

## Report for: **Cabinet**

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<b>Date of Meeting:</b>	18 November 2021
<b>Subject:</b>	Minor Works, Mechanical Works, Electrical Works, Planned Preventative Maintenance and Compliance and Professional Services Frameworks
<b>Key Decision:</b>	Yes - the Corporate Buildings and Schools are located across the whole Borough and the financial expenditure is above the key decision threshold.
<b>Responsible Officer:</b>	Dipti Patel, Corporate Director, Community; Mike Butler - Interim Director Environment
<b>Portfolio Holder:</b>	Councillor Varsha Parmar - Portfolio Holder for Environment and Climate Change and Cllr Natasha Proctor - Portfolio Holder for Finance and Resources
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All
<b>Enclosures:</b>	None

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## Section 1 – Summary and Recommendations

This report sets out proposed framework extensions, framework value increases and procurement of existing and new frameworks essential to delivery of key and statutory compliance works and services within the Facilities Management and Capital Programme Team service areas that form part of the Community Services Directorate.

Cabinet approval was granted in 2018 to enter into various 3-year framework agreements; the Framework Agreements for Minor Works, Electrical Works and Mechanical Works are due to expire on 30 November 2021 with no provision for an extension contained within the Agreements.

Cabinet approval was granted on the 29<sup>th</sup> April 2021 for the re-procurement of the Minor Works Framework and the introduction of a new Framework arrangement for Planned Preventative Maintenance and Compliance (PPM&C) to cover Corporate Buildings and Schools. Since that approval was given, there are proposed changes to improve the whole delivery arrangements for Works and Services.

The uplift in value requested represents the maximum 50% allowable under the Public Contract Regulations 2015 (as amended). It is anticipated that expenditure will be substantially lower, but the maximum is requested to allow a margin of safety for unforeseen expenditure.

### **Recommendations:**

Cabinet is requested to grant approval to:

1. Extend, increase values and re-procure the Authority's Frameworks for Minor Works, Electrical Works, Mechanical Works and Professional Services Frameworks for a period of up to 1 year;
2. Procure a new Planned and Preventative Maintenance and Compliance Framework (PPM&C) to cover the provision of refurbishment and building works to both Corporate Sites and Schools.
3. **Minor Works, Mechanical Works, Electrical Works Frameworks:**
  - (a) Extend current contracts expiring 30 November 2021 on the above-mentioned frameworks by up to 12 months.
  - (b) Increase the current frameworks values by a maximum of £5.6M broken down as Minor Works £1.6m, Mechanical Works £2m, Electrical Works £2m.
  - (c) Commence a re-procurement exercise for all the services at an anticipated value of £28m over a 4-year term.

- (d) Delegate authority to the Corporate Director of Community, following consultation with the Portfolio Holder for Environment and Climate Change, the Portfolio Holder for Finance and Resources and the Director of Finance, to finalise the procurement and make an award of Contract/s following the completion of a compliant procurement process. To note the operational responsibility of the delivery of this process is to the Interim Divisional Director of Environmental Services.

#### **4. Professional Services Framework:**

- (a) Extend current contracts expiring 19 May 2022 on the professional services framework by up to 6 months
- (b) Increase the current framework value by a maximum of £1.5M across all lots.
- (c) Commence a re-procurement exercise for this service at an anticipated value of £3m over a 4-year term.
- (d) Delegate authority to the Corporate Director of Community, following consultation with the Portfolio Holder for Environment and Climate Change, the Portfolio Holder for Finance and Resources and the Director of Finance, to finalise the procurement and make an award of Contract/s following the completion of a compliant procurement process. To note the operational responsibility for the delivery of this process is to the Interim Divisional Director of Environmental Services.

#### **5. Planned and Preventative Maintenance and Compliance Framework:**

- (a) Commence a new procurement exercise for new Planned Preventative Maintenance and Compliance (PPM&C) Framework at an anticipated value of £9m over a 4-year term.
- (b) Delegate authority to the Corporate Director of Community, following consultation with the Portfolio Holder for Environment and Climate Change, the Portfolio Holder for Finance and Resources and the Director of Finance, to finalise the procurement and make an award of Contract/s following the completion of a compliant procurement process. To note operational responsibility for the delivery of this process is to the Interim Divisional Director of Environmental Services. This is a new procurement so there is no expiry date relevant to this contract.

