

Report to Cabinet

17 July 2024

Subject:	Renewal of Water Hygiene Services Contract
Cabinet Member:	Cabinet Member for Regeneration and Infrastructure. Councillor Peter Hughes
Director:	Executive Director – Place Alan Lunt
Key Decision:	Yes
Contact Officer:	Assistant Director – Property, Strategic Assets and Land Luke Dove Principal Building Services Engineer – David Webb,

1 Recommendations

- 1.1 That approval be given to extend the current Water Hygiene Services contract until March 31, 2025, and delegate authority to the Assistant Director - Legal and Assurance to enter into or execute any documentation to effect the extension;
- 1.2 That approval be given to commence a procurement exercise for new Water Hygiene Services arrangements from April 1, 2025.
- 1.3 That subject to the successful completion of the procurement exercise described in 1.2, delegated authority to be given to the Executive Director – Place and the Executive Director – Finance and transformation, in consultation with the Cabinet Member Regeneration and Infrastructure, to accept tenders following the completion of the procurement exercise and award a contract to the successful tenderer(s) for the term set out below:-



The term of the new Water Hygiene contract will be 4 years with an option to extend for a further 1 year to commence on 1st April 2025. The estimated value of services, required by the Council for the new Water Hygiene contracts and will consist of 2 lots., is as follows:

- a. Water Hygiene Consultancy (Lot 1) - £300k over 4-year contract period.
- b. Water Hygiene Monitoring (Lot 2) - £2.5m over 4-year contract period.

- 1.4 That subject to 1.3 above, the Assistant Director - Legal and Assurance be authorised to enter or execute under seal any documentation in relation to the award of the Water Hygiene Services contracts and/or other agreements, in consultation with the Executive Director – Place and the Executive Director - Finance and Transformation as may be deemed necessary, to give effect to the proposals.



2 Reasons for Recommendations

- 2.1 The Council has a statutory health and safety responsibility to manage the risks to employees and service users, associated with Legionella bacteria in water systems of council buildings. This requires that both water systems and the use of buildings are regularly reviewed and monitored, and that any identified remedial actions implemented to reduce the risk of Legionella bacteria proliferation.
- 2.2 The Council's current Water Hygiene contracts are due to end on the December 31, 2024, and there is a requirement for the continuity of this service, regardless of contractual arrangements. The operational management of Water Hygiene services are aligned with the Council's financial year. An extension to current arrangements until March 31, 2025, would allow the alignment of the service with the Council's financial year, going forward. This will bring benefits associated with reduced administration and improved budget management.
- 2.3 The term of the new Water Hygiene contract will be 4 years with an option to extend for a further 1 year to commence on 1st April 2025. The estimated value of services, required by the Council for the new Water Hygiene contracts and will consist of 2 lots., is as follows:
- a. Water Hygiene Consultancy (Lot 1) - £300k over 4-year contract period.
 - b. Water Hygiene Monitoring (Lot 2) - £2.5m over 4-year contract period.



- 2.4 An procurement exercise under the open procedure has commenced with a programme for the new arrangements to commence on April 1, 2025. The procurement exercise will be in full compliance with the Public Contracts Regulations 2015 and assessed in accordance with the social value tool kit and community wealth building principles.
- 2.5 Delegated authority will be given to the Executive Director – Place and the Executive Director – Finance and transformation, in consultation with the Cabinet Member, Regeneration and Infrastructure to award these contracts upon completion of tender evaluation during November 2024. This will ensure that the mandatory standstill requirements are observed, and that sufficient time is available for contractors to comply with any potential TUPE requirements (between private contractors, not of council employees). Furthermore, it will allow for an appropriate mobilisation period to be implemented ahead of the new arrangements commencing.

3 How does this deliver objectives of the Corporate Plan?

	<p>The Best Start in Life for Children and Young People.</p> <p>The award of this contract will enable the Council to ensure that all public buildings and schools are compliant with statutory requirements, operational and safe, and that essential services can be delivered.</p>
	<p>People Live Well and Age Well.</p> <p>The award of this contract will enable the Council to ensure that all public buildings and schools are compliant with statutory requirements, operational and safe, and that essential services can be delivered.</p>

4 Context and Key Issues

- 4.1 Strategic Assets & Land Services are responsible for the design and maintenance of services to over 200 major sites comprising Schools, Public Libraries, Sports Facilities, Community Centres, Day Centres, Youth Centres, Office Accommodation and Public Open Spaces. Housing Services are similarly responsible for the maintenance of landlord services to residential properties such as high-rise blocks and sheltered housing schemes, and offices and depots. Included within this



responsibility is the management of Water Hygiene which includes the risks associated with Legionella.

