



**Author/Lead Officer of Report:**  
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**Report of:** Executive Director of Place

**Report to:** Executive Member for Finance

**Date of Decision:**

**Subject:** Procurement of a Statutory Compliance Contract to inspect, service and maintain Air Conditioning and Air Handling units and commercial refrigeration across the corporate buildings estate and Sheffield schools who take up the provision.

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	
Which Executive Member Portfolio does this relate to? Cllr Cate McDonald - Executive Member for Finance		
Which Scrutiny and Policy Development Committee does this relate to? Overview and Scrutiny Management Committee		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 1030		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<i>"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."</i>		

**Purpose of Report:**

The purpose of this report is to seek authority to reprocur the contract for the statutory compliance inspection, servicing testing and repairs of Air Conditioning and Air Handling Units, ducting and commercial refrigeration units to maintain safe corporate and multiple occupancy tenanted buildings for Sheffield City Council and a number of Sheffield Schools who opt into this provision in line with the contents of this report.

**Recommendations:**

It is recommended that the Individual Co-operative Executive Member:

1. Approves the Council procuring services for the statutory compliance assessments, inspection, servicing, testing and repairs of Air Conditioning and Air Handling Equipment and commercial refrigeration units following a, compliant tender exercise as outlined in this report. This will ensure that the ongoing and mandatory compliance services provision for the Council and volunteering schools continues.
2. Delegates authority to the Executive Director of Place, in consultation with the Director of Finance and Commercial Services and the Director of Legal and Governance to:
  - a. decide the award of the new contracts to the most economically advantageous tenderers chosen by the Council following the procurement exercise as outlined in this report;
  - b. take all other decisions necessary in order to meet the aims, objectives and outcomes of this report which are not already covered by existing delegations in the Leaders Scheme of Delegation.

**Background Papers:**

N/A

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Steven Scott
		Legal: David Cutting
		Equalities: Annemarie Johnston
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	<b>EMT member who approved submission:</b>	<i>Mick Crofts Executive Director Place.</i>
3	<b>Executive Member consulted:</b>	<i>Cllr Cate McDonald Executive Member for Finance and Resources</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b>	<b>Job Title:</b>
	<b>Jason Peck</b>	<b>Contract Manager</b>
<b>Date: 5<sup>th</sup> December 2021</b>		

## 1. PROPOSAL

This report will detail the proposal to re procure the statutory compliance testing and maintenance services in respect of Air Conditioning and Air Handling Units for Sheffield City Council (the Council) for use in the main by the Corporate Repairs and Maintenance (CRM) Service and Sheffield Schools who elect to join this service provision. The Housing Repairs and Maintenance Service (HRM) and other Council departments may also occasionally use the contractors appointed for any or all of the services covered, and their requirements will be captured on the resulting tender and contract award.

Given the anticipated value of a three-year contract arrangement we are required by law and under our own Contracts Standing Orders (CSO) to procure this supply chain in a fully compliant manner. Full details of the routes to market that have been considered are detailed below.

The Council has a statutory duty to ensure all Air Conditioning and Air Handling Units are inspected and maintained at regular intervals as determined by national health and safety legislation.

## 1.1 **Background**

Sitting within the Facilities Management service, the CRM team are responsible for all statutory legal and compliance requirements, health & safety and upkeep requirements across all buildings within the corporate estate. This responsibility involves ensuring statutory compliance in various areas relating to building safety (see list below). English health and safety legislation imposes a clear responsibility on the Council to manage health and safety risks within its buildings. Breaches of health and safety legislation are an offence that can lead to criminal prosecution. Where possible statutory compliance works are undertaken in-house by Council staff, but in areas where we lack the required technical competence or experience the services are contracted out to specialist external contractors.

## 1.2 **Corporate Repairs**

The Corporate Repairs service covers a wide range of repairs and maintenance functions, including:

- Responsive & Planned repairs
- Repairs after servicing
- Gas servicing
- Lift /Hoist servicing
- Hard Wire Testing
- Fire Alarm & Emergency Lighting servicing
- Air Conditioning/AHU servicing
- Earthing/Lightning Protection testing
- Fire Fighting Equipment Servicing
- Portable Appliance Testing
- Latchwire/Safe man systems testing

Facilities Management also manage the Council's Compliance Policies in respect of the following:

- Air Conditioning Policy
- Asbestos Management Policy
- Automatic Doors and Roller Shutters Policy
- Electrical Management Policy
- Fire Management Policy
- Flagpole Inspections Policy
- Gas Servicing Policy
- Radon Policy
- Water Management Policy
- Ladders Policy

