

NORTH SOMERSET COUNCIL DECISION

DECISION OF: DIRECTOR OF PLACE

WITH ADVICE FROM: SECTION 151 OFFICER, HEAD OF STRATEGIC PROCUREMENT TEAM



DECISION NO: 23/24 DP 108

SUBJECT: EXCEPTION REPORT: APPROVAL FOR THE USE OF AN EXCEPTION TO CONTRACT STANDING ORDERS FOR THE REACTIVE AND PLANNED MAINTENANCE, MINOR WORKS AND COMPLIANCE TESTING SERVICE

KEY DECISION: YES

REASON: THE VALUE OF THE SCHEME IS IN EXCESS OF £500,000

BACKGROUND:

By mutual agreement the existing contract, covering both reactive and planned maintenance, minor works and compliance testing, between the council and Morrisons Facilities Services Ltd, trading as Mears has been terminated.

An agreed termination period has been established with Mears to effect this position and to enable the council to procure alternative suppliers for business continuity and robust service provision on an interim basis whilst detailed procurement assessments are undertaken for the new permanent contract.

The contract covers reactive and planned maintenance, minor works and compliance testing including general construction and mechanical and electrical services and the undertaking of testing and inspections. The contract covers corporate buildings and can also include schools.

The Reactive and Planned Maintenance and Minor Works element of the contract provides a service for the Council as a whole and therefore has cross directorate implications particularly from a budgetary point of view. Whereas the Compliance element of the contract sits within the Projects & Property Service team and has it's own separate budget.

The contract supports the Corporate Plan by aligning with the council's priority of being an open and enabling organisation and has to provide a professional, efficient and effective service.

DECISION:

1. To approve the emergency procurement of John West Contractors Ltd for the provision of R&M and Minor Works, with an estimated value of £1.4m p.a from 14th August 2023 to 31st March 2025.
2. To approve the emergency procurement of the specialist contractors to direct award works up to the total value of £100k p.a for reactive and maintenance works for the period 1st August 2023 to 31st March 2025.
3. To approve the emergency procurement of the specialist contractors to direct award works up to the value of £375k p.a. for compliance testing for the period 1st September 2023 to 31st March 2025.

REASONS:

Introduction

The Council appointed Morrisons Facilities Services Ltd, trading as Mears as the new contractor for the Reactive & Planned Maintenance, Minor Works and Compliance Testing contract following a full tender exercise.

The NEC4 Term Service contract commenced 1st April 2020 and was procured for a 5-year period with the ability to extend for a further 2 years.

The contract comprises of reactive and planned maintenance service, minor works up to the value of £500,000 and compliance testing in accordance with SFG20.

Over the course of the contract Mears' contract performance has not been meeting the required standards. After consultation and reviewing the Council's options, it has been agreed that termination is the most suitable solution. The approval to terminate the contract with Morrisons Facilities Services Ltd trading as Mears has been signed off under decision 23/24 DP38.

Initial market engagements have already identified that separate, R&M and Compliance contracts would be more successful to be able to deliver the services needed. However a full tender exercise, exploring all procurement options, with in-depth market engagement, service and council workshop process requires a suitable amount of time to be undertaken in a robust manner. The temporary arrangement allows continuation of services, removal of a failing contract and ability to properly assess contract options before we enter into a longer term contractual arrangement with a new supplier.

As part of the market engagement, John West Contractors Ltd demonstrated their ability and interest to support the Council with undertaking the R&M and Minor works element of this contract within a suitable mobilisation period.

It is proposed John West Contractors Ltd will supply reactive maintenance services and minor works for projects up to the value of £500k from 14th August 2023 until 31st March 2025.

During this short term arrangement, to reduce costs by removing sub contractor mark up fees, the Council will go direct to the following specialist contractors for repair and maintenance works;

- Avon Armour
- Balmoral
- Intoheat
- Abbey Lifts
- Cool Therm
- Aquablast

Following the initial market engagement, of those we spoke to, there was no interest to undertake the Compliance element of the contract. These services must be delivered to ensure the Council is fulfilling its statutory duties as an employer and landlord. Therefore, it is proposed that we directly appoint the specialist contractors that would normally be subcontracted as part of the wider arrangement. These contractors include;

- Abbey Lifts
- AMS Electrical
- Avon Armour
- Aquablast
- Balmoral
- Cooltherm
- Intoheat
- Kone
- Pro-Heating
- Source Electrical
- Trilec

The appointment of these specialist contractors will provide the Council with a panel of contractors we can go to which will provide a more robust service and mitigates the risk of single point of failure. This arrangement will commence from 1st September 2023.

Workshops and an open competitive tender exercise will be run concurrently to shape the service and secure contractors for the new contracts from 1st April 2025.

Use of Exception

The following exception 6.3.2 applies to this project:

reasons of extreme urgency mean that normal time limits cannot be met, including as a result of unforeseen emergency or disruption to Council services. This may include for example, storm damage to public buildings. Not having sufficient time to tender may not in itself constitute urgency.

