

<b>Item No.</b> 15.	<b>Classification:</b> Open	<b>Date:</b> 17 September 2019	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Extension of the Interserve Facilities Management Contract	
<b>Ward(s) or groups affected:</b>		None	
<b>Cabinet Member:</b>		Councillor Kieron Williams, Housing Management and Modernisation	

## **FOREWORD – COUNCILLOR KIERON WILLIAMS, CABINET MEMBER FOR HOUSING MANAGEMENT AND MODERNISATION**

The management of the council's operational estate is currently delivered through a combination of two large external contracts and a mixed model of in-house service delivery across our many buildings. In January 2018 the council agreed to take forward a new approach when these contracts come up for renewal, bring more services in house and procuring a single contract for externally delivered services. To support that decision, this report proposes a 14 month extension of the council's Interserve facilities management contract. This will allow further time to plan to bring some services in house and will also allow both external contracts to end at the same time so the new single contract for externally delivered services can have a single start date.

## **RECOMMENDATIONS**

1. That Cabinet approves the variation to extend the term of the consolidated facilities management (FM) contract with Interserve (Facilities Management) Limited (Interserve FM) for a period of up to 14 months, from 1 February 2020 to 31 March 2021, at an estimated total cost of £11.2m.
2. That Cabinet notes that from the start date 1 February 2013 to 31 March 2021 the estimated total contract value will be £63m.
3. That Cabinet notes that a break clause will be sought as part of the variation to allow for an earlier end to the contract as further detailed in paragraph 10.

## **BACKGROUND INFORMATION**

4. Following a competitive procurement exercise using the Government Procurement Service (GPS) RM798 Framework Agreement, Interserve FM were awarded a contract to provide consolidated facilities management services for the council's headquarters at 160 Tooley Street and other council properties under the contract in October 2012. The initial contract period was for five years, from 1 February 2013 to 31 January 2018, with the option to extend for a further two years until 31 January 2020, this option has been implemented. This report seeks to obtain approval to extend the contract for a further fourteen months to co-terminate the services alongside the Hard FM contract and to allow Corporate Facilities Management (CFM) to conclude the procurement process for the new facilities management contracts, with an estimated start date of 1 April 2021.

5. The current contract provides the following hard and soft services; planned preventative building maintenance, reactive building repairs, compliance to meet statutory regulation, cleaning, security, vending, inter-site mail and pest control to 52 sites; soft FM support to an additional 49 buildings and works projects as required.
6. Whilst the current contract was let with services initially to Tooley Street, the contract allowed additional buildings and services to be added as well as additional project spend; all of which have been approved by earlier gateway 3 reports. From a single property at contract commencement date the contract now provides hard and soft services to 101 properties across the operational estate. Each variation has resulted in increasing the total number of operational buildings included in the contract for the provision of hard and/or soft services. This has resulted in a current spend from 1 February 2013 to 31 March 2019 of £44 million.
7. The contract is split in to fixed costs with the provision for additional works above the threshold of £1,000, reactive works and ad-hoc and temporary ongoing security services. The fixed costs include mechanical and electrical planned preventative maintenance, cleaning, pest control and security.

## **KEY ISSUES FOR CONSIDERATION**

### **Strategy Overview**

8. The nature of the proposed variation is to extend the contract for a period of fourteen months whilst Corporate Facilities Management (CFM) concludes the re-procurement and mobilisation of the new FM contracts. The revised completion date will therefore be latest 31 March 2021.
9. The estimated value of this proposed variation is £11.2m, which, combined with the projected contract spend of £51.8m from 1 February 2013 to 31 January 2020 is estimated to be £63m.
10. The extension is detailed as fourteen months however this is very much up to fourteen months, all reasonable steps will be taken to complete the procurement process and award by January 2021. In the current contract a break clause is included which will allow the council to terminate the agreement (if required) on six months' notice without termination payments being payable. We will enter discussion with the provider to reduce this term, if the re-procurement is delivered earlier than the 31 March 2021.
11. The nature of the services for this additional period will remain the same as those listed in paragraph 5.
12. The reason for seeking a fourteen-month extension is to allow sufficient time to complete the procurement process and to mobilise the new facilities management contracts, estimated to start 1 April 2021.
13. CFM plan to co-terminate this contract with the hard FM contract, currently provided by Kier. This will ensure a smooth transition from the current suppliers to the successful suppliers. Approval to extend the current Kier contract to 31 March 2021 is being sought through a separate Gateway 3 approval.

