that there are discrete elements of the service that could be considered in the short to medium term for implementation, as the first steps on the longer term planned journey towards insourcing. Those recommendations have been considered and where appropriate are being actioned. There is also a pressing need to stabilise the existing resources within the client team, with particular reference to personnel and data. Insourcing of the internal management team has been identified as the first priority for progressing self-delivery.

5.3.4 The Mayor's priorities:

Tackling inequality:

- Ensuring that the Council's buildings are safe, compliant and well maintained in order to be able to deliver essential services to residents with minimal disruption;
- Providing good quality commercial premises that are well maintained for local businesses to be able to operate from to support the local economy and provide amenities to the community;

- Where possible supporting the local economy through contractual arrangements that encourage the use of local businesses and labour (including apprenticeships) in the service delivery supply chain.

An ambitious and well run Council:

- Supporting the provision of first class local facilities and high quality services through delivery of a well managed maintenance contract;
- A maintenance contract that is properly resourced and managed will provide greater financial stability through the ability to understand the true cost of running the estate and inform budgetary planning decisions;
- The ability to collate, analyse and utilise property data is absolutely fundamental to activities and decisions associated with the discipline of Strategic Asset Management. As Council budgets continue to come under increasing pressure it is critical that decisions on the use of its land and property assets are guided and supported by accurate and meaningful asset data.

Prioritising quality of life and the environment:

- The ability to access essential services will directly and profoundly impact the quality of life for many of the Council's residents, therefore it is essential that the Council has measures in place to mitigate the risk of services or temporary accommodation being unavailable through loss of access/ use of its buildings;
- Ensuring that buildings are well looked after in order to contribute to creating a physical environment within the borough that provides a pleasant place to live and work and residents can be proud of;
- Ensuring that buildings are well looked after in order to contribute to creating a physical working environment which is appealing to potential staff recruits;
- Written into the tender specification will be a requirement to demonstrate how the environment and sustainability will be considered in all activities associated with delivery of the maintenance contract and there will be contractual obligations to enforce this. Examples of how sustainability issues generally will be included and managed are provided in the Sustainability Issues section of the report. It should be noted here that within the FM Services supplier market and the industry generally, the importance of considering the environment in its activities is widely understood and indeed expected. Examples are replacing plant with more energy efficient alternatives, considering embodied carbon when sourcing materials, repair before replace policies, recycling and responsible waste management, the

use of low emissions vehicles for fleet operations, and driving planned maintenance programmes through life-cycle cost analysis.

- 5.3.5 As referred to by comments on behalf of the Group Director of Finance and Corporate Resources in the June 2020 CPC report for the award of the interim 18 month contract there are acknowledged budget pressures in delivering maintenance services across the Corporate Estate.
- 5.3.6 A detailed financial analysis of the tender returns will be undertaken as part of the tender evaluation process. Analysis of price submissions in conjunction with data on historical spend will help to inform sensible budget estimates for the work likely to be delivered by the contract. This information will be fed into the annual budget build process.
- 5.3.7 It is important to note that in the award process for the interim contract, prices were benchmarked against industry standards to test value for money. In procuring this new contract, it will be the first time the services have been competitively tendered since 2015. The intervening period has seen the collapse of Carillion, financial difficulties for other public sector focused contractors and tangible adjustments have occurred in the market. Contractors have shifted away from overly competitive, unsustainable bidding towards more sustainable business models with more realistic pricing and margin expectations. As has been noted previously this correction in the market is regarded as necessary, and properly funded and resourced contracts will deliver a higher quality of service and cost less to administer.
- 5.3.8 The Covid-19 pandemic has also accelerated the Council's work and thinking around the use of its estate and its Future Workplace project. The vision is to ensure that 'future working arrangements are inclusive, work well for different services and respond to people's different needs'. This intention to review and refine the corporate estate in order to make it more versatile and responsive to the needs of staff inevitably means we are entering a period where we need a degree of flexibility and innovation in our approach to, and arrangements for, maintaining our buildings. The use of the NEC Term Service Contract allows for services to be added and removed from the contract with the price adjusted accordingly. As the future shape of the estate emerges in the coming months and years, the most appropriate model for maintaining can be developed into the longer term roadmap.
- 5.3.9 Following June 2020 CPC, officers commissioned a report to appraise Hard FM insourcing options and make recommendations. The appraisal included consultation with a steering group and key stakeholders and included

consideration of strategic priorities, risk/benefit analysis, benchmarking and industry best practice.

The review's recommendations are summarised below:

- a. The Council should commence activities associated with re-procuring the Hard FM Services provision currently being delivered by the incumbent contractor. This could include retaining the option to remove some discrete elements of the service for self-delivery (subject to further due diligence and a formal decision making process). Elements identified as possibilities for self-delivery in the shorter term are management of capital works, CAFM (Computer Aided Facilities Management) and a Helpdesk facility;
- b. The Council should appraise the use of contract staff and consultant resources within its existing management structure and build an in-house Intelligent Client Function (ICF). It further recommends that it is important that this precedes insourcing in order to ensure that the management structure and resource is in place to control risks associated with self-delivery;
- c. Re-procurement of Hard FM Services should address and deliver on the Council's Sustainable Procurement Strategy by incentivising the use of labour and suppliers from the local economy and building in other key social value requirements;
- d. Continuing to liaise and work with Housing Services with regard to their potential capacity through the DLO to support delivery of some discrete elements of the service.