## 1.3 **Management of Air Conditioning and Air Handling Risks**

Regular maintenance and inspection of air conditioning and air handling systems is essential to ensure that they continue to operate efficiently and safely. Failure to maintain systems regularly and to a specific standard can lead to increased risk of catastrophic failure and high repair or replacement costs. Air conditioning and air handling systems have a number of moving parts (i.e., fans) which require regular inspections to ensure they are operating freely and without obstruction. Build-up of debris and contaminants within systems can present a risk of fire in addition to the proliferation of air borne diseases. Some of the Council's strategic IT infrastructure is protected by Air Handling units and a failure in this context could have severe Council wide impact.

The contract proposed under this report also covers the maintenance of refrigeration systems which must be maintained to ensure they work as designed and maintain the required low temperatures to prevent microbial growth.

Legislation for Air Conditioning is controlled by the Energy Performance of Buildings (England and Wales) 2012 Regulations as amended 2020 in addition to the Chartered Institute of Building Services Engineers (CIBSE) TM44 Inspections of air conditioning systems. It is also governed by the Fluorinated Greenhouse Gas Regulations 2015 (as amended) and associated requirements.

Regular TM44 inspections must be undertaken on all air conditioning systems with an effective output of more than 12kW as defined in the Chartered Institution of Building Services Engineers (CIBSE), '[TM44: Inspection of air conditioning systems: a guide to EPBD compliance](#)' (CIBSE TM44 guidance). Inspections must be undertaken by an accredited air conditioning energy assessor

The purpose of the air conditioning inspection report is to ensure that the building owner or manager is provided with information regarding the efficiency of the air conditioning systems that they control, together with advice on how to improve the energy efficiency of the system, to identify opportunities to save energy and carbon and to reduce operating costs.

1.4

Over the last 4 years a robust supply chain has been in place to provide support to the in-house service provision for delivery of a number of required compliance testing and inspection services including a framework covering Air Conditioning equipment servicing and maintenance. The contracts were let from the 1<sup>st</sup> of April 2017. The original term of these contracts was 24 months plus the option to extend a further 24 months, this option was exercised, therefore all the contracts were due to expire at the end of March 2021. Due to a number of factors, there have been delays to letting those arrangements and a waiver is in place to cover this period. There has been intensive work to update the Council's specifications, Key Performance Indicators (KPI's) and tender evaluation documentation to ensure all our documents are robust and will deliver the required service levels in a cost-controlled manner.

Defined health and safety standards and technical competence are required from the supply chain to ensure the Council's duty is fulfilled and risk is correctly managed and discharged in respect of all compliance areas.

This arrangement, along with a number of other statutory compliance related services, are offered to Sheffield Schools. They opt into these services and have assured service levels; a programme that meets their full compliance requirement; and the benefit of cost based on a much larger estate compared to a bought in cost for one school through economies of scale. This is a fully managed service provided by CRM and costs are fully covered by the individual opted-in schools for this service.

1.5 The proposed new contract will cover all the required services and are detailed below:

- Inspect Service and Maintain Air Conditioning Units including commercial cleaning, drainage and filter replacements at manufacturer recommended intervals.
- TM44 Inspections.
- Inspect, Service and Maintain Commercial refrigeration installations such as those located at the Medico Legal Service.
- Inspect and clean Commercial ventilation systems associated with Air Handling in specific high use areas such as the Markets.

Qualifying and capable service providers are required to provide this resource and expertise to support the in-house service in the delivery of these statutory requirements. The suitable contractors will work in line with the Council's overarching client specifications, site-specific operating instructions, and our robust health & safety requirements.

Assessment of suitability will be based on a balance of price, technical competence, and quality, with emphasis on the social value and local economic impact benefits this procurement could drive.

Ongoing Contract Management will also be key to ensuring the Council receives a first-class service.

Regular attendance at Service Review meetings will be undertaken with the successful contractors to discuss workload, measure performance and review agreed key performance indicators.

This will ensure, as far as is reasonably practical, that in relation to the Council's Repairs and Maintenance Services:

- The optimum balance between service, cost and quality ensuring value for money
- All aspects of the delivery of true Social Value are measured and achievable.
- Continuity of excellent customer services

## 1.6

### **Contract values**

The estimated Council wide contract value is currently £130K per annum across all elements of this supply requirements and all client user departments.

The forecast spend, based on letting services contracts for up to three years is c£390K.

