

Homes and Neighbourhoods
222 Upper Street, N1

Report of: Corporate Director of Homes and Neighbourhoods

Date: 7 October 2022

Ward(s): all

Subject: Lightning Protection Equipment Servicing and Maintenance

1. Synopsis

- 1.1. This report sets out the strategy to procure a contractor to undertake annual servicing and maintenance of lightning protection equipment.
- 1.2. This service is needed primarily to equipment located in Islington Council residential blocks, community centres and reception centres.
- 1.3. As this is will be a corporate council contract other parts of the council may access it to deliver similar works, if needed.

2. Recommendations

- 2.1. To approve the procurement of a new contract for Lightning Protection Equipment Servicing and Maintenance, as outlined in this report.

3. Date the decision is to be taken

- 3.1. 7 October 2022.

4. Background

4.1. Nature of the service

- 4.1.1. Islington council is the landlord for around 35,000 council homes located across the borough. In addition, the council owns a number of community centres located

on key housing estates and blocks across its housing stock and a number of reception centres which provide emergency accommodation for homeless people in Islington.

- 4.1.2. The council needs to procure a service to undertake the annual inspection and testing and, where needed repair, of lightning protection equipment located in Islington Council residential blocks, community centres and reception centres. This will include the same for any surge protection equipment that may also be present at the site. Although this contract will primarily be procured for use on Islington Council housing stock as this will be a corporate contract other parts of the council will be able to access this contract for the delivery of similar works.
- 4.1.3. The council has approximately 210 residential locations where lightning protection systems are in situ which require annual servicing and associated repair, with further properties being added from time to time as capital improvement projects on existing housing blocks are delivered, and as new build projects are completed.
- 4.1.4. Should a block be struck by lightning, a lightning protection system fitted from the roof to the ground helps to safely earth the considerable electrical force of the lightning bolt, reducing the potential risk of damage to electrical equipment that is present at the site. Whilst there is not a legal requirement within the UK to install such equipment there is reference to lightning protection in the Electricity at Work Regulations 1989. Once installed this equipment must be properly inspected and maintained in accordance with requirements of BS EN 62305 (British edition of the European standard). This is to ensure the equipment remains safe and fit for purpose - protection of properties and occupants from potential damage in a lightning strike. There is a considerable amount of other equipment located on our properties, including communications equipment, TV aerials, solar panels, door entry and CCTV systems that could be affected and damaged in the event of a lightning strike.
- 4.1.5. Where installed, the council has a legal duty to check and maintain lightning protection equipment to the standards set out in BS EN 62305. Failure to carry out repairs to this equipment would result in the council not complying with the required standards. The Health and Safety Executive would carry out an investigation if there was an incident of a failed system that had not been maintained. Residents are reliant on the council to deliver repairs to keep their homes and communal areas in a good state of repair. Failure by the council to meet its repair obligations could impact adversely on residents, particularly due to the health and safety implications of the nature of the work involved. This also carries a reputational and financial risk for the council. Leaseholders pay service charges for relevant repairs and expect that they will be carried out effectively.

These risks can be mitigated by ensuring this contract is procured within the given timescales.

4.2. Estimated value

4.2.1. The spend on this contract will be covered from existing Housing Revenue Account revenue budgets. Should any other department of the council wish to access this contract for the provision of similar services that department would be responsible for funding the costs associated from their own budgets.

4.2.2. It is proposed that the duration of this contract be for an initial period of 48 months, with an option for a further extension of 36 months and a final option to extend by a further 36 months. Should the contract be extended, the maximum total contract will be for a period of 120 months (10 years). The contract will include break clauses which the council may enact should circumstances necessitate the contract end earlier.

4.2.3. The annual spend on the contract is estimated to be £100,000 per annum. This anticipated spend will cover the cost of the annual inspection, testing and any identified remedial works of all lightning protection equipment installed in Islington council housing estates and associated buildings.

