

Subject:	Provision of the Building Maintenance Consultancy Services Contract for Education & Social Care Premises		
Date of Meeting:	19th April 2012		
Report of:	Strategic Director, Resources		
Lead Cabinet Member:	Cabinet Member for Finance & Central Services		
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Key Decision:	Yes	Forward Plan No: 27882	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Council currently has a contract with NPS South East Ltd ('NPS') for NPS to deliver building maintenance consultancy services for the Council's education and social care property portfolios (the 'Contract'). The Contract expires on 31 August 2012. This report contains a recommendation to bring the services provided under the Contract in house but also explores the options of re-procuring these services (in whole or in part) from an external consultant.

2. RECOMMENDATIONS:

- 2.1 That Cabinet authorises the Strategic Director, Resources to bring the provision of the building maintenance consultancy services for education & social care premises in house at the expiry of the Contract with NPS. The advantages of this service provision approach are set out at paragraph 3.8 in the report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Contract was awarded to NPS on 1st September 2005 for a period of five years following an OJEU procurement exercise. This was subsequently extended by a further two years as allowed by the Contract resulting in an expiry date of 31st August 2012.

Prior to that the consultancy services were provided by Owen Williams Consultants through a contract originally procured by East Sussex County Council prior to the properties, and the contract, transferring to Brighton & Hove City Council in 1997.

3.2 Under the Contract NPS provides services to the following buildings:

- Approximately 70 schools,
- 45 education related premises including caretakers houses & youth centres &
- 60 social care premises including residential homes, day centres and offices

3.3 Existing Contract Services Provision

Under the Contract NPS provides the following services:

3.3.1 Reactive Maintenance

Reactive maintenance is defined as remedial work usually required to address a failure either to the building fabric or to the mechanical & electrical installation. Examples include roof leaks, heating failures, broken window glass, etc.

NPS currently operate a 24/7 helpdesk facility providing a reactive maintenance service for social care and some of the education related buildings. Generally individual schools arrange this service independently using their devolved budgets.

3.3.2 Term Maintenance

Term maintenance is scheduled preventative servicing, testing and maintenance predominantly to mechanical and electrical systems to ensure statutory compliance and reduce the frequency of breakdowns. Examples include boiler servicing, portable appliance testing, lift servicing as well as servicing of catering equipment and disability equipment.

Term maintenance is undertaken by specialist contractors. NPS's role is to procure the term maintenance contracts, achieve value for money, monitor servicing and maintenance visits and ensure that statutory tests and inspections are carried out at the required frequencies.

3.3.3 Planned Maintenance

Planned maintenance is preventative work carried out in advance of failure with the aim of preserving or enhancing an asset. The need for this work is usually identified through a regular programme of condition surveys. Examples will include boiler replacement and re-roofing. Annual planned maintenance programmes are implemented in consultation with school and social care building managers.

NPS's role is the design, specification, contractor procurement, site supervision and contract administration of each project. In addition in the case of schools NPS also undertake annual 'bid visits' to each site to update condition survey data and meet with the Head or their nominated representative to agree the programme of works for the following summer.

3.3.4 Other Services (Non Contract)

In addition to the core maintenance services described above NPS have also been commissioned to undertake additional work during the life of the current Contract including condition surveys, feasibility studies and capital projects through the New Deal for Schools funding.

3.4 Current Fee Levels

The current fee levels generated services provided by the Contract are shown in Table 1 below and based on the 2010-11 financial year. Fees paid during 2011-12 are estimated to be at a similar level to those shown for 2010-11.

Table 1: Average annual fees paid to NPS

Portfolio	Reactive	Term	Planned	Sub Total - Core Services	Other - Non Contract	Total
Education	£17,500	£19,000	£104,500	£141,000	£146,000	£287,000
Social Care	£48,500	£13,500	£55,000	£117,000	£5,000	£122,000
Total:	£66,000	£32,500	£159,500	£258,000	£151,000	£409,000

The core services (annual fees of £258,000) cover statutory and best practice maintenance requirements including structural maintenance which are funded by budgets managed by Property & Design rather than the schools. The level of funding is unlikely to be affected by the decision of individual schools to become academies.

Fees generated through the "Other Non-Contract" category (annual fees of £151,000) are not part of the core Contract service and are currently awarded to NPS by council clients on a case by case basis. However, the majority of these works are through New Deal for Schools (NDS) funding which is assessed on pupil numbers. As pupil numbers are currently increasing the level of NDS funding is unlikely to diminish in the near future. These fees will vary from year to year and an average anticipated annual spend has therefore been included in Table 1.

