

NOTIFICATION OF DECISION TAKEN – FOR PUBLICATION

PLEASE NOTE: THIS FORM MUST BE HAND DELIVERED TO THE DEMOCRATIC SERVICES TEAM WITHIN 1 WORKING DAY OF THE DECISION BEING TAKEN.

FOR USE WITH ALL PORTFOLIO AND OFFICER KEY DECISIONS

Decision taken by: Cllr. Daniel Anderson, Cabinet Member for Environment

Summary of Decision Taken including reasons

Extension of Contracts for Responsive Maintenance and Minor Works (Non Housing):

Contract One: Building

Contract Two: Mechanical and Electrical

To extend the measured term contract for Building Works held with Kirkman and Jourdain Ltd until 7th April 2018.

To extend the measured term contract for Mechanical and Electrical held with Munn's Ltd until 7th April 2018.

PLEASE SPECIFY CATEGORY OF DECISION: Key

If Key, please quote the Forward Plan reference number: KD 4431

Any alternative options considered and rejected: None

Please refer to paragraph 5 of the main report.

Was the decision made in Part 1 or Part 2? PART 1

Interests Declared in Respect of the Decision (and by who):

N/A

NOTE: This form must be signed and dated by the decision taker(s) – see below:

The date specified will be taken as the date that the decision was made.

Signed



Cabinet Member for Environment

CLLR DANIEL ANDERSON

PLEASE PRINT NAME

Signed



Executive Director - Regeneration & Environment

IAN DAVIS

PLEASE PRINT NAME

Date

29 / 3 / 17

MUNICIPAL YEAR 2017/2018 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION

OF: Cabinet Member for
Environment

REPORT OF:

Executive Director –
Regeneration and
Environment

Agenda – Part: 1

KD Number: 4431

Subject: **Extension of Contracts for
Responsive Maintenance and Minor Works
(Non Housing):**

Contract One: Building

Contract Two: Mechanical and Electrical

Wards: All

Contact officer and telephone number:

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1. EXECUTIVE SUMMARY

- 1.1 This report formalises the medium term strategy for contracts delivering responsive maintenance, planned maintenance and minor works to the Council's non housing property portfolio. This was agreed with Cabinet Member for Environment on 20th June 2016.
- 1.2 The undertaking of these works is necessary in order to ensure that the Council's corporate buildings are maintained in a safe and fit for purpose condition, that they maintain their capital value and the mechanical and electrical services plant and equipment within them are tested and inspected in accordance with associated statutory legislation.
- 1.3 The works are split into two contracts: Contract One for Building Works held by Kirkman and Jourdain Ltd and Contract Two Mechanical and Electrical Services held by Munns Ltd. The contracts commenced on 8th April 2013 for an initial period of two years but with provision for a further three years in increments of one year. Following last year's extension, it is proposed to implement the third and final year's extension until 7th April 2018 when the contracts will terminate.

2. RECOMMENDATIONS

- 2.1 That the Cabinet Member for Environment approves the enactment of the extension provision within the Responsive Maintenance and Minor Works (Non Housing) Contracts as detailed below.
 - 2.1.1 To extend the measured term contract for Building Works held with Kirkman and Jourdain Ltd until 7th April 2018.
 - 2.1.2 To extend the measured term contract for Mechanical and Electrical held with Munn's Ltd until 7th April 2018.

