

Commissioning and Procurement Sub-Committee – 13 April 2021

Subject:	Building Services and Facilities Management Procurement Requirements 2021-2022		
Corporate Director(s)/ Director(s):	Dave Halstead, Strategic Director for Neighbourhood Services		
Portfolio Holder(s):	Councillor Sally Longford Portfolio Holder for Energy, Environment and Democratic Services		
Report author and contact details:	Ken France Acting Head of Facilities Management Kenneth.france@nottinghamcity.gov.uk Tel: 0115 8765886		
Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Subject to call-in	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Significant impact on communities living or working in two or more wards in the City	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Total value of the decision: Up to £15.750m - Over the duration of the contracts			
Wards affected: City-wide	Date of consultation with Portfolio Holder(s): 15 February 2021		
Relevant Council Plan Key Theme:			
Nottingham People			<input checked="" type="checkbox"/>
Living in Nottingham			<input checked="" type="checkbox"/>
Growing Nottingham			<input checked="" type="checkbox"/>
Respect for Nottingham			<input checked="" type="checkbox"/>
Serving Nottingham Better			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>This report sets out Building Services and Facilities Management (FM) procurement requirements for planned, reactive maintenance and minor works for financial year 2021/22.</p> <p>The Council has a statutory duty to be compliant with all applicable asset legislation in relation to our asset portfolio. This duty is met by carrying out planned, reactive and minor works on its asset portfolio. Whilst works are performed in-house wherever possible, there are occasions where specialist contractors or additional resource is required. This report sets out how those requirements are to be procured to provide a seamless ability to meet the Council's statutory duty.</p> <p>The annual procurement plan for Building Services and Facilities Management needs to award a number of framework agreements and contracts to the value of c£14.150m as set in appendix 1 in conjunction with the Council's procurement team. Additionally £1.6m of the planned maintenance budget in 2021/22 will be spent through internal services and Nottingham City Homes.</p>			
Exempt information:			
State 'None' or complete the following.			
None.			
Recommendation(s):			
1. To grant authority to procure contracts in line with the annual procurement plan as set out in appendix 1 up to the value of £14.150m.			
2. To delegate authority to the Strategic Director for Neighbourhood Services to award the			

contracts procured under Recommendation 1 and to approve all call off arrangements under those contracts over a period of four years 2021/2025 to a maximum of £14.150m as set out in appendix 1.
3. To grant a dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 to make a direct award to Hanovia UV Systems for the sum of £0.048m for the period 2021 to 2025 due to the specialist nature of their asset maintenance and as detailed in appendix 1.
4. To grant a dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 to make a direct award to Aqua Cool Systems for the sum of £0.015m for the period 2021 to 2025 due to the specialist nature of their asset maintenance and as detailed in appendix 1.
5. To grant a dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 to make a direct award to Trend BMS Systems for the sum of £0.045m for the period 2021 to 2025 due to the specialist nature of their asset maintenance and as detailed in appendix 1.
6. To approve the proposed expenditure of at least £1.6m of the £3.4m planned maintenance budget for 2021/22 to be spent on services delivered either through in-house provision or Nottingham City Homes .

1 Reasons for recommendations

- 1.1 There are a number of contracts which the Building Services and Facilities Management department use that are coming to the end of their term in March 2021. The contracts set out in the appendix 1 and require re-procurement to enable Building Services to keep the Council's asset portfolio compliant with regulatory, legislative and insurance obligations. Through the proposed procurement routes the Council can continue to improve efficiency and service of supplier delivery across multiple high risk work streams and improve value for money for Directorates across the Council. Our annual procurement programme has been proven to be the best approach to securing a competent supply chain with the lowest costs possible.
- 1.2 This report details how orders are placed with Contractors through the Council's robust systems. To ensure a smooth and timely process for placing orders it is recommended that the Strategic Director for Neighbourhood Services has delegated authority to approve any contracts and call-offs made under frameworks for their duration. No award will be made without evidence that the budget has been approved for the ordered requirement.
- 1.3 Due to the specialist nature of the asset maintenance requirement provided by Hanovia UV Systems there is considered to be no benefit to the Council to undertake a quotation process as set out at 4.1.1 of the Contract Procedure Rules due to the specialist nature of UV Systems and the lack of alternative services providers within the UK market.
- 1.4 It has been identified that at least £1.6m of the 2021/22 planned maintenance budget can be delivered through a mixture of in-house services and the Council's company, Nottingham City Homes, which is a company meeting the Teckal exemption requirements under procurement legislation. Contracts to such companies are not subject to the procurement requirements as set out in the Contract Procedure Rules but authority is still required to authorise entering into such contracts.