5.3.10 The recommendations have been considered and are being incorporated into both the long term maintenance strategy and the proposed procurement of the next Hard FM Services contract.

5.3.11 The first steps identified as necessary to ensure that the service is able to both effectively manage delivery of services, and to move towards a more insourced delivery model, are putting in place a permanent and sufficiently resourced internal management team, and having resources to lever greater benefit from and control over our own good quality data.

5.3.12 Activities to stabilise the internal management team through the establishment of an Intelligent Client Function have commenced with Finance. Agreeing resources and establishing a new team structure is a complex separate workstream of budget "right-sizing". This is regarded as critical to the success of managing maintenance works whether self-delivered or externally contracted. It will reduce the current reliance on

agency/ contract staff and consultants and is considered by officers as the first stage of insourcing. It is recognised that there are budgetary constraints around the agreement of new structures and the impact of this will need to be assessed alongside the longer term plan for insourcing.

5.3.13 A review of data management options and systems is underway, and although it is again a separate workstream, it is anticipated that during the course of the next six months officers within Strategic Property Services will be able to progress with the procurement of an asset management database. This will be a significant step in taking greater ownership of the Council's asset data and the intention is to include within the tender specification the requirement for the successful bidder to populate the Council's own data management system and reduce reliance on the contractor's CAFM (Computer Aided Facilities Management) system. This is data that is critical to the strategic decision making process around property assets and will provide improved access to critical compliance data and information.

5.3.14 In line with the recommendations of the insourcing report and the Sustainable Procurement Strategy, officers within Strategic Property Services are continuing to develop and implement a strategy that will support the Council's long term objective of bringing services in-house, where it is possible and financially viable to do so.

5.3.15 In compiling the insourcing report senior colleagues in Housing Services were consulted on their future capacity for delivering some Hard FM services on the Corporate estate. Further consultation has also been undertaken as part of the preparation for this business case. Additional detail is provided below under Preferred Option and in summary, Housing Services' DLO does not currently have the resource or infrastructure to extend maintenance services to the Corporate estate whilst also working towards delivering their existing growth commitments for insourcing. Liaison will continue in order to coordinate over opportunities to collaborate on insourcing in the future.

5.3.16 In the meantime, and as referred to elsewhere in more detail in this report, the immediate focus will be on stabilising the internal client team and incorporating within the tender specification for the next contract requirements that support and deliver on the Sustainable Procurement Strategy.

5.3.17 Alongside all of the above the Corporate Property team is working closely with Finance colleagues to develop and enhance a Corporate Landlord approach to the management of the Council's Corporate land and property

assets. This is alluded to above in terms of the importance of property data and costs feeding into the strategic decision making process to determine the future of assets. It aims to better align property budgets with statutory and health and safety accountabilities and achieve more efficient communication and decision making processes at the operational interface with the contractor. Corporate Landlord reduces the risk associated with non-property professionals being required to make property related decisions and lack of clarity over statutory responsibilities. The Intelligent Client Function (internal management team) is key to the successful implementation of this best practice approach.

5.3.18 The long term building maintenance strategy established in 2014 has been further updated to include the next steps and has been attached at Public Appendix 1.

#### **5.4 Preferred Option**

5.4.1 To issue the tender for procurement of Hard FM for provision of statutory testing, inspection, repair and maintenance services to the Crown Commercial Services framework, and following completion of the tender evaluation process to seek formal authority to award the contract through the framework.

5.4.2 The current contract for Hard FM services expires in December 2021. The Council is not currently in a position to self deliver and therefore needs to appoint a contractor to ensure compliance works are delivered beyond this date.

5.4.3 Tendering and appointing through a procurement framework is the only compliant route to a competition in the FM provider market that can meet the very challenging programme timescales. This is because potential bidders on the framework are all pre-qualified, including financial health checks and policies that meet the requirements of the UK Government procurement rules.

5.4.4 Crown Commercial Services is the largest public procurement organisation in the UK and has been identified as having an appropriate Lot for the required services. Further detail about the CCS framework is provided in the Proposed Procurement Arrangements section of the report.

5.4.5 The CCS framework has been identified as having an appropriate range of potential suppliers and, following an exercise to engage with the framework



to gather expressions of interest, due diligence has been undertaken on the suitability of those that have confirmed their interest in bidding for the tender. This due diligence included additional credit reference checks and considering existing clients.