#### **Reason (for the recommendations):**

We do not yet have Governance (Cabinet) approval for the re-procurement of the Electrical Works and Mechanical Works Frameworks.

Whilst we are reviewing the Harrow works framework arrangements it is considered necessary to review the Professional Services Framework that is due to expire on 19 May 2022 and to align all Frameworks to run concurrently.

We must ensure that the Scope of Works / Services between all these frameworks interface and co-ordinate with each other. As an example, some of the PPM&C scope may be “extracted” from the existing scope of works / services contained within the current Minor Works / Electrical Works and Mechanical Works Framework Agreements.

There is insufficient time to review and procure / re-procure these new Framework Agreements before the expiry of the current Framework Agreements. Cabinet approval is sought to extend the existing Framework Agreements to enable service delivery continuity whilst the re-procurement and procurement tenders are developed with an emphasis on ensuring provision for the Councils climate change agenda and our ambition to become carbon neutral by 2030.

## **Section 2 – Report**

### **2. Introductory paragraph**

- 2.1. The Community Directorate is responsible for planned and reactive maintenance and the provision of refurbishment and building works to over 100 corporate sites and community schools, as well as having responsibility for the delivery of the schools’ capital maintenance programme.
- 2.2. Since April 2018, the majority of these works have been delivered via the Minor Works, Mechanical Works and Electrical Works Frameworks, which have provided a mechanism to enable the procurement of schemes to deliver the planned maintenance works, including building and refurbishment works, and reactive maintenance.
- 2.3. Professional support for schemes has been delivered via the Professional Services Framework.
- 2.4. As the existing frameworks are coming to an end, it is proposed to procure five new multi-supplier frameworks at a combined anticipated value of £40m over a 4 year term to facilitate the future procurement of such schemes in a process compliant with procurement rules and the Council’s contract procedure rules, with the flexibility for a direct call-off or mini-competition to maintain price competition and ensure value for money.
- 2.5. The risks of not having dedicated frameworks in place include:
  - Delay in response times to address identified statutory compliance requirements
  - Extended procurement processes for the significant majority of

- planned and reactive work
- Loss of an established set of common standards/expectations that provide the basis for effective performance management for key contractors.

### 3. Options considered

3.1. The options considered were:

(a) **Allow the existing frameworks to expire and tender for each piece of work separately** – This option will leave the Council in the position of having to tender all works, except for the lowest value where a single quote will suffice, on a scheme by scheme basis. This option would prove time consuming, would not prove efficient in terms of officer time required for issuing and evaluating tenders and would likely lead to reduced performance in completing works within acceptable timelines.

(b) **Commence the re-procurement frameworks via competitive tender** – this will replicate the existing arrangements of providing a mechanism for the procurement of sub threshold schemes, providing a flexible and efficient means for the delivery of ongoing maintenance works, both planned and responsive, which is essential in the effective management of the council's estate.

(c) **Extend current frameworks and prepare new and existing framework procurements** – This option will allow sufficient time to plan, improve and align all frameworks to ensure they are proficient in delivering the services and works requirements stated under option (b) and to ensure there is sufficient emphasis / provision to support the Councils climate change agenda and our ambition to become carbon neutral by 2030.

The preferred option is to progress with option (c), with the extension and re-procurement of current frameworks and the new procurement for PPM&C offering the following benefits:

- A quicker route to the market compared to complex and costly tender processes
- Value for money
- The ability to be flexible and responsive to variations in workload
- Reduced response times leading to improved performance and higher client satisfaction rates
- An emphasis on being able to use smaller local suppliers for maintenance and smaller capital works, helping meet our obligations under the Social Value Act 2012 and our own corporate aims.

### 4. Current Situation

4.1. The existing Works Frameworks and Professional Services Frameworks were procured in 2018 & 2019 respectively at a combined value of £15m over a 3-year framework period with 6 providers per framework / lot appointed.