4.2.4. The spend on this service over the previous four years is broken down as:

Repairs Description	Lightning Protection			
	2018/19	2019/20	2020/21	2021/22
Outturn	24,329	69,110	110,842	154,202

The spend on the service has been increasing year on year, in part due to the aging of the existing equipment and the improved maintenance regime of the service. However, the service has confirmed that it expects to be able to deliver this service within the budget limit of £100,000 per annum throughout the life of the new contract resulting in a total contract value of £1,000,000.

4.2.5. Any further reduction in the budget would risk the viability of the contract and a break in the provision of the service. A break in the provision of this service would pose an unacceptable financial, health and safety and reputational risk to the council.

4.2.6. Council leaseholders are eligible to contribute toward the cost of the provision of this service when delivered to the block in which they live. As such the council must undertake a two-stage consultation period with its leaseholders as part of this procurement exercise. It is a legal requirement to consider leaseholders' comments on the proposal to procure and enter into a contract for the provision of

this service and to enable the council to legitimately recover costs from leaseholders through their annual service charges.

4.3. **Timetable**

4.3.1. The contract with the existing supplier for this service terminates on 20 April 2023.

The proposed timetable for the procurement of the new contract is:

- October 2022 - Procurement Strategy approved
- November 2022 - Open tender published
- December 2022 - Submissions evaluated
- March 2023 - Award decision
- March/April 2023 - Mobilisation of contract
- April 2023 - Contract start date

4.3.2. The service contract management and delivery teams have contributed to the development of this report. The finance department was consulted on the proposed budget levels. The council's procurement, health and safety, equalities and environmental services teams have all been consulted on this strategy and their comments have been considered. The strategy has been updated accordingly.

4.4. **Options appraisal**

The following service delivery and procurement routes have been considered:

4.4.1. Deliver the service in-house: A benefit of insourcing the service would be it enables the council to have full control over the services it delivers to residents. However, insourcing would require significant upskilling of the existing in-house repairs team, and the purchase of specialist equipment. Lightning protection servicing and maintenance is a specialist area requiring engineers with specialist skills and accreditation of competence. Knowledge of industry codes of practice and significant up to date technical knowledge, qualifications, and experience in maintaining a range of lightning and surge protection equipment is essential. Working at height and in confined spaces is often required, which also requires additional technical skills and qualifications, experience, and equipment. The nature of this service means that it is not considered efficient and effective for the council to in-source this specialist contract.

4.4.2. Use of an external framework agreement: Use of a compliant framework agreement would provide a slightly quicker route to procure a specialist contractor. However, we have only been able to identify two existing procurement frameworks offering this service in the London area. One of these frameworks is due to close in April 2023 and the other, although national in coverage, is focussed on service provision in the East Midlands and East Anglia. The option of using a framework agreement is rejected for the following reasons. As there are no standard lightning

protection schedule of rate codes provided by the National Housing Federation, the service has set up a number of bespoke codes for the delivery of lightning protection servicing and related works, including coverage of surge protection where this has been installed, and intends to maintain this approach. This pricing model is not available through the identified framework agreements. Adoption of the pricing model of external framework agreements would require significant change to the IT system used within the service adding additional costs and inconvenience to the service. The service wishes to enter a long-term partnering contract with a specialist supplier for the consistent delivery of this specialist area of work. The service also anticipates offering a longer-term contract increases the competitiveness of the pricing offered by prospective suppliers. Use of a framework agreement to secure a contract may limit the length of the contract which can be offered by the council.

- 4.4.3. A competitive open tender process: A drawback of this procurement route is that it is a slightly lengthier process than the use of a procurement framework. The benefits of this option are that the council has more control over the specific terms and contractual conditions, including pricing, applied to the contract. This enables the council to procure service provision that fits with existing service, IT and payment requirements. Use of the open tender process is proposed because the size of the market for this specialist area is known to be small. For these reasons, an open tender to procure a single supplier is the preferred option of the council.
- 4.4.4. Opportunities for collaboration: other parts of the council may require the same service to access the contract. As this is a council wide contract, there are opportunities for other service areas within the council to use this contract for the servicing and maintenance of lightning protection systems. Further collaboration opportunities linked to this contract will be explored with other parts of the council as part of a strategic project.

