

## **Appendix A – Options Appraisal**

### **CHESHIRE EAST COUNCIL**

#### **Options Paper – August 2020**

#### **Re-procurement of Facilities Management Contracts**

### **1 Report Summary**

- 1.1 Cheshire East Council has a net operational property budget of £10,959,618 (excluding salaries and capital works).
- 1.2 In 2014, having considered a number of options, the Council entered into an OJEU procurement exercise to tender for FM services under five lots, as follows:-
  - Lot 1 - Statutory Compliance
  - Lot 2 - Maintenance
  - Lot 3 - Security
  - Lot 4 - Waste
  - Lot 5 - Total Facilities Management
- 1.3 The tender specification gave the option for other elements to be included within the contract at a later date, should the TFM solution have been successful.
- 1.4 After a very in depth and complicated procurement processes, both from a cost and quality perspective, the decision was taken to opt for lots 1 – 4; with the TFM solution by far the most expensive.
- 1.5 Contracts were put in place for both Lot 1 and Lot 2, for five years with the option to extend for a further 2 years, with effect from 1 April 2015. The option to extend has been executed and the contracts will end on 31 March 2022, making it necessary that a further procurement process commence by January 2021 at the latest. Neither the waste or security contracts were successful in this process and were retendered.
- 1.6 It should be noted at this stage, that the current maintenance contactor was successful primarily on cost – they currently have to spend more for works than the Council reimburse them. Therefore, it is more than likely that the cost of all works will increase significantly through the procurement of replacement services.
- 1.7 With any contract of this nature, it takes some time for relationships to be built and for the contract to move into a steady state. Whilst the current maintenance and compliance contracts are for 5 years with the additional two years, it is proposed that any new contract be put in place for a longer period, for example, 7 years, with the option to extend for a further 2 + 1 years.

## 2 Options available

### 2.1 **Option 1 – Procure as is, separate contracts**

- 2.1.1 *Compliance* – legionella monitoring, asbestos management, Display Energy Certification, fire risk assessments, Asbestos Consultancy and Surveying, Energy Performance Certification, environmental and air quality testing, health and safety inspections, etc.

Current overall contract value : £4,550,000 (over 7 years)

- 2.1.2 *Maintenance* – planned preventative maintenance (statutory and required); response maintenance, minor works and capital projects up to a value of £250,000. If this route would to be taken it is proposed that this value increase to £350,000.

Current overall contract value : £63,000,000 (over 7 years)

- 2.1.3 *Security* – this contract has been procured several times since the initial contract. The contract is relatively low value, but there have been issues with each contractor – most works, with the exception of key holding, are on an ad hoc basis.

Current overall contract value : £560,000 (over 4 years)

- 2.1.4 *Waste* – this covers several areas, which are all dealt with differently.

Residual and Recyclate waste – this is collected by ANSA Environmental Services. This was not procured under competitive tender, ANSA assumed responsibility for this work under the Teckal agreement as they moved to a wholly owned company. Facilities Management do not hold budget for all residual and recyclate waste, with some buildings/services procuring directly, not all through ANSA.

Facilities Management annual cost : £150,117

Confidential Waste – this has been tendered a number of times and falls under a corporate contract covering all services. Procurement are about to award a corporate contract using the ESPO Framework. Facilities Management do not hold budget for all confidential waste, with many buildings/services procuring directly through the Corporate Contract.

Facilities Management annual cost : £10,391

- 2.1.5 Washroom Services – this has been tendered a number of times, whilst a small contract was put in place with Citron Hygiene, the Procurement Team have now extended this into a corporate procurement. Facilities Management do not hold budget for all washroom services, with many buildings/services procuring directly through the Corporate Contract.

Facilities Management annual cost : £8,397

- 2.1.6 Whilst this option retains the status quo with a limited number of contracts to manage, this would be the FM preferred option. As the Council moves towards reviewing its estate, which would be written into each contract, this limits the impacts that would be created on any of the other options, ie no TUPE transfer of Council staff.

#### Advantages

- ✓ A single source supplier for each commodity, rather than all FM services ensure the Council against the loss of all service should a provider cease trading
- ✓ Whilst there would be a significant impact should any contract fail, buildings should still be able to operate
- ✓ Having maintenance and compliance contracts combined, gives a degree of security as one will complement the other and ensure the estate remains compliant
- ✓ Contractors should be incentivised on identifying synergies and savings from bundled services
- ✓ Partnership working between the maintenance and compliance contractors enables joined up working where needed, but maintains a separation when a policing role is necessary
- ✓ Sizeable, but manageable, contracts
- ✓ Contractors gain a good working knowledge of Council buildings and staff
- ✓ No TUPE transfer of Council staff, which could present a risk as the Council reviews the size of its estate.