14. The incumbent providers will have the opportunity to bid for the new contracts as they have both been awarded a place on the Crown Commercial Services (CCS) Framework Agreement (that will be used to re-procure the facilities management contracts). If either of the incumbent providers are successful, there will still be a requirement for the current contracts to co-terminate as CFM are changing their delivery model, by bringing some of their services in house, and by having a separate contract for hard FM and for soft FM.
15. The contract with Interserve is a NEC3 form of contract. It is designed to encourage both the council and the contractor to work in partnership and overcome any difficulties prior to resorting to the contract performance schedules. Early warning notices and risk reduction meetings are used to resolve perceived difficulties in the first instance. This process is available to both sides and is working reasonably well.
16. The contract has a performance management framework including penalty related key performance indicators (KPIs) and contract escalation procedures should the contractor fail to deliver.
17. The current performance of Interserve FM is satisfactory and improving with KPI performance overall currently at 14 of the 19 KPI targets being fully met. Work is ongoing to improve performance.
18. Interserve is required to comply with the requirements of the contract's agreed performance mechanism regime which is:
  - To respond in accordance with the prioritisation of reported service performance failures.
  - To operate procedures and systems to record information in support of performance monitoring and to enable regular robust performance reporting.
  - To monitor the performance of the service and produce monthly performance reports for the employer.

#### **Future proposals for this service**

19. Options and timeline for the procurement and delivery of the new facilities management contracts was included in a separate GW1 report, which included bringing the help desk, pest control and some cleaning services back in-house was approved by Cabinet in December 2018. The recommendations for contract award will be presented to Cabinet via a GW2 report in September 2020, and subject to approval, the new contracts are estimated to commence 31 March 2021.

#### **Alternative options considered**

20. Do Nothing. This service has to continue therefore this is not an option as the services provided by the contractor are required to ensure statutory property compliance and required levels of property service.
21. Let a New Contract. The market would not be interested in a short term contract of up to 14 months.

22. Extension of Existing Contract. As this is a short term extension of a maximum of 14 months and is to allow the procurement of the new service to be completed then there were no alternative options which were considered appropriate.

**Identified risks for the variation**

23. Corporate facilities management are aware of the well publicised financial position that Interserve faced over the last financial year. During this period CFM management put in place additional monitoring and checks. Following their re-financing CFM have found no additional evidence to suggest that Interserve will not have the ability to fulfil this extension but will continue to monitor performance and meet regularly with the account director. A medium risk rating is considered reasonable.

Risk No.	Risk Identified	Risk level	Mitigation
R1	Procurement process for CFM 2020 is delayed	Medium	CFM will control and monitor the process throughout.
R2	Interserve FM cease trading	Medium	1. Use of early warning mechanisms in NEC3 contract, which is applicable to both parties. 2. Contract monitoring. 3. Crown Commercial Services (CCS) would be available to assist the council by novating these services to another supplier on the framework. 4. Credit check carried out on 01/08/19 confirmed current status as secure (scoring 89 out of 100) 5. Regular meetings with Head of CFM and Account Director to monitor identified risk.
R3	Key performance indicators (KPI) performance declines	Medium	Regular monitoring by CFM contracts team.
R4	Extension of the contract challenged	Low	The extension of this contract to allow the conclusion of the procurement for a new contract is allowable under Regulation 72 of the Public Contract Regulations.  There is a clear procurement process underway.

**Policy implications**

24. A key element of the corporate plan that the FM strategy supports is 'transforming public services'. This requires sound resource management of the council's property assets, how they are utilised and their effective and efficient procurement and delivery of FM services are integral to the sound management of the council's property assets.
25. The medium term resources strategy aligns financial priorities with the management of assets and the associated resources with which the council delivers its services. A modern FM service platform and an informed CFM client

function will significantly support the council's medium and long term objectives providing flexibility and opportunities for efficiency savings.

