

Item No.	Classification: Open	Date: 18 May 2020	Meeting Name: Strategic Director of Housing and Modernisation
Report title:		Gateway 3 – Variation Decision Inclusion of hard FM services into the Interserve Facilities Management contract	
Ward(s) or groups affected:		All	
From:		Head of Corporate Facilities	

RECOMMENDATION(S)

1. That the Strategic Director of Housing and Modernisation approves the variation to the consolidated facilities management (FM) contract with Interserve (Facilities Management) Limited (Interserve FM) to include an additional 43 buildings for hard services and the corporate compliance programme from 14 June 2020 to 31 March 2021 at an estimated maximum value of £900k.

BACKGROUND INFORMATION

2. Following a competitive procurement exercise using the Government Procurement Service (GPS) RM1056 Solutions Framework, a contract was awarded to Kier Facilities Services Limited otherwise known as Kier FM in March 2016 for the estimated sum of £32m (£8m annually) over 4 years, to provide consolidated HFM services across the non-housing estate. The contract started on 14 June 2016 for a contract period of 4 years with an option to extend for a further 2 years. Whilst approval was obtained from the Cabinet Member for Housing Management and Housing on 23 August 2019 to extend the contract for a period of ten months to co-terminate the services alongside the Interserve contract and to allow mobilisation of the new FM services, however Kier have recently confirmed their reluctance to provide the services post 13 June 2020.
3. The current contract with Kier provides the following integrated hard FM services to a total of 43 properties across the non-housing estate:
 - Planned preventative building maintenance, primarily routine and scheduled maintenance activity to building services and fabric
 - Reactive building repairs and maintenance, e.g. repairs to building failure such as broken glass, door furniture etc.
 - Compliance with statutory regulation to meet all statutory and regulatory requirements relating to the building's fabric, plant and equipment
 - Maintenance of building related mechanical equipment to maintain all such equipment in good working order
 - Provision of spares and consumables to include lighting tubes, plant lubricants, engineering parts, etc.
4. The current contract allows for project works i.e. refurbishment and alterations consisting of works above £10,000 and up to £450,000 required by the council to alter or improve the working environment which fall outside the repairs and maintenance regime. Kier also deliver the corporate compliance programme (CCP) to properties that are currently being supported by Interserve Facilities Management. The programme consists: fire risk assessments, water risk assessments, asbestos inspections, display of energy certificates, period electrical inspection and testing

and F-Gas Regulation works. Additional works Task Orders have been raised at a further 39 non-residential sites where departments use various elements of the corporate compliance and planned preventative maintenance programmes. Kier FM also provide a 24/7 365-day help desk where all requests for FM related services including Interserve's are logged, monitored and subsequent work orders issued.

5. As noted in paragraph 2, the intention was that the contract with Kier would be extended from 14 June 2020 to 31 March 2021. This would align the Consolidated Facilities Management Services (TSFM) Contract with Interserve Facilities Management Ltd. Aligning the contracts would also assist with the transition to the new FM procurement arrangement.
6. However, despite originally agreeing to the proposed extension Kier have since changed their approach and indicated that they would wish for the contract to expire (and not be extended) on 13 June 2020
7. Contractually the council has the right to extend the contract, but operationally it would be difficult to work with a contractor who was not willing to provide a service, the council has therefore agreed not to extend the contract and to seek approval through this report for the services noted in paragraph 4 to be provided as part of the Interserve FM contract.
8. By ending the contract in June 2020, planned and reactive maintenance will transfer to Interserve (subject to approval). Works will be arranged using a task order approach, thereby reducing the previous years contracted cost.

Kier Contracted Services	
Service	Transferring To:
Compliance Risk Assessment Programme, Planned and Reactive Maintenance	Interserve
<i>FM Help Desk</i>	<i>Insourced to CFM</i>

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

9. The intention is that the services listed in paragraph 4, which are currently provided by Kier will transfer to Interserve for this additional 10-month period until the new FM arrangement are in place.

Reasons for Variation

10. The services provided by Kier are critical to the council and ensure that 43 operational buildings are maintained and remain compliant. Interserve are already providing FM services to 51 council buildings, and are best placed to be able to provide these services in this interim period until the FM procurement can be concluded.
11. The current performance of Interserve FM continues to improve with KPI performance currently performing satisfactorily with 18 of the 19 KPI targets being met within at least 5% of their target percentage.