#### Disadvantages

- ✓ Risk of a provider ceasing trading, leaving the Council vulnerable and requiring alternative provision at short notice
- ✓ Should be incumbent contractor not be successful in securing the new contract, their staff would have the right of TUPE to the incoming provider and may be at risk through should the Council adjust size of its estate.

## 2.2 **Option 2 – Total Facilities Management**

- 2.2.1 The delivery of both hard and soft facilities management has historically been provided through both internal and external resources. Such services include, but are not limited to:-

Facilities Management	In House	External
• Hard & Soft FM planning & contract/framework management	✓	
• Property Helpdesk	✓	✓
• Property/Partner Liaison	✓	

• Property Compliance – asbestos and legionella monitoring, fire risk assessments etc	✓ (FRA)	✓
• Energy Management	✓	
• Carbon Management/strategy	✓	
• Planned cyclical and responsive maintenance works		✓
• Cleaning Services	✓	
• Security Services		✓
• Mailroom Solutions (including Print)	✓	
• Waste Management		✓
• Washroom Services		✓
• Window Cleaning		✓
• Janitorial Services	✓	
• Room booking/building management	✓	
• Office accommodation strategy	✓	
• Space/utilisation planning	✓	
• Move management delivery		✓

2.2.2 A total facilities management contract means outsourcing all facilities management requirements to one supplier, which would lead to a TUPE implication for both the Council and current providers. However, by choosing a TFM contract the Council would be handing over the responsibility and the risks associated with service provision to one company.

2.2.3 Given that the Council is reviewing its estate but at this time does not know what it will look like in the future, this may not be a viable option for any TFM provider. As previously stated, both Council and current provider staff would have the right of TUPE to any new provider with no guarantee of continued employment. Any new provider would wish to build in a liability clause which makes the Council responsible for future redundancy cost, whether they be ex-Council or provider staff.

2.2.4 The entire FM operation is outsourced to a single Facilities Management service provider, to which there are both advantages and disadvantages:

#### Advantages

- ✓ Using a TFM company means only one contract and one point of contact
- ✓ Existing partner provider staff would have the right of TUPE, which could provide some continuity
- ✓ Only one contract to manage, although this is complex requiring a number of disciplines, which would require suitable in-house staff to manage
- ✓ There may be a fixed price and so budget planning should be relatively straight forward
- ✓ Contractor should be incentivised on identifying synergies and savings from bundled services
- ✓ Large scope contract will increase strategic importance from the successful contractor, optimising the service received

- ✓ The contract is likely to be secured by a large FM organisation who could bring best practise from across the FM/property industry
- ✓ Achieving “Zero Carbon” of the council’s property portfolio could be outsourced and measured through KPI’s & SLA’s
- ✓ Implementation of a quarterly Strategic Partnership Board could ensure the Council has the ability to collaborate with its partner and ensure maximum value is received from the successful organisation.

### Disadvantages

- ✓ Totally dependent on one company for all support services which would be a significant risk should anything happen to this company
- ✓ Should the partner organisation cease to operate, it is likely that Council buildings could not open until a new provider was sourced
- ✓ Whilst only one contract to manage, this will be extremely complex with many different specialisms
- ✓ Both Council staff and current provider staff would be required to TUPE to the new provider
- ✓ There is no guarantee that the partner company would actually provide all of the services directly and would subcontract many of the services to third party companies with whom the Council would have no direct involvement or influence
- ✓ There are likely to be many cost margins due to the use of multiple subcontractors
- ✓ The Council may not be able to monitor aspects that it feels important – the sustainability policies of the third party companies, for example
- ✓ Potential liability for future redundancy costs.

2.2.5 A contract management team, covering the main disciplines, would need to be retained to ensure the contract met all the Council’s requirements and obligations.

2.2.6 The Council would still need to retain a strategic presence to influence the future of its estate.

## **2.3 Option 3 – CWAC/Engie Joint Venture (Qwest)**

2.3.1 Cheshire West and Chester Council entered into a joint venture with Engie in 2015 to provide all their business functions, which included Facilities Management. This contract was open to other local authorities to join. No other LA joins as a ‘partner’, but can use all or elements of the JV, with CWAC receiving a 2% rebate on all sums payable.

2.3.2 As with the TFM solution, this would result in a large TUPE implication for both CEC staff and, potentially, contractors.

2.3.3 The JV is wide ranging and could incorporate other business and estates functions, from an FM perspective though it could include the following:-

- ✓ Hard FM (including statutory compliance and potentially Helpdesk) – QWEST currently carry out the client role for CWAC, with Engie delivering the maintenance programme
- ✓ Soft FM (including building security/janitorial; post; print; reception services, room booking, pool car management – however, CEC currently produce all payslips and consolidated billing for CWAC as their print unit closed)
- ✓ Cleaning
- ✓ Energy Management

2.3.4 Given that the Council is reviewing its estate but at this time does not know what it will look like in the future, this may not be a viable option. As previously Qwest with no guarantee of continued employment. Qwest would, undoubtedly, wish to build in a liability clause which makes the Council responsible for future redundancy cost, whether they be ex-Council or provider staff.

