

Delegated Decisions report



21 December 2021

FACILITIES MANAGEMENT CONTRACTED SERVICES

Name of Cabinet Member	Councillor Rob Middleton (Cabinet member for Resources)
Report sponsor	Stuart Proffitt Director - Environment and Property
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Exempt / confidential / not for publication	Annex A
Council Plan reference	Not in Council Plan
Wards affected	All wards

Executive Summary

This decision originally formed part of a delegated decision on 7 December 2021 in respect of the termination of the current Facilities Management (FM) bundled service provision contract and the commencement of a tender and award process for individual service contracts to replace the current bundled services contract.

A specific element of the decision (Contract Cleaning [excluding windows] for portfolio and three specialist sites) was however, deferred to allow more time for discussions with Trade Unions.

These discussions have now taken place and the recommendations are as they were set out in the 7 December 2021 Delegated Decisions report. Sections 2 – 5 of this report are therefore reproduced from the original report (attached at **Annex B**) with relevant minor amends, as appropriate.

1. Decisions to be Made

- 1.1 That the public and press representatives be excluded from the meeting by virtue of Paragraph 3 (Information relating to the Financial or Business Affairs of the Authority) of Part 1 of Schedule 12A of the Local Government Act 1972, in order that the meeting consider **confidential Annex A** to the report.
- 1.2 That the commencement of a tender exercise through the open market for the provision of Contract Cleaning (excluding windows) at portfolio and three specialist sites, be approved.
- 1.3 That the Director - Environment and Property, in consultation with the Director - Finance and Resources, be given delegated authority to award the contracts.

2. Why is the Decision Needed?

- 2.1 In line with previous Delegated Decision reports, we are currently in the termination notice period of the Facilities Management (FM) bundled service provider and therefore the procurement exercise to tender is required to enable service continuity across the corporate landlord portfolio.
- 2.2 The FM bundled services provider has consulted its workforce regarding the cessation of services in line with contractual requirement.
- 2.3 To cover services previously resourced by the FM bundled services provider. The separation of a bundled services provision reduces the risk of any single point of failure.
- 2.4 To provide the Council benefit by having direct control over the supply chain, from on-boarding, quality criteria and risk management. We will appoint vetted suppliers/specialist in their field of speciality.
- 2.5 The provision of services within this document is primarily required to ensure the services, efficiency and health and safety compliance across the portfolio.

3. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	N
Legal	Y	Policies or Council Plan	N
Communication	Y	Procurement	Y
Energy Efficiency	N	Workforce	Y

(a) Financial Implications

This packaging of tenders is anticipated to contribute to the Asset Rationalisation Programme (ARP) savings target as part of the Medium-Term Financial Plan (MTFP), and the expectation is that this procurement will significantly contribute to this, the final value being confirmed once all the tenders and their prices have been evaluated.

(b) Legal Implications

The estimated financial value of Contract Cleaning (excluding windows) at portfolio and three specialist sites exceeds the financial threshold of the Public Procurement Regulations 2015 (the Regulations), as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020, which is currently £189,330.

Consequently, in compliance with the Regulations there is a requirement for the contract opportunities to be advertised via the UK's e-notification service Find a Tender Service (FTS) and a competitive tender exercise to take place unless an alternative route to the market is available. Such alternative maybe the use of a framework created in compliance with the Regulations and permits the Council to use.

The Council's standard Terms and Conditions (over 100K) shall be used if the contract is procured via the FTS. The Terms and Conditions shall form part of the procurement documents published when the contract opportunities are advertised for tender.

However, if an alternative method is pursued, for example the use of a framework the Council shall need to adhere to the terms of the framework agreement and use the terms and conditions of the framework.

To remain compliant with the Regulations and to avoid and/or minimize the risk of legal challenge, the Council shall need to ensure the rules relating to transparency, fairness and the equal treatment of economic operators are adhered to.

(c) Other Implications

(i) Communication

Internal communication will increase during the mobilisation period with the FM team, and we will require a period of intense engagement with the new suppliers in this period. However, we have adequate internal team resource to cope with this. Finance will be required to on-board a new supplier during the mobilisation period. The rest of the council services will continue to communicate with the FM Helpdesk as usual and there will be no change to their communication channels. Considerable communication is required between the FM, Legal and Procurement teams throughout the tender process but existing resources adequately support this.