Even if funding for the non-core school works diminishes the technical staff can be utilised on other council projects which are currently passed to external consultants due to the lack of in-house resources. Fees earned from this additional work can be used to offset any future loss of school's work.

3.5 In-House Costs

The Council have made provisional enquiries with NPS and have obtained a preliminary list of posts that NPS consider may qualify for TUPE transfer at the end of the current Contract.

The TUPE information provided will be scrutinised and challenged to ensure it's accuracy however, based on this preliminary data, Table 2 below indicates the estimated cost of providing the service in-house.

One-off set up costs including ICT equipment would be required in the first year at an estimated cost of £17,000 and these will be met from the first year savings. Additional accommodation costs will not be incurred as it is anticipated that staff associated with this service will be located within existing corporate buildings.

Management costs of the in-house service will be absorbed by the existing Property & Design management structure. There will be minimal additional corporate overhead costs in terms of legal, ICT, HR or finance which have been included below.

Table 2: Estimated costs of providing the current NPS service in-house

Expenditure	In-House Cost	Notes
Staff Salaries	£257,000	Based on the TUPE data provided by NPS in March 2012
NI & Pension Costs	£66,000	Representing the council's employers pension and NI costs
CDM Professional Fees	£14,000	Currently provided by NPS but not available in-house and will therefore need to be separately procured
24/7 Helpdesk Facility	£12,000	Estimated cost of upgrading our existing in-house helpdesk to operate 24 hours a day seven days a week through contracting with an external provider
Corporate overhead costs	£ 5,000	Additional corporate overheads including ICT
Staff related miscellaneous costs	£15,000	Includes mileage allowances, training and miscellaneous costs
Total:	£369,000	

3.6 The difference between the fee currently paid to NPS and the cost of employing the team in-house is estimated to be £40,000 (£409,000 in fees compared with £369,000 costs) at 2010-11 prices. This cost saving has been calculated on the assumption that:

- Management costs and overheads currently charged by NPS within their fee structure will be absorbed if the service is taken in-house.
- The professional fees charged by the in-house team are lower than those charged by NPS.
- Not all of the staff currently listed by NPS on their TUPE information return will transfer at the end of the current contract.

The Council's Property & Design in-house building surveying and architectural teams operate on a cost neutral basis with any surplus fee income used to reduce the unit's operating costs and P&D's fees. On this basis there is a financial incentive in bringing the service in-house when the current Contract expires.

3.7 Property & Design - Corporate Landlord & Consultancy Services

To put this into context, Property & Design, as the council's Corporate Landlord, provides a strategic lead and asset management for the council's property portfolio working with partners across the City. Property & Design manage and maintain the council's commercial and agricultural portfolios, provide corporate management and maintenance of the council's civic and non-housing operational buildings, including schools, adult social care and environment buildings.

Property & Design offer design and general property advice and a consultancy service through multi-disciplinary professional teams including architecture and design, building surveying and maintenance, facilities management, estate management and energy management. Our building related consultancy services are benchmarked against external consultants and other local authorities and our fees appear to be approximately 1-3% lower providing the council with value for money.

The introduction of a Corporate Landlord model of working will lead to a more unified asset strategy and the centralisation of maintenance and other property related budgets including utilities, security, waste, etc. The principals of this model are:

- A Single Property Asset Strategy – Consistency of our strategic approach to all of our property and land assets
- Maximise Value - Cost reductions due to the benefit of economies of scale as well as authority to include all buildings within existing corporate contracts rather than extend current, often one-off, arrangements which are usually more expensive
- Reduce Risk - A reduction in corporate risk through a consistent approach to property and project management

Part of the model includes the setting up of a full property helpdesk providing a full reactive maintenance service available to all corporate building managers. Currently this service is only available to the main civic buildings. Once this helpdesk is established it will be a relatively simple exercise to extend it to cover reactive maintenance for the social care & education properties which will reduce the current duplication of service with NPS.

3.8 Advantages of an In-House Service

- Property & Design already have the expertise and skills in-house to be able to undertake building maintenance consultancy services and the proposed transfer of service would build upon the existing skills, core capacity and resource and provide additional resource, skills and capacity in areas where there is less. This would help to create the potential for a more flexible and improved service provision which will support our Corporate Landlord model and support improved customer experience and service delivery.