3. BACKGROUND AND CONTRACT EXTENSION

- 3.1 The Council's corporate property portfolio comprises circa 950 properties, excluding schools and social housing. The Council has an obligation to ensure such buildings are maintained in a safe and fit for purpose condition; that they maintain their capital value and the mechanical and electrical services plant and equipment within them are tested and inspected in accordance with associated statutory legislation. In order to do this, the Council undertakes Planned Maintenance, Planned Preventative Maintenance (PPM) and Reactive / responsive Maintenance.
- 3.2 A medium term procurement strategy was agreed at Strategic Procurement Board on 29th September 2011. This sought to consolidate existing contracts, increase competition and thus value for money, and reduce significant resource overheads associated with frequent procurement exercises.
- 3.3 These key objectives were achieved via:
- The separate contracts (east and west of borough) were combined into one contract for both building and mechanical and electrical. Additionally, some elements of cyclical plant servicing were incorporated in the mechanical and electrical contract to extract greater savings.
 - The EU open tendering procedure was held in accordance with the Public Contract Regulations 2006 and attracted over twenty submissions for each contract.
 - The length of contracts was set to enable the Council to explore a Total Facilities Management delivery arrangement (TFM). Previous contracts had been in place for 8 years. A two-year contract with options to extend up to a maximum of 3 years (in one year increments) provided the flexibility required, whilst enabling the Council to secure best value rates of a longer contract.
- 3.4 The measured term contracts were tendered during 2012 and following Cabinet approval on 13th February 2013 were awarded as follows:
- Lot 1 Building Works to Kirkman and Jourdain Ltd in the two-year notional sum of £1,863,166
- Lot 2 Mechanical and Electrical Works to Munns Ltd in the two-year notional sum of £1,791,903
- 3.5 The contracts were let for the initial period of two years commencing 8th April 2013 with an extension clause to permit a further three years in increments of one year (i.e. 5 years maximum overall). Cabinet agreed to delegate to the Cabinet Member for Environment authority to enact

the extension clause or clauses within the contract should that be in the Council's best interest at the time to do so.

- 3.6 The contracts awarded presented good value for money for the Council. This was demonstrated through achieving a significantly greater discount (percentage reduction) on the national schedule of rates for works from that achieved during the previous contract.
- 3.7 The contracts were originally let for a fixed price until 7th April 2015 with the Contractors providing percentage adjustments to the 2012/13 National Schedule of Rates for reactive maintenance works. The National Schedule of Rates is updated (by the publishers) each August, and the contract extension as detailed in the contracts will update the National Schedule of Rates to the 2014/15 edition for the year until 7th April 2016, the 2015/16 edition for the year until 7th April 2017 and 16/17 edition used to 7th April 2018, to allow for inflation. The Contractors' percentage adjustments remain fixed for the entire contract period including any extensions.

The Planned Preventative Maintenance rates are to be adjusted using market indices and a 2.84% uplift has been calculated to add to rates that have applied in 2016 / 17.

- 3.8 Therefore extending existing contracts with the discounted rates achieved against the national schedule of rates continues to represent good value for money for the Council.
- 3.9 Revenue expenditure on the contracts in 2017/18 will be determined by available budgets and demand but are broadly expected to be similar to the previous years plus inflation as detailed in paragraph 6.1.
- 3.10 In discussion with the Cabinet Member for Environment on 20th June 2016, it was agreed to commence a review of what is included in the contract with a view to procure to a new specification for commencement in April 2018. This option will require the final option to extend in the contracts in April 2017 to be exercised.
- 3.11 The review has commenced and a procurement lead appointed. An initial paper was considered by the Procurement and Commissioning Board on 18th January 2017, which considered the scope of options for procurement of facilities management services, including all works covered by these contracts.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The provision of these services could be undertaken via other facilities management type contracts. The timescales to procure such contracts are such that it is not possible in the short term to consider this as an

option. As detailed above the contracts contain a break clause which allows the Council upon 13 weeks' notice to determine the contracts should better opportunities arise for alternative ways to deliver the services.

- 4.2 Both contractors have performed to the standard required. It is important that the Council maintains continuity of service, particularly on reactive maintenance and servicing. There are no issues that preclude the contracts being extended at this point.
- 4.3 Options are being reviewed in consultation with the Procurement Hub, as to determine the package to be procured. These are:
- Measured Term Contract. This option is similar to the existing arrangements but the contracts would be enhanced and expanded in relation to hard facilities management (FM) servicing works.
 - Management contracting or similar.
 - Total Facilities Management (FM). This option could utilise and existing framework or be procured as a standalone exercise.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The Council has a legal obligation to ensure that its corporate buildings are maintained in a safe and fit for purpose condition. The current contracts that undertake this work are due to expire on 7th April 2017. The contracts have a provision to extend for one final year to 2018.
- 5.2 The Corporate Maintenance Term Contract Strategy was agreed with the Cabinet Member for Environment on 20th June 2016. This set out the option of consolidating a range of facilities management contracts into a single contract, which will reduce the resource required to manage a range of contracts and create an opportunity to realise better value for money for the Council.
- 5.3 The Council's Procurement Hub has been engaged to lead on the exercise to ensure replacement contracts are in place for 8th April 2018. The re-procurement process has commenced and delivery options are currently being examined and assessed.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 The responsive maintenance, planned maintenance and minor works to the Council's non-housing property portfolio will be met from the revenue budget provision for repair & maintenance on non-housing

property portfolio, which is funded from the Repairs and Maintenance Reserve - includes the annual R&M budget contributions to the reserve.