- 4.2. Works and Services are currently awarded through a combination of Direct Awards and Mini Competition amongst appointed providers. Provider quality has been pre-evaluated at framework award enabling Mini Competitions to be awarded faster, primarily based on the lowest price quote that meets the specification and delivery timeline requirements.
- 4.3. The Minor Works Framework used to deliver Capital Programme and FM Reactive works has spent ahead of profile due to the receipt of additional unplanned external funding and therefore the framework value needs to be increased to cover the proposed extension period. Once the framework value is fully expended works including reactive works will need to be awarded via a separate tender process or waiver.
- 4.4. Electrical and Mechanical Works Frameworks are used for a combination of PPM&C, Facilities Management (FM) Reactive and Capital Works. There is contract value remaining that can be used to fund the proposed extension periods. It is considered prudent to seek authority to increase these values as a contingency if and when additional funding / budget is secured. Other contracts are in place with non-framework providers for PPM&C and it is proposed to combine all the contracts within a single multi provider PPM&C Framework.
- 4.5. The Professional Services Framework is divided into 5 lots / disciplines. Lot 2 Building Surveying, Asset Management, Property and related services and Lot 3 Professional Services Measured Surveys have been heavily used and are nearing full expenditure. The remaining Lots have comparably much lower levels of spend. It is considered that the current Lot structure is restrictive and that a review is needed prior to re-procurement to establish a more efficient lot structure and the flexibility to apportion contract value between lots during any new framework term. The Professional Services employed are primarily used to support the works framework schemes.

## **5. Why a Change is Needed**

- 5.1. We must ensure that the Scope of Works / Services between all these frameworks interface and co-ordinate with each other. As an example, some of the PPM&C scope may be “extracted” from the existing scope of works / services contained within the current Minor Works / Electrical Works and Mechanical Works Framework Agreements.
- 5.2. The Council has declared a climate emergency and will secure additional external funding for Public Sector Decarbonisation Schemes over the framework term. These works with a value estimated at £1.5m per annum can also be procured from the frameworks. There will likely be further external funding from other bodies.
- 5.3. Financial spend analysis provision is needed in the proposed new frameworks to ensure there is sufficient contingency contract value that can be quickly “called off” as and when external funds are received without the need for full procurement exercises. This compliant approach will save significant officer time allowing them to focus on improving other areas of the services.

5.4. Financial spend analysis will also make allowance for known future requirements (Stock Condition Survey / Fire Risk Assessments etc) plus reasonable unknowns.

## 6. Risk Management Implications

Risks included on corporate or directorate risk register? Yes

Separate risk register in place? **No**

The relevant risks contained in the register are attached/summarised below.

**N/A**

The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Lack of time to complete the <b>Minor Works, Mechanical Works, Electrical Works</b> tenders	<ul style="list-style-type: none"> <li>▪ Extra resource allocation to ensure tender documents are prepared on time.</li> </ul>	Amber
A full suite of tender documents covering all technical requirements and tender schedules is not prepared	<ul style="list-style-type: none"> <li>▪ Put contract extensions in place to give us enough time to procure to quality and time</li> </ul>	Amber
Frameworks will have expired and works will not be carried out on time and the Council will not have been non-compliant with its statutory obligations	<ul style="list-style-type: none"> <li>▪ Frameworks will be extended for up to 12 months / 30 November 2022 to allow service delivery continuity pending re-procurements completion</li> </ul>	Amber
Dedicated frameworks are not in place for <b>Minor Works, Mechanical Works, Electrical Works</b> resulting in extended procurement processes for the significant majority of planned and reactive work	<ul style="list-style-type: none"> <li>▪ We would request tender waivers and/ or subsequently undergo multiple procurement exercises</li> </ul>	Amber
Loss of an established set of common standards / expectations for effective performance management of key Contractors for the <b>Minor Works, Mechanical</b>	<ul style="list-style-type: none"> <li>▪ Manage and monitor contractors individually including localised agreements for the carrying out of works</li> </ul>	Amber

Risk Description	Mitigations	RAG Status
<b>Works, Electrical Works contract</b>	<ul style="list-style-type: none"> <li>▪ Deploy additional resource to support individual contracts</li> </ul>	
Non-compliant procurement process leading to legal challenge by unsuccessful bidders	<ul style="list-style-type: none"> <li>▪ Procurement team fully engaged to ensure the delivery of a compliant tender process.</li> </ul>	Green
Scope of Works / Services between frameworks do not interface and co-ordinate with each other.	<ul style="list-style-type: none"> <li>▪ Manage the contracts concurrently within a clear and monitored strategic framework</li> </ul>	Amber
Insufficient budget to cover the full scope of statutory requirements for new framework contracts arising from consolidating and interfacing existing contracts	<ul style="list-style-type: none"> <li>▪ Budgets and contract values to be agreed with corporate finance team</li> </ul>	Amber
Value for money not achieved	<ul style="list-style-type: none"> <li>▪ Tender process will require bidders to provide commercial submissions to a definitive specification standard known as SFG20</li> <li>▪ Bidders will be required to submit rates including a discount against the National Schedule of Rates (NSR)</li> <li>▪ Quotes will be required to state NSR codes for consideration by experienced officers</li> <li>▪ Works and Services over a determined value will enact a mini competition amongst providers as further mitigation</li> <li>▪ Tender is split into lots and sub lots where required to allow bids for specific work packages</li> </ul>	Green
Lack of bids for the advertised tenders across the extension period	<ul style="list-style-type: none"> <li>▪ Tender is split into lots and sub lots where required to allow bids for specific work packages</li> </ul>	Green