26. The theme of 'valuing the environment' will be increasingly supported through the delivery of an improved FM service delivery platform and effective strategic management of FM. Supported policies include 'Southwark Cleaner Safer' and the 'Sustainable Community Strategy'. Other key corporate objectives are indirectly supported through improving working environments, improving customer facilities and enabling more effective service delivery.

### **Contract management and monitoring**

27. The Head of CFM will continue to be the responsible person for the contract as the service manager. This is supported by the contract management team, technical team, and workplace teams as per paragraph 27.
28. The existing management and monitoring that CFM currently have in place includes:
  - Monitoring budget spend and compiling monthly spend profile reports
  - Checking invoices for accuracy
  - Providing robust single point of contact for end users
  - Proactively responding to complaint and service improvement requests
  - Monthly contractor performance monitoring meetings, six monthly service reviews and the annual performance review
  - Ensuring contractor monthly reports are received in a timely manner.
29. After the award of the new contract the existing contract would continue to be monitored as appropriate, managing the exit strategy and handover of information as appropriate.
30. Performance of the contract will continue to be measured and reported by means of a suite of key performance indicators (KPIs) covering management of the contract and customer services as well as both hard and soft FM service delivery.
31. CFM conduct regular site inspections and visits in order to measure and monitor the quality of the service provided and feedback from end users is actively sought.
32. As the estimated value exceeds the relevant EU threshold, CFM will prepare a six-monthly monitoring report to the relevant DCRB.
33. As the contract also relates to a strategic procurement, CFM will prepare an annual monitoring report to CCRB.

### **Community impact statement**

34. This contract has a direct impact on the occupants of all the buildings covered by this contract, as well as all council staff, service users Southwark residents, visitors and the council's elected members.

35. It will continue to provide a healthy and safe working environment which will seek to ensure that no elements of the council's equality agenda are negatively impacted.

### **Social value considerations**

36. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

### **Economic considerations**

37. Within the contract, Interserve FM has employed three apprentices. All three have now completed their apprenticeship and have been offered permanent roles on the contract. The finance apprentice has since moved onto another organisation and the two building services/maintenance apprentices have recently completed their final year and have chosen to continue to work for Interserve FM.
38. The apprentices attend college one day a week and the remainder of their week is spent gaining knowledge within Tooley Street and the wider estate, working with the static and mobile engineering team to ensure that they are able to demonstrate the skills learnt in the classroom. Interserve FM work closely with the college and apprenticeship schemes meeting frequently with the training officers to review progress and support where needed.
39. The Interserve FM team in Southwark were supported by a graduate between September 2016 and February 2017. They engaged in supporting a KPI review, asset verification, planning PPM tasks, updating their computer aided facilities management (CAFM) system and working with contractors to collate the safe system of work documentation.

### **Social considerations**

40. The contract was tendered on the basis that London Living Wage (LLW) would apply to all contractor staff that work on the contract both directly employed by the contractor and sub contracted to them. A specific LLW service delivery plan was included in the quality evaluation and Interserve FM's commitment to LLW was confirmed through the clarification process both in terms of price and scope. The contractor has continued to undertake ongoing LLW monitoring and reporting arrangements.
41. The council can exclude companies who break the law by blacklisting or have not put into place genuine actions concerning past black listing activities. The council can require "self-cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:
  - "owned up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities.

- “cleaned up”: taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct, and
- “paid up”: paid or undertaken to pay compensation in respect of any damage caused.

42. The council has requested the necessary information from Interserve and they have confirmed that they are not in breach of the requirements under Regulations 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010. The contract conditions also include a condition requiring compliance with legislation (including the Blacklisting Regulations).

### **Environmental/sustainability considerations**

43. Interserve (FM) are required to provide services that support, and do not compromise, the Southwark green building targets, sustainability policy and Fairtrade status.

### **Finance implications**

44. The contract will continue to be funded from existing CFM and departmental budgets and therefore there are no new financial implications arising from the proposed variation to extend the term of the contract for a period of fourteen months to 31 March 2021 as the existing contract will be maintained as is.