Future Proposals for this Service

12. Options and timeline for the procurement and delivery of the new facilities management contracts was included in a separate GW1 report, approved by Cabinet in December 2018. The recommendations for contract award are due to be presented to Cabinet in early 2021, and subject to approval, the new arrangements will be in place to commence from 01 April 2021.
13. Currently there is uncertainty surrounding the number of buildings that are open or re-opening across the operational estate due to Covid-19. This may result in a further delay to the CFM procurement project if so, this will be subject to a separate report.

Alternative Options Considered

14. Do nothing: 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.
15. Extension of Existing Contract: The council could insist on the contract extension under current terms, this is not an option as the performance of the contractor is challenging.
16. Let a New Contract: The market would not be interested in a short term contract of up to 10 months.

Identified risks for the Variation

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 cease trading, goes into administration or liquidation.	Medium	<p>CFM are aware of the well-publicised financial position that Interserve faced over the last financial year. During this period CFM management have put in place additional monitoring and checks. Following Interserve's re-financing CFM have found no additional evidence to suggest that Interserve will not have the ability to undertake this additional work. CFM will continue to monitor performance and meet regularly with the account director.</p> <p>CFM are satisfied that the company are performing in line or better than expected, as recently highlighted by their winning and delivering a new Nightingale hospital in Birmingham during the C-19 crisis</p> <p>A medium risk rating is therefore considered reasonable.</p>

R3	Key performance indicators (KPI) performance declines.	Medium	Regular monitoring by CFM contracts team.
R4	Covid 19 risks	Medium	Despite covid-19 they are continuing to provide an effective services and will be supported by additional engineers (through TUPE) once the service is transferred to them
R5	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

17. 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.
18. 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.
19. 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

20. Interserve are required to comply with the requirements of the contract's agreed performance mechanism, and have agreed this will apply to the services being transferred to it, 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.
21. The Head of CFM will continue to be the responsible person for the transferred contract as the service manager, supported by the contract management, technical

and FM operational teams, who also carry out post work inspections and meet monthly with the provider to discuss performance.

22. The existing management and monitoring that are currently 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.

23. 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 including both hard and soft FM service delivery.

24. 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.

25. As the estimated value exceeds the relevant EU threshold, CFM will prepare contract monitoring reports in accordance with the requirements of contract standing orders.

Community Impact Statement

26. 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.

27. 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

28. 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 are set out in the following paragraphs in relation to the commitments to be delivered under the proposed variation.

Economic considerations

29. Within the contract, Interserve FM has previously employed three apprentices. All three have now completed their apprenticeship and were 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.

30. The apprentices attended college one day a week and the remainder of their week was spent gaining knowledge within Tooley Street and the wider estate, working with the static and mobile engineering team allowing them to demonstrate the skills learnt in the classroom. Interserve FM worked closely with the college and apprenticeship

schemes meeting frequently with the training officers to review progress and support where needed.

31. As this variation is for a period of 10 months it is not appropriate to include any further requirements other than those already required as part of the main agreement.

Social considerations

32. The Interserve 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. This will apply to any additional services included within the contract. Interserve has continued to undertake ongoing LLW monitoring and reporting arrangements.

33. 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.

34. The relevant provisions relating to blacklisting are already included within the Interserve contract which will apply to this variation.

Environmental/Sustainability considerations

35. Interserve are required to provide services that support, and do not compromise, Southwark’s green building targets, sustainability policy and Fairtrade status.

Financial Implications

36. The variation to the Interserve to accommodate the transfer of services previously provided under the Kier contract will be funded as before from existing CFM and departmental budgets and therefore no additional financial pressures are anticipated for the ten-month period to 31 March 2021.

37. Based on the existing cost of providing preventative maintenance including compliance assessments and reactive maintenance, the value of the variation is not expected to exceed £900k. This figure builds in an allowance for inflation, contingency and assumes business as usual activity for the whole period of the variation. It is also anticipated that there will be a considerable reduction to the previously charged management and administration costs as a result of Interserve extending their current arrangements.

38. The current lockdown due to Covid 19 has seen a fall off in both reactive and planned maintenance activity which if it continues for a number of weeks/ months beyond the variation start date of 14 June 2020 will inevitably reduce the cost of the variation as

services to the 43 sites are unlikely to recommence until lockdown is substantially over. Minimum statutory maintenance will be controlled by CFM through the raising of task orders as opposed to a prior agreed planned undertaking.

39. Additionally, no additional project work is expected to be requested or delivered as a result of this variation or included in the estimated value of the variation.

40. The cost of the helpdesk service transferring in house is also expected to be contained within budget until 31 March 2021.