Risk Description	Mitigations	RAG Status
Lack of interest from local and /or SME companies across the extension period	<ul style="list-style-type: none"> <li>▪ Tender is split into lots and sub lots where required to allow bids for specific work packages</li> <li>▪ SME market is directly engaged through the procurement processes</li> </ul>	Green

## 7. Procurement Implications

- 7.1. The access and use of all of these frameworks can extend to stakeholders across the council and therefore as part of the pre procurement work, the lead commissioner for this procurement will engage with divisions across the council to establish scope in a holistic category approach method. The outcome of this approach is to ensure multiple procurements are not undertaken for the same services across the council.
- 7.2. The procurement strategy to develop these frameworks is to approach the market under the open tender procurement route. Bidders will be required to provide technical and commercial submissions, with all tenders being evaluated for both their technical and commercial suitability in relation to the Authority's Requirements.
- 7.3. The specific evaluation methodology will be determined during the pre-tender stage in which the tender documents, quality questions and weightings will be drafted and agreed by procurement, legal, finance and the service area.
- 7.4. Quality will be evaluated as part of the initial tender process. Where tenderers' submissions do not meet the quality threshold, they will not be awarded a place on the framework. Post award mini competitions will continue to be held between the successful framework contractors, where it is considered appropriate, to ensure best financial value on a project by project basis. These will be evaluated on cost only.

## 8. Legal Implications

- 8.1. The Council as a public body is subject to the Public Contract Regulations 2015 (PCRs), when procuring for works such as those mentioned in this report; also, the initial Framework Agreements under this report that are being extended (Minor Works, Mechanical Works, Electrical Works and Professional Services Framework Agreements) were procured in line with the PCRs. Regulation 72 (1) b of the PCRs allows for modification of a Framework Agreement during its term, without undertaking a new procurement exercise:

- (b) *for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—*
- (ii) *would cause significant inconvenience or substantial duplication of costs for the contracting authority,*

*provided that any increase in price does not exceed 50% of the value of the original contract.*

- 8.2. As set out in this report, the Council is currently not in a position to re-procure these works as a major redesign is required. This will ensure that a more comprehensive tender can be presented to the market which should attract a good variety of contractors. The Council has also declared a major commitment to addressing climate change issues and the works undertaken under these Framework Agreement provides a great opportunity to make changes to how works are delivered which will result in positive/greener outcomes on various public buildings. It is paramount that the Council takes the time now, as it redesigns the services to include climate change priorities and obligations prior to retendering.
- 8.3. For these reasons and others as set out in this report, the Council can demonstrate compliance with regulation 72 (1) b of the PCR in procuring additional works and services under the Framework Agreements being extended. The values of the extensions will not exceed 50 % of the original value of the Framework Agreements.
- 8.4. The procurement exercise to be undertaken prior to the extended period expiring on the Minor Works, Mechanical Works, Electrical Works and Professional Services Framework Agreements and the new procurement exercise to be undertaken for the Planned and Preventative Maintenance and Compliance Framework Agreement will also be subject to the PCRs and the procurement principles of equal treatment, fairness and non-discrimination and the Council's contract procedure rules. Legal services will advise and assist during this process and the proposed contract will be in the form approved by the Legal Services.
- 8.5. There are a number of statutory requirements that set out the Council's responsibilities in ensuring properties are maintained in a safe and appropriate condition and comply with appropriate statutory, regulatory and corporate standards, including, but not limited to:
- The general provisions set out under the Health and Safety at Work Act (HSWA) 1974 which apply relevant health and safety legislation in order to provide for the health, safety and welfare at work of employees, and to ensure that those who are not employees are exposed to health and safety risks.
  - Asbestos Management, as outlined in the Control of Asbestos regulations 2012 Fire Safety, including requirements set out in the Regulatory Reform (Fire Safety) Order 2005 Water Safety, including the control of Legionella as set out in the L8 Code of Practice Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) - Construction Design and Management Regulations 2007

8.6. The Council's Contract Procedure Rules provides that for spend of £500,000 and above is via approval of the Council's Cabinet, which is the approval and authorisation sought under this report.