With spend over £150K under the Council's CSOs a full tender is required, for spend in excess of £190K we are legally bound to tender under the Public Contract Regulations 2015 (PCR). As our forecast three year spend is in excess of these levels we are required by law to compete this opportunity.

The exceptions to this would be either a Direct Award, permitted under the CSOs, or further competition under a fully PCR compliant Framework where the legal requirements of the PCR have already been satisfied.

## 1.7

### **Proposal**

The Procurement Strategy has explored our best value options via a full open Sheffield City Council tender route or direct award or mini competition under an existing PCR compliant Framework.

All the Framework providers are not for profit procurement consortiums established to serve the construction procurement needs of the social housing landlord community, understanding the needs of the maintenance clients.

All the identified Frameworks are compliant with the PCR. This means that as potential clients we would not have to openly advertise the opportunity or follow a separate full PCR tendering procedure which does potentially shorten the tendering timetable. Some Frameworks are not, however, always a seamless fit with our requirements so the proposed process will ensure that the most suitable Framework is utilised.

The possibility of utilising an established Framework has been considered. However, after reviewing the options, there seems to be little available from Eastern Shires Purchasing Organisation (ESPO), Yorkshire Purchasing Organisation (YPO) or Crescent Procurement Consortium (CPC). The Crown Commercial Services (CCS) do offer a Framework for this service, however, their specification is very "high level" and contains no reference to TM44 work which is an essential element of this re-procurement.

No prices are available via CCS's Framework without running a competition exercise – accordingly it is impossible to benchmark the current rates. Additionally, any benefits or detriments with regard to the

cost would not be known until a very late stage, at which point we would then be effectively committed to proceeding with the chosen framework or starting on an SCC tender putting a number of avoidable delays into this process.

A fully compliant SCC tender would ensure our exact requirements are specified and fully met and we would be trading on our own Terms of Service. An open tender also fully supports the key principle of maximising the likelihood of success for the local supply chain and Sheffield based SMEs. A part of the tender evaluation is dedicated to the delivery of additional Social Value Benefits for Sheffield and its communities, by conducting our own tender we can drive Social Value benefit and Local Economic Impact in a manner the best suits the supply requirements and the Council.

The recommended course of action would therefore be to run our own fully PCR compliant tendering exercise. This course of action would give us complete control over the whole process & provide an opportunity for local small to medium sized providers to bid and factor in both Social Value and Local Economic Impact.

## **2. HOW DOES THIS DECISION CONTRIBUTE?**

2.1 The Corporate Plan sets the Council's direction, priorities and common goals. This proposal specifically supports the priorities around:

- An in touch organization
- Strong Economy
- Thriving neighbourhoods and communities
- Better health and wellbeing
- Tackling inequalities

2.2 This procurement will enable the Council to engage with the market to ensure that the standards of servicing and maintenance and consumable products for CRM demonstrate best value and are also compliant with legal and corporate requirements for the Council and the industry.

2.3 The procurement opportunity may enable suppliers both local and national to trade with the Council and will contribute to keeping the local economy strong. Social Value and Local Economic Impact will be assessed as part of the total social value offering in line with the Council's award-winning Ethical Procurement Policy.

2.4 By providing the safe and legally compliant workplaces and schools for our workforce and communities we are contributing to better health and wellbeing as properties are safe and well-maintained environments to work in.

## **3. HAS THERE BEEN ANY CONSULTATION?**

3.1 No external consultation is required or has taken place as the proposed procurement is for the provision of works to support the internal CRM and Housing Repairs and Maintenance service provision and schools for whom it is beneficial to opt into this service.

3.2 This report has been jointly developed in consultation with relevant stakeholders in the Transport & Facilities Management, CRM, Legal Services and Financial & Commercial Services.

#### **4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

##### 4.1 Equality of Opportunity Implications

4.1.1 The EIA, as referenced, has found there are no significantly differential, positive or negative, impacts from this proposal. The proposed procurement will support maintaining safe corporate; multiple occupancy tenanted; and school buildings on behalf of the Council. The assessment of suitability of potential contractors will be based on a range of criteria including social value and the potential local economic impact benefits that this could bring.

##### 4.2 Financial and Commercial Implications

4.2.1 As set out in paragraph 1.4, the total cost of the proposed contract is estimated to be in the region of £130K per annum.

4.2.2 The proposed new service contract will be for up to three years (two years with an option to extend for a further one year).