- 5.4.6 Officers are satisfied that the number and range of providers will provide the Council with a good competition and choice of providers and have therefore recommended to proceed with the CCS framework for this procurement.
- 5.4.7 The framework suppliers are able to deliver services using the NEC TSC form of contract (New Engineering Contract - Term Services Contract) that is recommended by the UK Government for all public sector service contracts and is well understood by the sector market. The form of contract has been used by officers on the current interim contract. There will be a lessons learnt process incorporated into this procurement as described in a little more detail under Section 5 (Market Testing).
- 5.4.8 Procuring through the framework will provide the best chance of a successful outcome in terms of mobilising a new contract ahead of expiry of the current contract. As it is a quicker process than a full 2 stage tender it will also give officers more time to focus on the first stage of insourcing (stabilising the internal team) and setting up data management systems: both of which are identified as necessary precursors to further insourcing.
- 5.4.9 As noted earlier in the report senior colleagues in Housing Services have been consulted on the potential opportunities for collaboration and delivering some elements of the Corporate Hard FM services through the DLO. This is an area that will continue to be explored and consulted on as part of the long term plan. In making the recommendations to issue a tender to procure services from a framework provider the views of Housing Services have been taken into consideration.
- 5.4.10 Housing Services DLO does not currently have the capacity or technical specialists in house to extend its services to the Corporate estate. Within Housing they have identified areas for growth and where they are seeking to make improvements to service delivery: and they cannot prioritise delivering Corporate services over their own requirements and challenges. Key challenges and commitments for them over the next few years are to grow self delivery annually, while building their new depot, and reviewing targets for further growth after completion of the depot. Members have tasked Housing with a lot of expansion for self delivery, not least reducing reliance on their own term contractors.

5.4.11 The Council's procurement policy supports the use compliant framework routes and Procurement colleagues have worked with the Property team in conducting the due diligence process and in recommending going forward with the CCS framework.

5.4.12 The business need at its core is to provide a service that keeps the Corporate estate buildings compliant and maintained. This procurement will provide that service - statutory tests and inspections, necessary remedial works, Planned Preventative Maintenance, Reactive Helpdesk and an ad hoc quoted minor works service.

5.4.13 The service specification within the tender documents will reference the Council's Sustainable Procurement Strategy (set out in more detail later in the report).

5.4.14 To not be able to appoint via the CCS framework risks having to consider alternative options that are not favourable to the Council. A framework is the only route that provides the benefit of being able to meet the timescales for delivery. The rationale for the choice of the CCS framework is set out in section 7 (Proposed Procurement Arrangements). If we don't appoint through the framework we will have to appoint via a direct award without competition. The short term nature of such an arrangement not only removes competition but also the ability for longer term investment by the contractor and significantly reduces what can be achieved to support the Sustainable Procurement Strategy - for example supporting the local supply chain, and labour market, apprentices etc. or incentivising reductions in energy use and emissions through maintenance activities.

## **5.5 Alternative Options (Considered and Rejected)**

5.5.1 Extend the existing 18 month contract with the incumbent contractor - Though justified for operational reasons, with costs benchmarked against industry standards, when put in place in June 2020, the current contract was always intended to be an interim solution to allow officers further time to appraise insourcing options and allow the FM provider market to further settle after the collapse of Carillion. Officers and members agreed that when CPC authorised the award of the interim contract that it should not be further extended beyond expiry in December 2021. To make another direct award would mean that the services would not have been competitively tendered since 2015 and would not automatically afford the Council the opportunity to update the contract specification and employer's requirements.

- 5.5.2 A direct award without competition to an alternative supplier - To make a direct award would mean that the services won't have been competitively tendered since 2015. It is assumed that a direct award could only be considered for another short term contract and this would not attract competitive interest from the market with no incentive to make long term investments in the contract by the contractor. The time spent mobilising and embedding a new contractor for a short term contract would also not be efficient.
- 5.5.3 Full two stage tender process - There is insufficient time available to go through a full two stage tender process and meet the deadline to have a new contractor in place by December 2021. Further, given the extensive market coverage offered by the CCS Framework, there is considered to be no material advantage in doing so. It is not acceptable for there to be a gap in service with regards to ensuring statutory compliance. The requirement to undertake an extensive appraisal of insourcing options ahead of commencing procurement activities combined with the demands on officer time during the course of daily operational activities (compounded by the impacts of the Covid19 pandemic) has resulted in this option being rejected.
- 5.5.4 Alternative frameworks - Four procurement frameworks were considered including the recommended CCS framework and it was concluded that none of the other frameworks offered as wide a range (in terms of numbers or suitability) as the CCS framework and in addition the continued financial assessment of this framework offers added value. The three discounted frameworks were NHS Shared Business Services, Fusion 21 and Crescent Consortium.
- 5.5.5 Insourcing - As referenced throughout this report, following June CPC officers commissioned a comprehensive review of the options available for consideration for insourcing. A summary of the key findings and recommendations of the report is included earlier in the Strategic Context Preferred Option section of the report. The report recognised that the Council is not currently in a position to self-deliver these services, but that plans to strengthen the corporate landlord model, and to invest in the internal staffing and technical infrastructure would move the Council to a position of strength from which it could develop and refine its options in moving towards a more insourced model within the longer term strategic plan.

## **5.6 Success Criteria/ Key Drivers/ Indicators**

5.6.1 For a number of years leading up to the failure of Carillion, there has been a bias towards competing and appointing on price, when contracting FM suppliers. In practice, underpriced contracts increase the pressure on the provider to cut cost and with it, vital capacity in order to make the contract financially sustainable. This covers a wide variety of cost cutting by the contractor from employing less competent personnel at lower rates, using cheaper alternative spare parts and consumables that will fail sooner, and stretching manpower across contracts. Contractor's Contract Managers are targeted by their organisation to meet or exceed financial targets, hence the risk that service delivery deteriorates, with the end users being the party generally affected. This in turn causes a myriad of complaints upwards, leading to a fractious relationship with the contractor further destabilising services. This is an environment where even the most commercially minded contract managers become demoralised by living in a job characterised by constant complaints and failure to meet performance ambitions. Client organisations must ensure that tender processes are set up to allow committed and professional organisations to safely price high quality proposals, sufficiently resourced to deliver the requirements of the client's specifications. An under-priced service contract represents a long term false economy, with the potential for creating sustained problems that are very costly and time consuming for the client to correct, and can include a deterioration in the condition of its buildings, a substantial increase in the effort required to administer the contract and the undermining of the morale of its contract managers and the contractor's staff, and associated staff retention problems.