## **9. Financial Implications**

9.1. The frameworks for Minor Works, Electrical Works, Mechanical Works and Professional Services currently in place are used to deliver planned preventative maintenance and compliance (PPM&C) works, reactive repairs for corporate buildings and schools that are in the Service Level Agreement (SLA), and building improvement works in the approved Capital Programme.

9.2. The revenue budget for funding PPM&C and reactive repairs for corporate sites is £1.28m in 2021/22. Due to ageing building stock, the costs of remedial works following PPM&C and reactive repair requests are forecast to exceed the budget provision and are being reported as part of the monthly budget monitoring process.

9.3. Revenue expenditure incurred on behalf of schools under the SLA is funded from schools' budget. Based on historical spend data, this is around £0.5m per year.

9.4. Contractors in the existing frameworks are used to deliver a number of projects in the current capital programme, including High Priority Planned Maintenance, Parks Infrastructure, School Capital Maintenance Programme and other schemes that require building improvement works. There are also projects added to the capital programme during the year following successful external funding applications. The capital funding for these in 2022/23 is estimated at £5.8m.

9.5. The proposed increase in contract value by a maximum of £5.6m for the existing Electrical, Mechanical and Minor Works frameworks and £1.5m for the Professional Services framework, up to November 2022, is expected to cover both revenue and capital works described above. There will be no guaranteed minimum spend with contractors, all spend is subject to funding availability and securing external grants.

9.6. A framework approach will be taken for the re-procurement of these contracts. Successful bidders will be placed on the relevant frameworks, however there will be no guaranteed minimum spend with them as works will be awarded on a project-by-project basis via mini competitions. All works will be commissioned based on funding availability.

## **10. Equalities implications / Public Sector Equality Duty**

10.1 The proposals described do not adversely impact upon persons within the protected categories.

## **11. Council Priorities**

The decision sought will help the Council meets its priorities as follows:

### **1. Improving the environment and addressing climate change**

The frameworks will play a key role in the delivery of schemes designed to improve the energy efficiency of buildings and contribute towards the Council's decarbonisation strategy.

### **2. Tackling poverty and inequality**

The frameworks will support the maintenance and refurbishment across the corporate estate, ensuring properties remain in a suitable condition to continue to support delivery of services, often to our most vulnerable residents.

### **3. Building homes and infrastructure**

Supports investment in improving the infrastructure across the Corporate Estate and Schools.

### **4. Addressing health and social care inequality**

The frameworks will support the maintenance and refurbishment across the corporate estate, ensuring properties remain in a suitable condition to continue to support delivery of services, often to our most vulnerable residents.

### **5. Thriving Economy**

Direct Small to Medium Enterprise (SME) engagement will ensure use of local suppliers for maintenance and smaller capital works, helping meet our obligations under the Social Value Act and our own corporate aims.

## **Section 3 - Statutory Officer Clearance**

### **Statutory Officer: Dawn Calvert**

Signed by the Chief Financial Officer

Date: 05 November 2021

### **Statutory Officer: Blessing Enejo**

Signed on behalf of the Monitoring Officer

Date: 05 November 2021

### **Chief Officer: Dipti Patel**

Signed by the Corporate Director

Date: 08 November 2021

### **Head of Procurement: Nimesh Mehta**

Signed by the Head of Procurement

Date: 07 November 2021

### **Head of Internal Audit: Neal Burns**

Signed on behalf of the Head of Internal Audit

Date: 05 November 2021

## **Mandatory Checks**

**Ward Councillors notified:** No, as it impacts on all Wards

### **EqIA carried out: No**

The appointment of contractors to a minor works framework does not adversely impact on any of the protected groups. Where works is awarded to a contractor, specific EQIA's will be undertaken on a scheme by scheme basis.

## **Section 4 - Contact Details and Background Papers**

**Contact:** Michael Rourke, Head of Service, Corporate Estates, Capital and Facilities Management. Email:

[Michael.rourke@harrow.gov.uk](mailto:Michael.rourke@harrow.gov.uk)

**Background Papers:** None

**Call-in waived by the Chair of Overview and Scrutiny Committee - NO**