4.2.3 The Council has a duty to ensure that all of its procurement is based on value for money principles, achieving the optimum mix of quality and effectiveness for the least outlay. In addition to this duty the value of the services in scope and the overarching PCR regulations relating to transparency and equality of treatment, the value of the services in scope is above the PCR threshold and so requires a number of specific procedural steps to be followed.

4.2.4 In undertaking the tender process, the Council will ensure compliance with the necessary legal and regulatory provisions relating to procurement, whilst encouraging innovation and competition from the market and allowing the Council to choose the optimum solution for our specified products and services based on a balance of quality and price.

4.2.6 Sheffield City Council is committed to ensuring a high standard of ethical practice across our supply chain.

4.2.7 The Council expects all internal staff, partners and suppliers to work to these augmented standards which assure we will:

- Trade with those who comply with an Ethical Code of Conduct

- Exclude suppliers committing acts of Grave Misconduct
- Improve Social Outcomes for the citizens of Sheffield
- Increase the power of procurement and its local economic impact.

#### 4.3 Legal Implications

- 4.3.1 The Localism Act 2011 provides local authorities with a “general power of competence” which enables them to do anything that an individual can do as long as the proposed action is not specifically prohibited. This enables the Council to issue a tender and enter into contracts for these services.
- 4.3.2 The Council has a statutory duty as highlighted in paragraph 1.3 above to maintain its premises in accordance with the Energy Performance of Buildings (England and Wales) 2012 Regulations as amended and the Fluorinated Greenhouse Gas Regulations 2015 (as amended).
- 4.3.3 The proposed procurement outlined in this report has a value in excess of the threshold for contracts for services in accordance with the PCR 2015, therefore the procurement and contract award processes to be followed will be subject to those regulations and in accordance with the Councils own CSOs.
- 4.3.4 The successful supplier chosen by the Council following a compliant procurement process will be required to enter into formal written legal contracts with the Council.
- 4.3.5 The Council must comply with all applicable legislation and regulations including but not limited to UK GDPR, Data Protection Regulations 2018, the PCR and the Council’s CSO.

#### 4.4 Other Implications

- 4.4.1 No further implications arise within this report as a result of the proposed procurement.

### 5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Alternative Option 1 – Do not Procure.

If the Council did not carry out this procurement then the Council would be in breach of our statutory duty and therefore this is not considered an option.

We are also bound by the PCR and the Council’s constitution to conduct a procurement where the level of financial spend demands this. Alternatives arising during evaluation of the route to market will be options appraised, considered and benchmarked and fully documented in the Procurement Strategy.

## 5.2 Alternative Option 2 – Extend the contract with the current supplier.

The current contract expired on the 31<sup>st</sup> March 2021 and there are no further PCR compliant extensions possible under the contract. A short-term waiver is in place for continuity of service and to ensure statutory compliance requirements.

## 5.3 Alternative Option 3 – procure via a fully compliant Framework.

Whilst these Frameworks provide tried and tested suppliers and the assurance that the due diligence around their appointment has been established, none are local and officers feel there is a local market to tap into. There are a number of suppliers in the Sheffield area who could offer these services and by using an existing third-party Framework these potential suppliers would be excluded.

We require a reactive and responsive service across all compliance requirements and feel this could be best met in part locally. In addition, we have extensive Health & Safety requirements and adherence to these needs to be evidenced via the tender, subsequent contract documentation and ongoing contract management.

Whilst the possibility of utilising a Framework Contract has been considered, nothing seems to be available from ESPO, YPO or CPC. Crown Commercial Services (CCS) do offer a framework for this service, however their specification is very “high level” & contains no reference to TM44 work.

No prices are available via CCS’ framework without running a competition exercise – hence it is impossible to benchmark the current rates; additionally, any benefits or detriments with regard to the cost would not be known until a very late stage, at which point we’d then be effectively committed to proceeding with the chosen Framework.

Additionally, the use of the Sheffield City Council service contract will offer the greatest flexibility for service delivery where peaks and troughs can be managed, and third-party support can be tailored to supplement the in-house capability and flex with this as services move to more self-delivery over time.

## 6. REASONS FOR RECOMMENDATIONS

### 6.1 The procurement will enable the Council to:

- Have a compliant and flexible mechanism in place to fully meet the legal obligations and service requirements
- Harness any immediate savings and economies of scale that can be realised by re-engaging the market, any savings realised that can be cashable in nature will contribute to the services’ savings target.

- Realise the Council's Social Value ambitions by driving further value added impact through this supply chain.