5.6.2 Thankfully, the market has moved to a more sensible equilibrium, with professional, confident bidders pricing sensibly, and enlightened clients encouraging open bidding that demonstrates the service offered can be resourced for the price. In practice, that is manifested in tender processes favouring more emphasis on the quality of the technical submission in evaluation. Weighting the technical not only reduces the risks discussed above but focuses the contractors more on how they are going to deliver producing good detailed methodologies, comprehensive details of their proposed mobilisation, details of their management team, reporting etc. as examples. Additionally, the quantity and quality of the technical submissions is far superior to that of a cost driven procurement, resulting in a more objective tender evaluation.

5.6.3 The key deliverable for this procurement is the appointment of a Hard FM services provider on a new 5 year contract, and to have the contract mobilised and operational by expiry of the current contract in December

2021, with no gap in service for statutory tests and inspections, necessary remedial works or the reactive maintenance service.

5.6.4 Success will be measured by demonstrating statutory compliance has been ensured throughout the transition period. The contract will also seek to drive improvements for service users and stakeholders as identified in the lessons learnt process.

## **5.7 Whole Life Costing/ Budgets**

5.7.1 This report seeks authority to issue a competitive tender to an approved framework. As stated previously this is the first time the services have been competitively tendered since 2015 and the nature of maintenance means costs are not entirely predictable. Therefore accurate whole life costs for this procurement cannot be provided in this report.

5.7.2 For reference the value of the contract has been estimated on the basis of historical spend and condition data. A high level estimate is provided in Public Appendix 3.

5.7.3 Detailed information on costing will be provided as part of the next stage of the governance process when a detailed financial analysis of the tender returns will be undertaken as part of the tender evaluation process. On completion of the formal tender process authority to award the contract to the preferred bidder will be sought and further information on price and budget provided.

5.7.4 It is acknowledged that there is pressure on the Council's budgets and as referred to earlier in the report, analysis of price submissions in conjunction with data on historical spend will help better quantify the budget impacts arising from this contract.

5.7.5 Officers will also seek to include performance management mechanisms such as KPI's that will incentivise the contractor to identify efficiencies and opportunities to reduce costs, and if necessary penalise the contractor for poor performance.

## **5.8 Policy Context**

5.8.1 The principles and aspirations of the Sustainable Procurement Strategy will be recognised wherever practical and appropriate in the contract specification. As this procurement relates to the built environment there is in

particular an opportunity to support the Council's 'Procuring Green' agenda, and to support the local economy through the supply chain and use of local labour.

5.8.2 The tenderers will be asked to demonstrate as part of their submission their commitment to reducing carbon, supporting the local economy, procuring parts that increase efficiency and this is set out in Section 6 below.

## 5.9 Consultation/ Stakeholders

5.9.1 No statutory consultation required.

5.9.2 TUPE - The Council will be required as part of the tender and subsequent mobilisation process to ensure that the applicable TUPE regulations are followed and the methodology for this will be requested as part of the tender technical submission. It is incumbent on the Council to ensure that the correct process is followed.

5.9.3 The key stakeholders for this service are the departments that occupy and provide services from the Council's buildings. Throughout the operation of the current contract there have been monthly stakeholder meetings whereby representatives from the buildings and departments (including Corporate Facilities Management) are able to meet with the contractor and the Building Maintenance team to discuss issues and concerns. Stakeholders have been made aware of the upcoming procurement and will be further consulted as part of the lessons learnt process ahead of finalising the tender specification.

## 5.10 Risk Assessment/Management

Risk	Likelihood	Impact	Overall	Action to avoid or mitigate risk
	L – Low; M – Medium; H - High			
Delay to the procurement timetable. There would be insufficient time to procure an alternative through competition.	L	H	H	Consultation and briefings ahead of this report.
Risk of a further direct award non-competitive tender to extend existing interim arrangements.	M	M	M	Supplement client team with experienced external resource who are already familiar with LBH's maintenance delivery

				practices and requirements.
Contractor fails to invest adequately in contract infrastructure and staffing to the detriment of service delivery.	L	H	H	Proactively promote the strengths of the LBH client to the Framework providers so that committed providers see opportunity to work in success - focussed "one maintenance team*" culture and set tender evaluation criteria which visibly weights quality in balance with cost.
Incompetent contractor appointed.	L	H	H	Procure via established high quality framework, and resource tender evaluation team with experienced internal and external personnel.

*\*Client and contractor teams should work to behave as a single team as far as the end user is concerned, motivated to collaborate and work constructively together in pursuit of continuous improvement. While the client team has a duty to ensure that the contractor meets the requirements of the contract, it should also be alert to its own ability to contribute to continuous service improvement.*

## **5.11 Market Testing (Lessons Learnt/ Benchmarking)**

5.11.1 An appraisal of options for insourcing has been commissioned and its findings and recommendations have been summarised in Strategic Context (section 4.3).