45. As noted at paragraph 26 to 32 CFM existing management and monitoring arrangements will remain in place, including specifically:

- Monitoring budget spend and compiling monthly spend profiles, and
- Checking invoicing for accuracy.

46. Based on current activity, the total estimated expenditure over the proposed extension is £11.2m being based on the 2018-19 actual spend figures for the year adjusted for an estimate of inflation.

47. The total forecast contract value up to 31 January 2020 is £51.8m which when combined with the estimated contract extension cost of £11.2m will bring the total estimated contract value at 31 March 2021 to £63m.

48. The contract has a fixed lump sum price Cost Stream 1 (CS1). There are additional cost streams for above and outside of contract spend, these are:

Cost Stream 2A (CS2A) - works above the financial threshold limit (FTL) of £1000

Cost Stream 2B (CS2B) - works outside of the contract scope

Cost Stream 2B (CS2S) – all ad hoc security works/requests

Cost Stream 2C (CS2C) – projects and task orders

The council's anticipated annual expenditure for all cost streams is £9.6m, as detailed below:

- CS 1        £5.7m
- CS 2A      £0.2m
- CS 2B      £0.3m
- CS 2BS    £1.0m
- CS 2C      £2.4M

**Total      £9.6M**

### **Legal implications**

49. Please refer to paragraph 56.

### **Consultation**

50. All internal departmental stakeholders have been consulted.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

51. The report seeks the approval of Cabinet approval to extend the term of the consolidated facilities management (FM) contract with Interserve (Facilities Management) Limited. The variation of the contract is for a period of up to 14 months from 1 February 2020 to 31 March 2021, at an estimated total cost of £11.2m. The existing contract started on 1 February 2013 and with the extension would last until 31 March 2021 and would have an estimated total contract value of £63m.
52. The report sets out in paragraphs 8-16 the background to the extension and the current performance of the contract is set out in paragraphs 17 and 18. The employment of apprenticeships is covered in paragraphs 36 and 37.
53. The report details the contract management and monitoring of the contract in paragraphs 26-32. Paragraph 39 confirms that the contract pays London Living Wage (LLW), whilst blacklisting is dealt with in paragraphs 40 and 41.

### **Director of Law and Democracy**

54. This report seeks the Cabinet's approval to the contract extension for the FM contract with Interserve for a period of up to 14 months, as further detailed in paragraphs 1-3. As the value of the extension is a Strategic Procurement (exceeding £4m) then the decision is reserved to Cabinet, after consideration of the report by CCRB.
55. The original appointment was subject to the full application of the EU procurement regulations, and therefore it is necessary to ensure that any variation or extension to that appointment is permitted under those regulations. Regulation 72 of the Public Contract Regulations 2015 permits modifications to be made to contracts during their term in certain circumstances. This includes at Regulation 72(1)(e) where the modification( irrespective of its value) is not substantial. Having considered the circumstances noted at Regulation 72(8), which notes those modifications which are considered substantial, it is considered that the contract can be extended for this short period under this provision to allow the procurement for this service to be completed. This report sets out at paragraphs 12-14 the reasons and justification for this extension.
56. The Cabinet's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster



good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, relation, religion or belief, sex and sexual orientation, The duty also applies to marriage and civil partnership but only in relation to (a). The Cabinet is specifically referred to the community impact statement at paragraphs 33-34, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

57. Contract Standing Order 2.3 requires that no steps are taken to vary a contract unless the expenditure involved has been approved. Paragraphs 43-47 confirm the financial implications of this variation.

**Strategic Director of Finance and Governance**

58. This report requires comment from the Strategic Director of Finance and Governance due to its value being above relevant European Union thresholds. As the report sets out, the proposed contract extension will be funded from existing departmental budgets within Housing and Modernisation, principally those relating to Corporate Facilities Management. Departmental intentions with regard to the management and procurement of future FM contracts are noted, and are factored into the relevant budget monitoring exercises.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
None	N/A	N/A

**APPENDICES**

No.	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Kieron Williams, Housing Management and Modernisation	
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
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Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
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