The Reactive & Planned Maintenance, Minor Works and Compliance Testing Contract with Mears is terminating on 31st August 2023. This is a critical service and timescales do not

allow enough time to explore fully the future contract options and for a full tender exercise to take place before 1st September 2023.

The Council already has working relationships with the proposed contractors named above and the use of multiple contractors will provide a more robust, localised and fully resourced service.

Contract Management

The contract with John West (Contractors) Ltd will be administered under the clauses within the NEC4 Term Service Contract. The specialist contractors will be administered under each individual supplier's terms and conditions.

Implementation of contract

The implementation of the contract will be managed through the North Somerset Council's Projects & Property Team. The current timescales are to start the John West Contractors Ltd arrangement on 14th August 2023 and the compliance arrangements from the 1st September 2023.

There is now sufficient internal resource to manage the contracts effectively and undertake the contractual assessment going forward. Indeed it is envisaged that with more local, resourced effective contracts in place the call on council officer time will not be an issue for the service. This will of course be kept under review as part of our regular contract liaison and assessment processes.

OPTIONS CONSIDERED:

- Option 1 Enforce the contract with Mears under its current terms.
- Option 2 To continue the contract with Mears under negotiated terms.
- Option 3 Enforce the contract with Mears while a full procurement exercise is undertaken.
- Option 4 Agree to terminate the contract with Mears and enter a short term, up to 2-year, arrangement with alternative Contractors while the council undertakes a full procurement exercise.

It has been agreed to proceed with Option 4.

FINANCIAL IMPLICATIONS:

Costs

Based upon recent contract values and assessment of works during the proposed interim contract period, the R&M and Minor Works costs are not expected to exceed £1.5m p.a..

It is anticipated £1.4m p.a. will be through the John West arrangement, with an estimate of £1m for capital minor works and £400k for R&M revenue works. However, this is a call off contract and task orders will be raised for individual works which will be monitored as part of the contract management.

It is anticipated that the specialist contractor spend will be approx. £100k p.a.

Compliance

The current cost of compliance is approx. £375k. The costs to undertake the compliance testing will be monitored as part of the wider contract management of this service.

Funding

For Reactive and Planned Maintenance, the budgets are dispersed across the Directorates and individual budget holders are responsible for their own areas.

The Compliance Testing budget (DBR323) is held within the Projects and Property team.

The capital budgets for Minor Works are as agreed at the beginning of a project and will have their separate approval process for setting the budget as part of the councils approved capital governance process. No project can be progressed until such time as the necessary board and council approvals have been secured. This ensure budget and spend is managed in a proactive way.

LEGAL POWERS AND IMPLICATIONS:

There is a legal requirement within The Health and Safety at Work Act 1974 that places a duty on employers to ensure, as far as reasonably practicable, the health and safety and welfare of all employees within the work place.

In addition, statutory and regulatory compliance must be carried out in accordance with this duty. As such, North Somerset Council are upholding their obligations by engaging with proficient property compliance maintenance contractors to undertake this requirement on their behalf.

The definitive standard for building maintenance used is SFG20, which guarantees ongoing updates of legislation and regulations to ensure all buildings within the contract are compliant.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Use of Local SME's has a positive impact on Council's Net Zero Approach and by procuring a more local contractor approach ensures both local economic and social value benefit for the communities of North Somerset.

It is proposed that the new permanent contractual arrangement has specific measurable indicators on this area. This will be worked through as we develop the procurement approach and via workshops with services and councillors.

CONSULTATION

Initial engagement has been undertaken with the Strategic Procurement Team who have supported the Projects & Property Team with the market engagement meetings.

Consultation has already been undertaken with the Director of Place and the Director of Corporate Service/S151 Officer.

Wider consultation with service leads by way of workshops is intended for the long term solution to ensure lessons learnt are captured and rectified for any new contract.

RISK MANAGEMENT

Initial risks for each option are provided below.

Risks	Mitigation
Ability to cover all compliance modules	Early market engagement with the specialist contractors already undertaken
Management of Multiple Contracts	Identify clear contract management team
Potential increased revenue costs for compliance	Undertake a gap analysis of our current assets to identify the risk further

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? **Yes**

The EIA did not highlight any risks to particular groups and overall has a positive impact.

CORPORATE IMPLICATIONS

The Reactive and Planned Maintenance and Minor Works element of the contract provides a service for the Council as a whole and therefore has a cross directorate implications particularly from a budgetary point of view. This contract supports the Corporate Plan by aligning with the council's priority of being an open and enabling organisation by providing professional, efficient and effective services.

APPENDICES

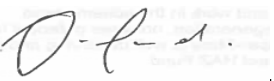
None.

BACKGROUND PAPERS

DP38 Mears Termination Directors

SIGNATORIES:

DECISION MAKER(S):

Signed:  Assistant Director Placemaking and Growth. In accordance with delegated authority 23/24 DP 74

Date: 4 August 2008

Signed:  S151 Officer

Date: 4 August 2023

Signed:  Head of Strategic Procurement

Date: 4 August 2023