- (ii) Workforce

TUPE (Transfer of Undertakings (Protection of Employment) Regulations) 2006 will apply on elements of the tender packages (3-Electrical, 4-Reactive, Quoted and Planned, and Statutory Compliance, M&E, 5-Contract Cleaning (excluding windows)). This is being managed by the Council HR colleagues.
- (iii) Procurement

The procurement will have to be carried out in compliance with the Council's Constitution, Contract Procedure Rules, Financial Regulations, and applicable UK Procurement Regulations. Legal Services and Corporate Procurement will continue to provide support and guidance.

The contract will be assessed whether to use a framework or go to open market. The MEAT evaluation of the tender will be evaluated by quality and price, with the criteria being specific to the requirement.

All tenders submitted will be evaluated by a panel comprising the Project Lead (Facilities) and technical specialist(s) appointed. The commissioner of the project will also be invited to evaluate the Quality elements of the tender return. Colleagues within Finance, Legal and Corporate Procurement will be engaged to support the tender process.
- (iv) More for MK

All tenderers will be expected to take up the opportunity to engage with the More for MK initiative, this is reflected in the evaluation criteria with questions on Social Value and Carbon Zero initiatives, these questions cover economic, social, and environmental well-being of the local area and supporting local skills and employment. In addition, all tenderers will be made aware when submitting their pricing that Milton Keynes Council is a Real Living Wage Foundation (LWF), details are clearly set out in the Invitation to Tender documents.

4. Alternatives

4.1 Option 1

To negotiate with the existing provider. As the termination of the current contract has been served, (agreed in previous Delegated Decision) negotiating with the existing exiting contract provider will not deliver the cost savings and other efficiencies that have been identified. For this reason, this is not a recommended option.

4.2 Option 2

Insourcing of services and works:

The option of insourcing the requirements the tender package alongside the other elements of the current contract was considered. Given the specialist nature of the various work types (e.g., Fire protection, Electrical, etc) and the fact that the workload isn't consistent (for multiple disciplines it is sporadic and piecemeal) a direct labour solution isn't viable. Such a solution would not only be cost prohibitive, but it would also incur unnecessary risk, due to the requirement for numerous trade accreditations to be acquired, maintained, and supervised along with direct responsibility for all operative training and Health and Safety welfare. The procurement of third-party suppliers offers a low cost, low risk and flexible solution ensuring delivery by industry specialists.

The option of specifically insourcing the cleaning contract was also considered. Given the number of personnel involved in the delivery, a move to insource would result in an increase in internal overhead, cost, and risk. In addition, the Council would lack the flexibility and resources to react to on-going recruitment issues and believe that this would likely impact upon the service at site level. Handling all materials, chemicals, and the Health and Safety (H&S) of each operative internally would also represent a step change in risk. At this stage the Council also does not have the time to insource this service and would need to extend the existing contract to deliver to facilitate this option. Finally, from benchmarking undertaken, the Council would be unlikely to make efficiency savings offered by large cleaning companies. This option is not recommended at this stage.

4.3 Option 3

Do nothing, this will result in no service provisions across the portfolio and services and building operations will be severely disrupted. Additionally, MKC would be at risk of non-compliance with our landlord's statutory obligations. For this reason, this option has been ruled out.

5. Timetable for Implementation

- 5.1 Approval to proceed with procurement tender - Delegated Decision on 21 December 2021.
- 5.2 Procurement process - October 2021 until March 2022.
- 5.3 Approval to award - March 2022.
- 5.4 Award - April 2022.
- 5.5 Contract start including mobilisation - March to June 2022 (Tender Package 1-4).

5.6 Contract start including mobilisation - April to September 2022 (Tender Package 5).

List of Annexes

- Annex A Financial and Commercial Information (confidential)
- Annex B Delegated Decision report of 7 December 2021
- Annex C Decision sheet in respect of Facilities Management Contracted Services Delegated Decision (7 December 2021)

List of Background Papers

Delegated Decisions, 20 July 2021 - Facilities Management Bundled Services Contract

[Delegated Decisions - 20 July 2021](#)