- The in-house building maintenance consultancy team within Property & Design has built up a good reputation as providers of quality, value for money services. Robust procedures have been introduced to ensure that projects can be delivered within budget and within timescale and that health & safety is given due consideration to reduce corporate risk. Bringing the education and social care consultancy work within this team will ensure a consistent approach and that the current high standards of project management and contract administration will be applied to all buildings under Property & Design's control.
- Increasing our in-house technical team will provide us with greater flexibility of resources to take on other projects from other council teams that would otherwise have been passed to external consultants or managed by inexperienced council officers. Project management by Property & Design staff will ensure that fees paid will be recycled internally to be used to improve the portfolio and corporate risk will be reduced by using experienced technical staff in a consistent manner in line with our Corporate Landlord principles.
- The current NPS technical staff provisionally identified for transfer to the Council under TUPE Regulations undertake all of the core services under this Contract plus the additional work generating the fees listed under the "Other" category in the Table 1 above. The total level of fee income generated by an in-sourced team is expected to exceed the costs of an in-house service provision leading to a net increase in Property & Design generated fee income. Internal clients will also benefit by a reduction in the fees charged for the service.
- Fee savings will therefore be made once the service is brought back in-house and this will reduce the unit's operating costs. These savings will reduce the cost of service for clients.
- Even if the current high levels of school additional works (such as the NDS funding) reduce, the additional technical staff resource within Property & Design will provide a greater flexibility in service provision reducing the number of other council projects that we currently have to pass onto other building related external consultants. This should allow us to maintain our fee income even with a reduction in the current levels of fee income from the schools. A recent exercise showed that in excess of £2.0m of construction related projects were overseen by council staff other than Property & Design over a typical year (2010), many of whom did not have the necessary project management experience to ensure successful delivery. If more funding is devolved to schools in the future, schools will have choices to make and may wish to buy back our services.
- Greater consistency in how we manage our term maintenance works as all future contracts will be procured and managed by a single in-house team with the possibility of future savings through economies of scale. We will utilise our existing compliance software to monitor statutory inspections and service visits on one system.

- Additional mechanical and electrical resource transferred through TUPE can be utilised to support both future planned maintenance schemes and term maintenance compliance to further reduce council risk. The Council has a lack of resources and expertise in this area and greater value for money can be achieved by using an in-house team together with the additional resources transferred by TUPE as opposed to external consultants.

3.9 Risks

- If not in-sourced, there will be a need to re-procure the Contract under an OJEU tendering procedure. Due to the OJEU timescales it is unlikely that a new provider could be appointed by the 31st August 2012. This would result in the need to extend the existing Contract by up to nine months.
- The current Contract expires on 31st August 2012 meaning that not all 2012-13 planned programme projects will be completed by the current provider and resulting in potential problems of split responsibilities and liabilities. To mitigate this risk it is proposed that consideration be given to further extending the current contract by a maximum of seven months to 31st March 2013 to allow all 2012-13 projects to be completed by the current service provider. Whilst this extension falls outside of the OJEU Regulations the risk of challenge is considered to be small.
- While we will know now the number of staff employed, we will not know the exact numbers who will TUPE over until shortly before the transfer date and it is possible that we will be under-resourced in the short-term requiring recruitment and training of new staff which will postpone receipt of the full benefits detailed above.
- If workload reduces substantially in the future the extended in-house team may experience a reduction in fee income with the risk that costs may exceed income at some point in the future. In this instance the Council's existing redeployment / redundancy procedures will need to be considered to bring the team back to a sustainable level.

The effect of this will be mitigated as much as possible through the identification of projects that would not normally be managed by Property & Design but would benefit from their project management expertise. The new Corporate Landlord model of working will assist this process through the centralisation of available budgets and the overview that Property & Design will have on corporate capital spend.

4. **CONSULTATION**

- 4.1 Initial consultation has been undertaken with NPS and representatives of the relevant delivery and commissioning units.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Bringing the contract in house will reduce the cost of the service by approximately £40,000 p.a. as described in paragraphs 3.5 and 3.6. There will be one off set up costs estimated to be £17,000 associated with the transfer for office and ICT equipment and the costs of this will need to be met from the saving generated from bringing the service in house. The transfer will increase the in house technical team and provide economies of scale providing the opportunity to generate additional income by undertaking work that may previously have gone to external technical consultants. Any additional income will reduce the cost of the service as a whole and this will provide a financial benefit to the Council. although this benefit is unquantifiable at this stage and has not been included in the estimated saving. In addition, bringing the service in house will remove duplication of helpdesks and support a consistent service level as corporate landlord.