2 Background (including outcomes of consultation)

- 2.1 Building Services and Facilities Management provide a range of asset management services and specifically planned maintenance, reactive, and minor works all with the intention of maintaining the safety and integrity of the Council's property portfolio.
- 2.2 The Council has a statutory duty to maintain and service all equipment within its property portfolio in accordance with current legislation in order for buildings to be safe and compliant for all users. To ensure the management of risk is undertaken by appropriately trained and qualified colleagues in an appropriate manner. This ensures that our citizens and visitors to the city are safe when visiting/using the council's assets.
- 2.3 In addition to having and managing its own determined work programme and budget, the Service also provides a complete building services function to support departments across the Council. Approval for these works will be sought by the budget holders in line with financial regulations. Prior to providing any services to a department Building Services and Facilities Management require evidence that there is an approved budget in place.
- 2.4 In providing a range of services, and delivery against its own requirements it is necessary to use a mix of in-house provision and the use of external contractors, including the Council's own companies where appropriate to do so. The use of external contractors is mainly for the delivery of specialised works and services, or on occasion to meet any resource requirements.
- 2.5 The budget allocated for planned maintenance for 2021/22 is £3.4m of which it is intended that at least £1.6m will be spent internally or through Nottingham City Homes. The remaining c.£1.8m will be spent through external contracts which are either already in place through previous procurement exercises or the newly procured contracts as set out in this report.
- 2.6 Building Services and Facilities Management have successfully been engaging with the Council's Corporate Procurement Team to run tenders to appoint a range of contractors and demonstrating Best Value for the Council.
- 2.7 Building Services and Facilities Management have already undertaken the restructuring of its supply chain, which achieved a £450k pa reduction in costs across the Directorates. We have also insourced multiple work streams e.g. legionella flushing, fire alarm weekly bell testing, asbestos auditing etc. to further gain cost and service delivery efficiencies. All new contracts include a contractual clause to enable further insourcing activity.
- 2.8 The Planned Maintenance programme ensures health and safety issues within the Council's operational portfolio are overseen in a strategic manner. The projects are subject to there being an approved budget in place which is usually the annual budget allocated to Building Services and Facilities Management. All projects undergo and pass the scrutiny and governance of the Strategic Asset Management Corporate Leadership Team (SAM CLT). The statutory planned maintenance programme enables all the statutory checks, inspections, and insurance testing to be completed throughout the operational portfolio and ensure assets are safe to use.
- 2.9 All contracts and orders placed under a framework arrangement are recorded on the Council's Concerto system. This ensures live data and evidence of works undertaken are captured and all certification associated with compliance is stored centrally. It also means that the Strategic Director for Neighbourhood Services has confidence that any order placed not only has evidence that there is a budget in

place but that the order is fully recorded and can be used for any audit purposes. New contracts will continue to require the supplier to utilise our asset management system.

3 Other options considered in making recommendations

- 3.1 Do nothing and allow contracts to end, which will remove statutory, regulatory and legislative compliancy across the Council's portfolio of assets and increase the risk of prosecution and reputational damage to Nottingham City Council. This option was considered unacceptable and rejected.
- 3.2 Insource all of the activity covered by the contract areas under consideration for renewal. Due to the complexity and high risks involved with this task including a lack of competency based skills and training, equipment and specialised resource, it was considered unacceptable and rejected.
- 3.3 Allow Nottingham City Council's directorates to purchase their own asset compliancy services. This is a very high-risk approach to asset safety and compliance across the portfolio and the Council would find it very hard to track actual compliance through our current systems. Such an approach would lead to additional expense and the general safety of the asset compromised. This option was considered unacceptable and rejected.

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

- 4.1 Table 1 below shows the breakdown of the £15.750m. Included in the £3.537m is £1.590m of statutory compliance works. The residual budget being allocated to 'Minor Works' for planned and reactive maintenance across the Nottingham City Council portfolio.

TABLE 1: Analysis of Spend	
	£m
Annual Specialist works Out sourced – (£3.537m x 4 years)	14.150
Proposed expenditure through in-house provision	0.600
Direct Award NCH Minor Works & Reactive Maintenance	1.000
Total Schedule of proposed spend Years 1-4	15.750

- 4.2 Table 2 below shows a breakdown of the £15.750m through an estimated procurement plan provided for further information:

TABLE 2 – Building Services & FM Summary Procurement Plan					
Procurement Ref	Sub-category	Project Title	Whole-life Value £m	Initial Contract Duration	Contract Extension Terms
4405	Safety & Compliance	Asbestos Abatement	1.300	2 Years	1+1 Years
1995	Safety & Compliance	Asbestos Surveys & Analytic Services	0.190	2 Years	1+1 Years
4447	Safety & Compliance	CCTV & Access Control PPM	0.052	2 Years	1+1 Years

2316	Minor Works	Minor Works Framework Agreement	12.000	2 Years	1+1 Years
3298	Minor Works	CHP Services	0.100	2 Years	1+1 Years
	Safety & Compliance	Waste Sump Cleaning & Removal	0.400	2 Years	1+1 Years
	Minor Works/Reactive Maintenance	Direct Award NCH	1.000	2 Years	1+1 Years
	Minor Works/Reactive Maintenance	In-house provision	0.600	2 Years	1+1 Years
3964	Safety & Compliance	Hanovia UV systems R & M	0.048**	2 Years	1+1 Years
	Safety & Compliance	Trend Building Management System	0.045**	2 Years	1+1 Years
	Safety & Compliance	Aqua Cool Gas Fire Supression System	0.015**	2 Years	1+1 Years
TOTAL			15.750		

**Direct award as in main report

All have a direct award period of 4 years 2021–2025.