5.11.2 The Hard FM services market is well established, though there has been some volatility, notably the collapse of Carillion who were one of the largest suppliers in the market. Since the procurement of the last long term contract in 2015 some shifts in the expectations within the market have been observed. This is categorised in very general terms as more realistic pricing from contractors when bidding for contracts and clients giving quality a higher weighting than cost alone when setting evaluation criteria.

5.11.3 As part of the insourcing appraisal, benchmarking was undertaken to better understand what other organisations and departments are doing with regard to delivery of Hard FM services to the Corporate estate. Whilst there is a

noticeable wider aspiration to insource there was very limited evidence of other authorities self delivering in this service area. Key challenges identified included:

- Difficulties competing with the private sector for senior management level positions that are seen as a vital component of the delivery structure to ensure risks can be appropriately managed;
- Specialist accreditations that are required to perform services sit with the individual and employers are unwilling to take on the risk of attracting, recruiting and retaining these specialists in a competitive market (above average wage increases in specialist engineering fields driven by skills shortages);
- The additional administrative and management burden placed on the employer, including the scale required to cover sickness and annual leave.

5.11.4 As referred to previously in this report, dialogue with Housing Services has been sustained in the development of proposals, and while they don't yet have the capacity in the DLO to encompass the corporate estate, one of the key concerns highlighted was also the ability to attract and retain staff with specialist skills in competition with other local authorities and the private sector.

5.11.5 As part of the tender process and ahead of finalising the tender specification a lessons learnt process is being undertaken and a wide variety of stakeholders will have been engaged in this process. This exercise seeks the views of building occupiers and managers, service heads and budget holders, operational and commercial management officers who manage the current contract, as well as other key stakeholders such as Finance.

5.11.6 Many of the key stakeholders have been involved in either managing or working with the contract or accessing services through it for a number of years and therefore there is already a good understanding of the issues that are perceived to have not worked well or could be improved upon.

5.11.7 This assumption will be tested and the understanding further built on through a formal 'lessons learnt' process that will involve an independent party analysing responses to questionnaires and following up with workshops and where appropriate individual interviews.

5.11.8 Whilst it will patently not be possible to incorporate every individual want, it is hoped that this process and the experience of managing the previous



contracts will allow for evolution of the service provision under the next contract to be updated to reflect the needs of the end users within the bounds of a robust contract built on a collaborative ethos.

## **5.12 Savings:**

5.12.1 The contract will be available to serve all public and corporate buildings across the estate and will be awarded on the basis of a competitive tender process to ensure best value for money.

5.12.2 It is important to note that the tender specification and evaluation criteria will give a greater weighting to quality of service over price. The rationale for this is provided in section 5.6 Success Criteria/ Key Drivers/ Indicators.

5.12.3 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 2-3 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. Additionally a focus on quality and paying 'the right price for the right service' allows for a more collaborative client/ contractor relationship which will be more productive and likely to drive innovation and continuous improvement. It should not be forgotten that buildings maintained to a poor standard are prone to developing problems which are costly to resolve in the long term, and therefore, poor quality maintenance regimes, even where cheap, are unlikely to bring the Council long term cost savings, and are more likely to undermine the Council's ability to efficiently asset management plan for the long term.

## **6 SUSTAINABILITY ISSUES**

### **6.1 Sustainability**

6.1.1. The ambitions of the Sustainable Procurement Strategy will be reflected in the tender specification and bidders will be measured on their commitments to deliver against them.

6.1.2 It is important to note that at this stage in the procurement process officers can provide assurance that the ambitions of the Sustainable Procurement Strategy will be written into the tender specification, however not until bids have been submitted and evaluated will officers be able to assess the overall merits of each tender in supporting the Council's strategy.

6.1.3 KPI's will be agreed to support the strategy and whilst every supplier on the framework might not be able to provide exactly the same offering, officers are confident that the CCS framework has suppliers that will support the overall aims of the strategy and bring many benefits.

6.1.4 Stated benefits of the Crown Commercial Services (CCS) framework include:

- Enables SME's to bid for public contracts (supports the government's aspiration for £1 in every £3 to be spent with SME's by 2022;
- Regional lot structure means you can procure services locally, enhancing social value;
- Buyers can request that suppliers tailor their offer to match the organisation's social value priorities and measurable local benefits, such as an efficient and sustainable public estate, support for diversity and inclusion, and improved competency and capacity.

## **6.2 Procuring Green**

6.2.1 The ambitions of the Sustainable Procurement Strategy will be included in the contract specification and bidders will be measured on their commitments to deliver against them - for example through adoption of responsible sourcing and other environmental policies:

- Requirement to have and provide examples of using their environmental policies and also be accredited to ISO14001 as a minimum.
- To consider the impact on natural resources when selecting components and materials, whilst reducing the supply of natural resources used in their service delivery;
- To promote the use of alternative materials and methods to reduce and optimise the use of raw materials;
- Creating critical mass in local supply chain and opportunities to create synergies and economies of scale;
- Responsible Sourcing policy: suppliers to be contractually obliged to provide evidence of industry accreditations, ethical sourcing or circularity;

- To eliminate excessive packaging, with a particular focus on single-use plastics, without having a negative impact on the delivered goods;

6.2.2 KPI's to support and ensure the contract delivers on sustainable procurement for the Council, the environment, and the residents of Hackney.