This proposal will result in minimal additional corporate overheads which have been included within Table 2 but will not result in additional management costs as these will be absorbed into existing resources.

Should the contract be required to be procured externally then there will be a likelihood of having to extend the existing contract by up to nine months and the price of this contract will need to be negotiated with the existing suppliers.

Finance Officer Consulted: Rob Allen

Date: 13/02/12

Legal Implications:

- 5.2 The current Contract expires on 31st August 2012. Any NPS staff transferring to the Council will have the protections provided by the TUPE Regulations and thus the Council will inherit obligations including those such as continuous service and terms and conditions of employment. A due diligence exercise is being carried out to ascertain the cost and implications of these obligations. To date no unforeseen matters or items of unusual expenditure have been revealed.

Lawyers Consulted: Isabella Sidoli & Ian Yonge

Date: 14/02/12

Equalities Implications:

- 5.3 Equalities issues are addressed either in the TUPE & recruitment process or in the re-procurement process and contract agreement.

Sustainability Implications:

- 5.4 An in-house team will ensure that sustainability is thoroughly considered at each stage of all procurement and work projects in line with the Council's commitments and in full accordance with Property & Design's current working methods.

Crime & Disorder Implications:

- 5.5 There are no crime & disorder implications.

Risk and Opportunity Management Implications:

- 5.6 Risks are detailed under Section 3.9 of the report.

Public Health Implications:

- 5.7 There are no public health implications.

Corporate / Citywide Implications:

- 5.8 As contained in the body of the report, ensuring a quality, consistent building maintenance consultancy service is provided across the council and achieving value for money.

6. EVALUATION OF ANY ALTERNATIVE OPTIONS:

6.1 Re-Procure the Full Contract

The Contract could be re-procured in full. However this would prevent us from taking full advantage of economies of scale when re-tendering our term maintenance contracts and would result in a duplication of services (e.g. the helpdesk and contract monitoring) with no savings achieved.

6.2 Re-Procure Parts of the Contract

Alternatively parts of the service could be re-tendered or procured separately.

Due to Property & Design already establishing an in-house helpdesk and procuring reactive maintenance contractor arrangements it would not be cost effective to duplicate these services and appoint a consultant to carry out the same function.

Similarly our in-house mechanical and electrical team already procure term maintenance contracts and monitor statutory compliance to our other corporate buildings.

Consultancy services related to our planned maintenance work programmes for education and social care premises could continue to be outsourced either through a single consultant as now or using a framework of consultants. However there is an advantage of keeping the reactive, term and planned maintenance under one management to prevent duplication and for feedback from the reactive and term servicing to inform future planned programmes. For this reason it is recommended that the whole service is maintained as one and brought in-house with the consequent savings identified in 3.6 above.

Larger planned maintenance work is the most attractive to external consultants as there is often little difference in the cost of their resources to manage a £100,000 project as there is for a £10,000 project although at an average 10%

fee the difference in income could be £9,000. Bringing this service in-house would ensure that the council gains the benefit of this additional fee income.

If the service provision is to be re-procured then, depending upon the value of the services, the Public Contracts Regulations 2006 may apply to the re-procurement. If the Regulations apply, the Council will need to follow a full OJEU process to appoint a contractor which usually takes approximately nine months.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 To review the service delivery options for the building maintenance consultancy services for the education and social care portfolios to enable Cabinet to take an informed decision on the future provision of these services. An opportunity exists to bring these services in-house at the end of the currently out-sourced Contract. This has the potential to result in savings and to increase the council's in-house building related consultancy service provision, expertise and skill base available to Heads of Delivery, Commissioners and other partners.
- 7.2 The advantages of providing these services in-house are detailed in Section 3.8 but in summary will ensure that services such as the current in-house helpdesk and term maintenance monitoring arrangements are not unnecessarily duplicated and are provided consistently across our property portfolios. The anticipated increase in internal fee generation can be partially re-invested in supporting our Corporate Landlord model with the balance supporting the Council's budget.

SUPPORTING DOCUMENTATION

Appendices:	None
Documents in Members' Rooms	None
Background Documents	None