41. As noted at paragraph 18 the 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

42. The total value of the contract with Interserve over the proposed period of the variation is estimated to increase to £ 10.6m

Investment Implications (Housing Contracts only)

43. N/A

Legal Implications

44. Please see the comments from the director of law and democracy in paragraph 52.

Consultation

45. All internal departmental stakeholders have been consulted.

Other implications or issues

46. N/A

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (HM 20/012)

47. This report recommends that the Strategic Director of Housing and Modernisation approve a variation to the consolidated facilities management contract with Interserve (Facilities Management) Limited for the provision of hard FM services and compliance programme for an additional 43 council buildings (formerly part of the Kier contract). The contract variation will run from 14 June 2020 to 31 March 2021 at an estimated maximum value of £900k, which can be contained within the existing budget provision.

Head of Procurement

48. This report seeks the approval of the Strategic Director of Housing and Modernisation for the variation to the consolidated facilities management (FM) contract with Interserve (Facilities Management) Limited. The variation includes in

the contract an additional 43 buildings for hard services and the corporate compliance programme and will cover the period from 14 June 2020 to 31 March 2021 at an estimated maximum value of £900k.

49. The current contract is performing well (para.11), with progress in place to retender for new Facilities Management contracts subject to separate gateway reports, although there remains risk around the timescales for this due to the pandemic as detailed in paragraphs 12-13 and the risk table in paragraph 16.
50. The arrangements for the monitoring and management of the contract are set out in paragraphs 20-25. London Living Wage is paid under the contract as set out in paragraph 32 but no additional apprenticeships are possible due to the value and relatively short 10month duration of this extension.

Director of Law and Democracy

51. This report seeks the approval of the Strategic Director of Housing and Modernisation to the variation of the FM contract with Interserve to include additional services, as further detailed in paragraph 1. As the decision falls within the category noted in contract standing order 6.6.3(e) the decision should be taken by the relevant chief officer or under their delegated authority in line with the department's scheme of management.
52. As the value of the additional services exceeds the EU threshold for services, they are subject to the tendering requirements of the Public Contract Regulations 2015 (PCR15) and it is therefore necessary to ensure that any variation to the contract is permitted within those Regulations. Regulation 72 of the PCR 15 permits modifications to be made to contracts during their term, in certain circumstances. This includes at Regulation 72(1)(e) where the modification 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 varied for this short period under this provision to allow the procurement for this service to be undertaken. This report sets out at paragraphs 5-7 and 10-11 the reasons and justification for this variation.
53. The Strategic Director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, which requires public bodies to have regard, when making decisions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The Strategic Director is specifically referred to the community impact statement at paragraphs 26-27, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendation in this report.
54. Contract Standing Order 2.3 requires that no steps are taken to vary a contract unless the expenditure involved has been approved. Paragraphs 36-43 confirm the financial implications of this variation.

Director of Exchequer (for housing contracts only)

55. N/A

Director of Education (for schools contracts only)

56. N/A

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature Date.....

Designation

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)
As set out in the recommendations of the report.

2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

I declare that I was informed of the conflicts of interests set out in Part B4.*

(* - Please delete as appropriate)

BACKGROUND PAPERS

Background Papers	Held At	Contact
Title of document(s)	Title of department / unit Address	Name Phone number
Link: (Insert hyperlink here)		
Title of document(s)	Title of department / unit Address	Name Phone number
Link: (Insert hyperlink here)		

APPENDICES

No	Title
Appendix 1	Insert title of document
Appendix 2	Insert title of document
Appendix 3	Insert title of document
Appendix 4	Insert title of document
Appendix 5	Insert title of document
Appendix 6	Insert title of document

AUDIT TRAIL

Lead Officer	Paul Symington, Head of Corporate Facilities Management	
Report Author	Paul Symington, Head of Corporate Facilities Management	
Version	Final	
Dated	18 May 2020	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	N/A	N/A
Cabinet Member	N/A	N/A
Contract Review Boards		

Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	Yes	Yes
Date final report sent to Constitutional/Community Councils/Scrutiny Team	Date/Month/Year e.g. 18 May 2020	

BACKGROUND DOCUMENT – CONTRACTS REGISTER UPDATE FORM – GATEWAY 3

Details	Original	Extension 1	Extension 2
Contract Name			
Contract Description			
Contract Type			
Fixed Price or Call Off			
Lead Contract Officer (name)			
Lead Contract Officer (phone number)			
Department			
Division			
Procurement Route			
EU CPV Code (if appropriate)			
Departmental/Corporate			
Supplier(s) Name(s)			
Contract Total Value			
Contract Annual Value			
Contract Start Date			
Initial Term End Date			
No. of Remaining Contract Extensions			
Contract Review Date			
Revised End Date			
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)			
Comments			
London Living Wage			

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.