Some examples being:

- a. Year on year increased use of environmentally friendly vehicles (hybrid, electric);
- b. Demonstrated commitment to the principles of Reduce, Reuse, Recycle (responsible recycling and disposal of waste);
- c. Develop a Supply Chain Engagement and Qualification process that engages with SME's and social enterprises;
- d. Responsible sourcing of sustainable materials;
- e. Demonstrated proactivity in reducing emissions when replacing plant.

### **6.3 Procuring for a Better Society (Economic Impact)**

6.3.1. The Council is focused on balancing social, environmental and financial performance. Included within the contract specification will be the requirement to support the Local Economy through the use of local labour and business where possible.

- Encouraging local procurement of materials and services where feasible;
- Working with the contractor's 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 the contractor supply chain to do so too;
- 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 the contractor's supply chain for project works;
- Use of local social media to promote opportunities for SME's and local job opportunities;
- Adhere to the 'Prompt Payment Code' and undertake to pay suppliers on time, give clear guidance to suppliers and encourage good practice.

6.3.2. The contract is considered to be of too great a value for small providers to be capable of leading it, but there are opportunities through the use of

subcontractors and the supply chain to reach into the local economy. The Sustainable Procurement Strategy will be reflected in the contract specification to promote the use of local labour, SME's, apprentices. It should be noted of course that TUPE legislation effectively places a limitation on the number of posts within the contractor's ranks that can be advertised locally, because existing staff have rights to transfer to a new employer.

6.3.3 Workforce and supply chain from the local area: where practical, and where TUPE is not precedent, bidders should employ a minimum percentage of local employees, especially within site-based roles.

6.3.4 Apprentices from the local area: bidders will demonstrate their commitment to developing a modern apprenticeship scheme for local residents committing to a minimum every year.

6.3.5 It should be noted that 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. Different operating models will also determine the levels of self-delivery and will potentially impact the use of the local supply chain. A well balanced self-delivery/ outsourced model will be evaluated during the tender process.

6.3.6 Example KPI's to support and ensure the contract supports Procuring for a Better Society (Economic Impact):

- a) Jobs and training opportunities for local people
- b) Use of local suppliers - local supply chain
- c) Apprenticeships - local and commensurate with contract value

#### **6.4 Procuring Fair Delivery**

6.4.1 The tender specification will require the successful bidder to demonstrate how they will comply with Hackney Council's policies and standards in relation to Procuring Fair Delivery.

6.4.2 This will include commitments to inclusion and diversity as well as providing safe and secure workplace environments that enable staff to develop their skills and that contribute to The London Borough of Hackney meeting its own organisational objectives and aspirations through:

- 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;
- 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;
- Learning and development: to promote a learning culture that provides opportunities to equip employees with the skills and knowledge they need to grow their personal development;
- Fulfilling The Public Sector Equality Duty Including Ethical practices such as Fair Trade and corporately mandated commitments to sustainable and ethical procurement practices.

6.4.3 The tender specification will request compliance with the Sustainable Procurement Strategy and all suppliers to the CCS framework are vetted and pre-qualified including the requirement to demonstrate compliance with all UK public sector procurement regulations. This includes but is not limited to compliance with the Modern Slavery Act; formal policies and procedures for grievances and whistleblowing; and for the prevention of corruption, fraud, bribery and exploitation.

6.4.4 Modern Slavery - The CCS framework works with government bodies to deliver an approach to managing modern slavery risk in public sector supply chains. This includes the use of a Modern Slavery Assessment Toolkit to help suppliers identify and manage potential risks in their supply chain and identifying sectors and categories of service where there is a greater risk of modern slavery. The CCS Facilities Management Marketplace RM3830 has been classified as having a 'medium' level of risk and as such suppliers are subject to assessment and risk mitigation measures.

6.4.5 Grievance and Whistleblowing - The tender specification will require bidders to demonstrate that they have formal procedures and policies in place for employees to raise grievances and concerns in confidence and without fear of reprisal. Bidders will also be required to affirm that as an organisation they recognise the importance of Trade Unions and workers rights, and where required will cooperate with Trade Unions in order to maintain good working relationships.

6.4.6 London Living Wage - Bidders will be required to commit to paying the London Living Wage and this commitment will extend to their sub-contractors

and supply chain. As highlighted in section 5.6 (Success Criteria/ Key Drivers/ Indicators) officers intend that the evaluation criteria for this procurement will allocate quality of service delivery a greater precedence and weighting than cost. This recognises not only the importance of quality of service to the Council but also the importance of potential suppliers being able to offer pay and benefits packages that are fair and commensurate with industry benchmarks and allow them to attract and retain competent, committed and well-trained staff.

6.4.7 Example KPI's to support and ensure the contract supports Procuring Fair Delivery:

- a) Demonstrate equality in who is employed to work on the contract (identified equality groups)
- b) Compliance with Modern Slavery Act
- c) Commitment to London Living Wage
- d) Whistleblowing mechanisms

## **6.5 Equality Impact Assessment and Equality Issues**

6.5.1 The impact identified in the Procurement Impact Assessment (PRIMAS) 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 preparation for the business case. This will be monitored during the procurement process for any changes to the level of risk but there is no expectation that this procurement or delivery of the procured services will require a review and/ or change to policies or processes associated with equalities issues.