4.2 As part of routine customer satisfaction monitoring, consultation has been undertaken with stakeholders and they are in agreement with this course of action.

4.3 There are no anticipated changes to current legislation, however, the proposals will further embed current operational arrangements. It is anticipated that, going forward, this will improve the efficiency and effectiveness of the management of Water Hygiene Services and give the council greater control over the operation and performance of the Contractors.

4.4 There has been no scrutiny involvement.

5 Alternative Options

5.1 If a new contract is not procured then the council will not have the ability to carry out its statutory duties with regards to on-going property related statutory compliance works, including day to day reactive maintenance requirements.

5.2 The current arrangements have been reviewed, and this included consideration of a direct call off from an existing national framework. However, it was considered that a bespoke procurement in compliance with the Public Contracts Regulations 2015, aligned with current requirements will be the most economically advantageous solution.

6 Implications

Resources:	The proposed contract value of £2.8 million (£700,000 per annum) for Sandwell MBC, for the provision of Water Hygiene Services is included within the Property Maintenance Account, the Schools Repairs Accounts and Housing Revenue Account.
Legal and Governance:	We are advised that the tendering process will be fully supported by colleagues within Procurement.
	Extension of the current Water Hygiene contract(s) until 31 March 2025



We are advised that, for the initial term of the call-off contracts, the value for Lot 1 (Water Hygiene Consultancy) is £1.74m and for Lot 2 (Water Hygiene Monitoring) is £12m, and that any extension for a further three (3) months are valued at £65,000 for Lot 1 and £400,000 for Lot 2.

The variation of the call-off contract(s) should be in accordance with the Public Contracts Regulations 2015 (PCR 2015) and the Council's Contract Procedure Rules (CPR).

Regulation 72 PCR 2015 regulates variations to concluded public contracts. It provides for six (6) grounds under which variations can be made without the need to follow a fresh procurement procedure. CPR 14 reflects Reg. 72 PCR 2015 and provides for six (6) permitted circumstances where variations are permitted to existing contracts.

Any extension to an existing contract, must satisfy one of the six (6) grounds.

Where any extension does not satisfy one of the six (6) grounds under PCR 2015, or if there is a risk that a variation is not permitted under the PCR 2015, officers may wish to consider whether it is possible to justify not advertising and therefore re-tendering because one of the exceptions that allows the use of the negotiated procedure without prior publication of contract notice applies (Reg.32 PCR 2015). Any grounds under Reg.32 PCR 2015 are narrowly construed by the courts.

Procurement and contract award of new Water Hygiene contract(s) commencing 01 April 2025

Procurements regulated by PCR 2015 must use one of the procurement procedures as set out in Section 3, PCR 2015. The Open Procedure is one of the procedures through which a contracting authority may



	<p>award a contract under PCR 2015. This procedure does not include a pre-qualification stage and allows any interested party to submit a tender for the contract.</p> <p>In terms of the conduct of the procurement exercise and contract award, and the Council's internal governance, CPRs 8, 9, 10, 11 and 16 apply. On appointment of a successful tenderer, or tenderers, CPR 16.2(c) requires that contracts of £250,001 or above must be in writing and be signed by the Monitoring Officer or by the Chief Executive and a Legal Services Manager or sealed with the common seal of the Council.</p> <p>Legal services, where instructed, will advise and assist officers with regard to the contractual arrangements for the new contract.</p> <p>Legal services, where instructed, will advise and assist officers with regard to the contractual arrangements for any variation/extension.</p>
Risk:	The approval of the recommendations will assist in the mitigation of the risk included in the directorate risk register re statutory compliance (non-asbestos).
Equality:	An Equality Impact Assessment was not undertaken as this is a renewal of an existing contractual arrangement. The contract will be monitored to ensure compliance.
Health and Wellbeing:	The award of the Water Hygiene Services contracts will enable the Council to fulfil the statutory and regulatory health and safety compliance requirements aligned with maintaining water services in buildings.
Social Value:	Social Value and Community Wealth building commitments will be included within the tender evaluation criteria to ensure the successful contractor(s) complies with locally and nationally recognised standards and contributes to the council's Vision 2030 ambitions.
Climate Change:	There are no direct climate change implications associated with the recommendations in this report,



	however the proposals will ensure hot and cold-water systems are operating effectively and efficiently, minimising energy requirements and wastage of water.
Corporate Parenting:	N/A

7. Appendices

None

8. Background Papers

None