4.3 Within the allocated budget of £1.590m there is a ring fenced budget of £0.108m that has been identified as a three direct award contracts shown in Table 3 below:

TABLE 3: Direct Contracts	
	£m
Hanovia - maintaining the ultra violet systems in the swimming pools. They are the only supplier nationwide to be able to offer this service.	0.048
Aqua Cool Systems - maintaining NCC gas fire suppression systems	0.015
Trend BMS Systems	0.045
Total Direct Award	0.108

- 4.4 Procurement of maintenance works should adhere to a compliant procurement process ensuring a flexible and responsive offer throughout the supply chain, with an emphasis on value for money, lead times and quality of service.
- 4.5 CLT Sub Group attendees and Heads of Service Ken France and Trevor Bone give no indication of spend on assets being disposed of.
- 4.6 By accessing this procurement route there should be no fixed up-front fee offered to any identified contractors.
- 4.7 The authorisation of this schedule of spend does not guarantee any value to successful contractors, therefore the Council is not committed to any expenditure at this point until a compliant procurement route has been sought.
- 4.8 All necessary checks should be made when accessing the framework to ensure that the services being procured are CIS Compliant and that the companies are

financially stable.

- 4.9 The £15.750m is only an indicative figure of the potential spend and is based on past works in previous financial years.
- 4.10 Nottingham City Council operates within the CIS compliant regulations and is classed as an 'End User' for CIS purposes. As such this should be stated on all our invoices for VAT purposes as of April 2021 onwards.

Meagan Milic – Commercial Finance Business Partner 24/03/2021

4.11 **Chief Finance Officer's Observations on Dispensation**

Dispensation from contract procedure rule 4.1.1 in accordance with financial regulation 3.29 is supported in this instance for operational reasons.

Confirmed with Clive Heaphy (S151) – 24/03/2021

5 Legal and procurement colleague comments (including risk management issues, and including legal, crime and disorder act and procurement implications)

- 5.1 There are no procurement concerns arising from the report. The procurement team will work with the client to ensure compliance with the Council's Contract Procedure Rules and Public Contract Regulations 2015 and to ensure that value for money is achieved.

Sue Oliver – Procurement Category Manager (Places) Date 23/02/2021

- 5.2 This reports sets out a number of recommendations around the contracting arrangements to be put in place for the Building Services and Facilities Management department. In considering each of the recommendations in turn – there are no legal concerns arising from Recommendation 1. The proposal here is to conduct a range of procurement exercises which will result in contracts or the ability to award contracts through frameworks. Subject to a compliant procurement process being undertaken, which will include the provision of contract terms, this recommendation is supported.
- 5.3 Recommendation 2 is simply to provide a smooth mechanism to place orders under the procured contracts, without seeking any further approvals. The delegation is not intended to give any authority to approve budgets for any projects. Client departments will need to provide evidence of approved budgets on an order by order basis, or where orders are placed directly by the Building Services and Facilities Management department to discharge their obligations the budget would have been approved as part of the Council's annual budget setting. In addition to knowing that no order will be placed without a budget being in place, any order placed will have a clear audit trail on the Council's Concerto system providing assurance for the Strategic Director of Neighbourhood Services. Accordingly this recommendation raises no significant legal concerns.
- 5.4 Recommendation 3 seeks a dispensation from the need to conduct a procurement exercise as set out in the Council's Constitution, and specifically the Contract Procedure Rules (CPR). The Council may grant a dispensation for operational reasons under Financial Regulation (3.29). The author has set out why it would not be appropriate to conduct a quotation exercise for this specialist contract. On

the basis that to carry out a procurement is unlikely to provide any additional benefit to the Council on this occasion, the recommendation can be supported.

- 5.5 Finally, Committee is asked to approve a proportion of the Building Services planned maintenance budget to secure provision both from in-house teams and also Nottingham City Homes, a Teckal exempt company wholly owned by the Council. Section 2.6 of the CPR set out the Council's approach to these types of arrangements. With regard to Teckal exempt companies specifically, although there is no obligation to carry out a procurement process as detailed in the CPR there is still an obligation to (1) enter into a contract with the Teckal exempt company; (2) ensure there is approval in place to enter into such contracts; and (3) demonstrate Best Value. This recommendation is intending to seek a blanket approval to contract with NCH, which as long as the other two arms are met, can be supported. In meeting the other two arms it is advised that there is always a clear record that sets out how the proposed contract demonstrates Best Value for the Council and take legal advice with regard to any contractual terms.

Naomi Vass – Senior Solicitor 15 March 2020

6 Strategic Assets and Property colleague comments (for decisions relating to all property assets and associated infrastructure (strategic regeneration committee reports only))

- 6.1 Not applicable

7 Social Value Considerations

- 7.1 Building Services will ensure that chosen suppliers will provide where possible, employment and training and other social value opportunities for Nottingham citizens.

8 Regard to the NHS Constitution

- 8.1 Not applicable

9 Equality Impact Assessment (EIA)

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

No

Yes
Attached as Appendix 2

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

- 10.1 None

11 Published documents referred to in this report

- 11.1 None