## **7 PROPOSED PROCUREMENT ARRANGEMENTS**

### **7.1 Procurement Route and EU Implications**

7.1.1. The Crown Commercial Service (CCS) framework has been selected as the most appropriate route. It is Public Contract Regulations 2015 and OJEU/ Find My Tender compliant, offers NEC contracts within its agreements and has a number of options for procurement including Direct Award and Further Competition (Mini Competition), the latter being considered the most appropriate for this procurement.

7.1.2 The CCS framework therefore offers a compliant route to market with a range of appropriate suppliers, providing good competition, and it is expected

that the procurement process can be completed within the restricted time available. The indicative programme is provided in Public Appendix 2.

7.1.3 Crown Commercial Services is the largest public procurement organisation in the UK providing commercial services to the public sector. It has an agreement for the provision of Total Facilities Management (TFM) and offers a range of hard and soft FM services. Crown Commercial Services Framework - Facilities Management Marketplace RM3830 Lot 1b has been selected.

7.1.4 It offers the use of the NEC Term Service Contract which is intended to be used for the appointment of a service supplier. NEC is endorsed for public sector use in the UK Government Construction Strategy as well as by the Facilities Management Board, the British Institute of Facilities Management and the UK Cabinet Office.

7.1.5 An expressions of interest exercise has been conducted and from twenty eight suppliers on the CCS Framework ten Expressions of Interest were received to bid for the contract. All of the bidders that have expressed their interest have experience of managing Hard FM maintenance contracts for public sector organisations. Suppliers on the framework have been contacted directly to ensure they understand the requirements and timescales ahead of expressing their interest in bidding for the contract and there will be further opportunities for direct engagement through the planned bidders day.

7.1.6 CCS have confirmed that regular checks are conducted with all suppliers on their frameworks to ensure their Health & Safety and Insurances are up to date, financials are in order and any professional or statutory accreditations and compliance checks are up to date.

## 7.2 Resources, Project Management and Key Milestones

<b>Key Milestones</b>	
BC Report to CPIC	10th May 2021 - CPIC
Issue Tender to CCS Framework list	8th June 2021
Tender returns	7th July 2021
Tender Evaluation	8th July 21 to 28th July 21
CA Report considered at CPIC	Sept 21 CPIC
Standstill Period	2 weeks - best practice/ not legally required
Mobilisation period	3 months
Start on site / Contract start	22nd Sept 21/ 22nd Dec 21

### **7.3 Contract Documents: Anticipated contract type**

- 7.3.1 It is proposed that the next contract will also be an NEC Term Service Contract and officers are currently undertaking a 'lessons learnt' process and will review the success and suitability of this form of contract in use over the recent contracted period to refine where appropriate.
- 7.3.2 The use of NEC Term Service Contract (TSC) is recommended by the UK Government for all public sector service contracts and is well understood by the sector market. The current 18 month interim contract is an NEC3 TSC and has been road tested and familiarised with by the team.
- 7.3.3 The proposed contract will be a NEC TSC semi-comprehensive contract. This means that an element of the service is priced and paid for as a monthly fixed cost. The contractor provides the defined fixed services for a fixed price and takes on a degree of risk for the assets that they are responsible for maintaining. Only assets listed on the Asset Register appended to the contract are included in the fixed price.
- 7.3.4 The fixed services included in the fixed price are statutory tests and inspections, Planned Preventative Maintenance (in line with an agreed industry standard for maintenance), remedial works and reactive maintenance (below an agreed threshold of spend per issue) and provision of a 24/7/365 Helpdesk.
- 7.3.5 Essentially works below the threshold are covered under the semi-comprehensive element (fixed cost) and works above the threshold require the contractor to submit a quote(s) that must be approved by the client department within the Council and instructed via a contract instruction (Task Order).
- 7.3.6 These quoted works (Task Orders) make up the variable element of the contract cost. Each month the contractor makes an application for payment of the fixed cost plus variable costs. The Council's management team assesses the application and agrees a valuation for payment based on the evidence supplied.
- 7.3.7 Delivery and performance is monitored through a variety of mechanisms set out in the Contract Management section of the report including performance mechanisms such as KPI's and audits. There are mechanisms for adding or



removing assets from the contract and the fixed price varied based on the pricing schedule.

7.3.8 A fundamental principle of this procurement is that should the contractor fail to perform, the Council will be entitled to use an alternative provider.

7.3.9 For capital works, the contractor will be entitled to tender, but has no exclusive right to the work.

#### **7.4 Sub-division of contracts into Lots**

7.4.1 The contract will not be subdivided into separate Lots for this procurement. This could not be considered at this time as the Council does not have the internal management team (ICF - Intelligent Client Function) in place to manage individual contracts. It could be considered as part of the longer term plan once the ICF has been established along with considerations for insourcing through the DLO.

7.4.2 The tender specification will include requirements to support delivery of the Sustainable Procurement Strategy and the Local Economy agenda. This area is covered in more detail in the Procuring for a Better Society section of the report. Whilst the proposed delivery models presented by bidders cannot be preempted here, contracts such as this frequently contain a substantial volume of work delivered through a subcontracted supply chain. This will provide opportunities with the contract requirements to encourage the use of smaller and local businesses.