The costs of any minor works that meet the definition of capital expenditure will be met from the budget allocation within the Building Improvement Programme or other capital budgets (as per the approved/agreed arrangements).

One Building (Kirkman and Jourdain Ltd)	£178,746	£631,185	£516,591	£442,174	These costs are funded from the Repairs and Maintenance Reserve
Two M&E (Munns Ltd)	£562,801	£530,784	£846,820	£546,801	
There is sufficient funding in the reserve to cover the above estimated cost.					
One Building (Kirkman and Jourdain Ltd)	£264,512	£273,337	£100,722	£212,857	These costs are funded from service/clients directly
Two M&E (Munns Ltd)	£174,181	£208,221	£47,910	£143,438	
One Building (Kirkman and Jourdain Ltd)	£15,964	£65,815	£168,284	£83,354	These costs are funded from Capital Budgets
Two M&E (Munns Ltd)	£6,626	£28,674	£1,855	£12,385	

- 6.1.2 The contracts were let on the basis of a fixed price until 7th April 2015 with the Contractors providing percentage adjustments to the 2012/13 National Schedule of Rates.

The estimated costs of the percentage uplifts have not been included in the estimates above (see paragraph 3.7)

6.2 Legal and Governance Implications

- 6.2.1 The Council has the power under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way. Under Section 2(1) of the Health and Safety at Work etc. Act 1974 the Council owes a duty to ensure the health, safety and welfare at work of all its employees. Section 111 of the Local Government Act 1972, enables local authorities to do anything, which facilitate or are conducive or incidental to the discharge

of their functions. The proposed contract extensions are in accordance with this power.

6.2.2. The client has confirmed that the initial contracts with both Contractors were tendered in accordance with EU Regulations and EU principles of transparency, equal treatment, proportionality and non-discrimination. The initial contracts signed with the Contractors further allowed for the extension of the contract term as proposed in this report. The Council will therefore comply with EU Regulations and the Council's Contract Procedure Rules in carrying out the proposed contract extensions.

6.2.3. Any variation must be in a form approved by the Assistant Director of Legal and Democratic Services.

6.3 Property Implications

The contracts to be extended are fundamental to the Council's delivery of its day-to-day reactive repairs and planned maintenance responsibilities to its corporate portfolio, thus ensuring the continued operation of buildings and the services delivered from them.

However, a longer-term strategy must be implemented over the next year.

7. KEY RISKS

7.1 The key risks relate to:

- 1) Non-performance of the contractors. Should this occur the Council has financial redress within the terms of the contract and as the contracts have no guaranteed workload the Council could place orders for works with other providers. In addition, the contracts contain a break provision upon 13 weeks' notice.
- 2) The failure to undertake repairs and maintenance to its property portfolio leading the closure of buildings and/or unsafe working environments. The extension of these contracts will reduce this risk significantly by maintaining the established provision to undertake such repairs and maintenance.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The extension of these contracts will help ensure that the properties covered by the contracts will be safe for all members of the public and staff to use

8.2 Growth and Sustainability

None directly

8.3 Strong Communities

None directly

9. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is not relevant or proportionate for the extension of this contract.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The contracts include performance management measures, including quarterly meetings, and submission of KPI data. The performance of the contractors has been generally satisfactory. These arrangements will continue. Should either of the contractors' performance become unacceptable there is provision in the contract to terminate it with 13 weeks' notice.

11. HEALTH AND SAFETY IMPLICATIONS

The failure to have in place effective contracts would increase the risk of the Council not fulfilling its legal obligation to maintain its property in a safe condition. The recommended contractors have in place satisfactory health and safety policies and procedures.

12. PUBLIC HEALTH IMPLICATIONS

There are no direct public health implications except the effective maintenance of the Council's buildings through these proposed contracts will contribute to the Council's ability to deliver services to the public and help ensure that the properties covered by the contracts will be safe for all members of the public and staff to use.

Background Papers

None.