2.3.5 Again, the FM operation would be outsourced to a single service provider, Qwest, with only a strategic management/contract management team retained. However, this would need to be of adequate size to deal with the many issues that may arise.

2.3.6 There are both advantages and disadvantages:

#### Advantages

- ✓ Working with Qwest means only one contract and one point of contact
- ✓ Management of the contract should be much easier
- ✓ There may be a fixed price and so budget planning should be relatively straight forward
- ✓ Existing partner provider staff would have the right of TUPE, which could provide some continuity
- ✓ Totally dependent on one company for all support services which would be a significant risk should anything happen to this company

#### Disadvantages

- ✓ Totally dependent on one company for all support services which would be a significant risk should anything happen to this company or Government legislation change the way Local Authorities should work
- ✓ Should Qwest cease to operate, it is likely that Council buildings could not open until a new provider was sourced
- ✓ There is no guarantee that Qwest will actually provide all of the services. In fact, they do subcontract the hard FM to Engie, who then use subcontractors to undertake works
- ✓ There are multiple margins on costs, including a 2% return for CWAC
- ✓ The Council may not be able to monitor aspects that it feels important – the sustainability policies of the third party companies, for example.
- ✓ Cheshire East would not enter into a Joint Venture, this option would be buying contracted services from Qwest only

- ✓ Cheshire East would not receive the equivalent ability to influence the JV company as CWAC as it would have no voting rights
- ✓ Political views of purchasing services from a CWAC owned company may render this option unfavourable
- ✓ CEC will not have the ability to influence the strategic direction of Qwest as board members comprise of 2 x CWAC officers and 3 x ENGIE employees
- ✓ Potential liability for future redundancy costs.

2.3.7 A small contract management team, covering the main disciplines, would need to be retained to ensure the contract met all the Council's requirements and obligations. However, this would need to be of adequate size to deal with the many issues that may arise.

2.3.8 The Council would still need to retain a strategic presence to influence the future of its estate.

#### 2.4 ***Option 4 – CEC to create a Direct Labour Organisation for the delivery of maintenance and compliance works***

2.4.1 The Council could choose to appoint its own workforce to deliver its hard FM and statutory compliance services. However, it would be impossible to cover all disciplines and specialist requirements.

2.4.2 In order to deliver all specialist works, there would be a requirement for a large number of individual specialist contracts to be procured, which would be both costly and time consuming.

2.4.3 Whilst the majority of soft FM services are already undertaken in house, ie post, print, janitorial services, cleaning – these are not specialist services. There would still be a requirement to procure other services, such those identified above.

2.4.4 A large recruitment drive would be required in order to ensure the Council had the necessary resources to deliver works to its diverse range of buildings. This would be both from a direct labour and professional point of view. In addition, there would be TUPE implications as many of the existing contractor staff would have the right to transfer to the Council.

2.4.5 As with all options, there are advantages and disadvantages to this approach:

##### Advantages

- ✓ The Council would have total control over its work force and how it was utilised
- ✓ Existing partner workforce would have the right of TUPE into the Council, providing some continuity

##### Disadvantages

- ✓ The Council is not an expert organisation for direct management of these services
- ✓ Bringing direct delivery in house would result in the loss of the systems and best practice from private sector organisations. This would result in a cost increase as labour utilisation and productivity could decrease
- ✓ The Council would be paying staff whether there is sufficient daily work or not, rather than for work delivered
- ✓ Transfer of total risk of compliance and safety management onto the Council
- ✓ A greater reliance on consultants, increasing costs
- ✓ Increased management overhead and liabilities of manage direct employees
- ✓ Large recruitment process, both management and labour force, to ensure appropriate trades and knowledge are employed
- ✓ Large procurement exercise for individual contractors to deliver specialist services
- ✓ Large procurement exercise for plant and equipment, some specialist requiring specialist knowledge
- ✓ Management of multiple contracts
- ✓ Existing partner organisation staff would have right of TUPE into the Council, bringing forward legacy employment issues
- ✓ This would take a number of years to stabilise, putting the Council's estate at risk
- ✓ Short term contracts would be required at the end of the existing to ensure robust systems were in place for the future
- ✓ Accommodation would be required to ensure the services could be delivered from fit for purpose base
- ✓ High insurance and indemnity costs
- ✓ Increased demand on HR and other internal services
- ✓ Requirement for hands on Health and Safety advisors, CDM requirements

### 3.0 Recommendation

Given the Estates Review, it is recommended that Option 1 be taken forward. It is further suggested that a 7 year contract, with the option to extend for 2 years be put in place for both the Maintenance and Compliance contracts.