#### **7.5 Contract Management:**

7.5.1 The awarded 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 Team Manager and the Contract Service Manager. This will be done using the following tools:

- Weekly update meetings;
- Formal monthly, quarterly and annual contract meetings;
- SLA compliance and KPI performance reporting (evidence based);
- Random site checks and records audits;
- Real time CAFM dashboard with bespoke dashboards to meet department requirements;
- Helpdesk monthly performance reporting (generated by the CAFM system);

- Monthly financial reporting of both fixed price element and certified monthly approved task orders;
- Cost consultant (QS) checks on submitted task order quotations for reactive and remedial tasks above the inclusive threshold.

## **7.6 Key Performance Indicators:**

7.6.1 Objective SMART SLA's and KPI's will be developed to assist in the performance of the contract. These will be developed and agreed by both the contractor and LBH so that there is no ambiguity around them; and that process does not become cumbersome or impede the delivery of the contract.

7.6.2 The principal features of the KPI's will be:

- Service performance shortfall will impact on the amount of profit payable in relation to the performance standards set out in the Specification;
- Payments will be based on the level of shortfall. Payment reduction will also occur for failure on legislative or compliance issues;
- The mechanism will be easy for the contractor to self-monitor as they will be required to evidence that they have achieved the required score for the KPI;
- It will provide scope for an innovative approach to maintain and enhance user satisfaction and give the service provider the ability to identify and rectify issues in a timely manner and before the need for deductions arises.

7.6.3 A ratchet mechanism may also be included for ongoing poor performance or non-compliance where there is the ability, if so chosen, to terminate the contract.

7.6.4 KPI's are a recognised feature of modern service contracts, and can add value when written in measurable, and purposeful terms. They not only provide a basis for performance measurement and a lever for incentivisation, but also serve to reinforce a philosophy of working. Crucially, an informed and professional client team and contractor team should always prioritise the upholding of contractual principles and obligations, and in Hackney, officers will seek to build on strong contractual compliance to promote a collaborative culture of working, whereby the client team and the contractor are encouraged to work as one team to bring ever better solutions to the organisation and its end users.

## **8 COMMENTS OF THE GROUP DIRECTOR FINANCE AND CORPORATE RESOURCES**

- 8.1 This report to CPIC recommends the issue of the tender for provision of statutory testing, inspection, repair and maintenance services of operational council buildings to the Crown Commercial Services framework (Hard FM (Facilities Management) Maintenance and Capital works - sub lot 1b). It secondarily asks CPIC to note the Council's planning activity towards a new mixed economy of insourced and externally sourced services, starting with investments in internal staffing of a stabilised maintenance administrative team, and in supporting technical infrastructure.
- 8.2 The procurement strategy as outlined for statutory testing, inspection, repair and maintenance services is supported from the financial perspective, and finance officers are involved in the process to tender award. Public Appendix 3 provides an indicative estimate of spend on the current contract.
- 8.3 The secondary, insourcing item is a work in progress, with any decisions committing us to additional spend to be taken separately as necessary, with the appropriate finance, legal and procurement comments accompanying them.

## **9 VAT Implications on Land & Property Transactions**

- 9.1 Not applicable

## **10 COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES**

- 10.1 Paragraph 2.7.7 of Contract Standing Orders states that all procurements with a risk assessment of "Medium Risk" will be overseen by the Hackney Procurement Board at the Business Case stage. However CSO 2.7.11 gives discretion to the Chair of Hackney Procurement Board to refer any Business Case to Cabinet Procurement & Insourcing Committee for a decision. The Chair of Hackney Procurement Board has confirmed that he is exercising such discretion in respect of this Report and therefore it is being presented to the Cabinet Procurement & Insourcing Committee for approval.
- 10.2 The value of the works in this Report is above the current threshold of £4,551,413 under Regulation 5 of the Public Contracts Regulations 2015. However it will not be necessary to publish an OJEU notice in respect of these works as it is proposed to use the applicable Crown Commercial Services Framework (Hard FM (Facilities Management) Maintenance and Capital works - sub lot 1b) to undertake a mini-competition to award the works contract. It is proposed to award the contract for the performance of

the works to a single contractor. Use of the framework would be subject to the provisions of Regulation 37 of the Public Contracts Regulations 2015 which allow a contracting authority to acquire supplies or services from a centralised purchasing body.

## **11 COMMENTS OF THE PROCUREMENT CATEGORY LEAD**

- 11.1 Several options were considered including bringing the service in-house. The service will be procured under a compliant route to market and the soft market testing stage has indicated that there is sufficient interest in this scheme as 10 suppliers have confirmed their willingness to participate. Based on the significant interest and the continuous assessment of suppliers (under the framework) this option would provide value for money and therefore it is recommended that the CCS Framework is utilised.
- 11.2 Other benefits include that it would be able to be procured quickly allowing more time for mobilisation which is key to ensuring the success of the service. In addition there are clear exit provisions which should enable easier transfer to the planned mixed economy of inhouse and outsourced services. It also supports the policies of social value and carbon reduction.

## **APPENDICES**

Public Appendix 1 - London Borough of Hackney - 2014 Long Term Building Maintenance Strategy

Public Appendix 2 - London Borough of Hackney Hard FM Tender - Programme

Public Appendix 3 - Summary of Indicative Costs

## **EXEMPT**

None

## **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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