4.5. **Key Considerations**

- 4.5.1. The chosen supplier will be required to deliver four weeks paid work experience (25 hrs per week) three times per annum. This work experience must be paid at the London Living Wage and at the supplier's own expense for Islington residents to gain hands on work experience in this precise sector. The purpose of this is to raise awareness for individuals with a view to them then going on the train as a Lightning Protection Systems Technician. The council's iWork service will recruit and select the local residents, especially those who are disadvantaged in the labour market, as a contractual requirement of this contract. These targeted employment opportunities will be achieved in good faith and working partnership between the contractor and the council's internal employment services. Other social value contributions, such as choosing the council's adult and/or youth employment services 'menu of support needs' and working with the council's

community development team to support the delivery of local estate-based projects throughout the life of the contract will be encouraged.

4.5.2. In addition, tenderers will need to demonstrate their commitment and support to council priorities related to net-zero carbon and environmental protection. These measures will reduce the carbon footprint of the delivery of this service, for example, by using electric vehicles to undertake works and using sustainably sourced materials whenever possible. Suppliers will also be required to consider and take reasonable steps to protect wildlife when undertaking works to the outside of buildings, for example nesting birds or roosting bats. Tenderers will also be encouraged to use local suppliers when possible. This commitment will increase local economic growth and help with local employment opportunities.

4.5.3. London Living Wage will be included as a condition of the contract.

4.5.4. There may be TUPE implications resulting from this contract. This is being checked with the current supplier and the results will be made available as part of the tender process.

4.5.5. Council leaseholders will be consulted as part of the procurement process for this new contract.

4.6. **Evaluation**

4.6.1. The tender will be conducted in one stage, known as the Open Procedure, as the tender is 'open' to all organisations who express an interest. The Open Procedure includes minimum requirements which organisations must meet before the rest of their tender is evaluated.

4.6.2. The overall evaluation award criteria will be 40% cost and 60% quality. The full breakdown of the quality criteria will be:

- 20% - Proposed approach to achieve the highest standards of service delivery and workmanship, including consideration of quality assurance, maintaining continual compliance with legal and regulatory requirements and workforce competence.
- 20% - Proposed approach to delivery of required social value requirements in the areas of local employment and community benefits, environmental protection and carbon reduction. Commitment to exceed minimum requirements will be considered favourably.
- 10% - Proposed approach to the resourcing of the contract and planning works to maintain service delivery, including consideration and mitigation of risk and business continuity.
- 10% - Proposed approach to communication with the client and customers including consideration of equality issues and resolution of complaints.

4.7. Business risks

The key risks associated with this procurement are:

Risk	Likelihood	Impact	Priority	Mitigation
Procurement is unsuccessful with no suitable supplier tendering or being identified	Low	High	Medium	Interim emergency measures will be sought and plans for urgent re-procure put in place
The successful tenderer pulls out of the contract prior to start of the contract	Low	High	Medium	Interim emergency measures will be sought and plans for urgent re-procure put in place
Delays to the procurement process result in limited mobilisation time for new supplier/s	Medium	High	High	A mobilisation plan is in place in advance of the award of contract to minimise time needed for mobilisation. Procurement team aware of key milestones so they can assist with meeting them.

4.7.1. Other parts of the council that require similar services for the repair and maintenance of lightning protection systems will be able to use this contract. Reference has been made in the specification for the service that other parts of the council may wish to access the services of the supplier using this contract. Due to the legal requirement on the council to undertake work to ensure the safe operation of lightning protection systems when present on buildings there are limited opportunities for savings to be secured within this contract. The service has committed to reducing annual spend on the contract below the most recent spend through improved efficiency in the delivery of the service.

4.8. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

4.9. The following relevant information is required to be specifically approved in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1. Nature of the service	<p>This report sets out the strategy to procure a supplier to provide a service to undertake annual servicing and maintenance of lightning protection equipment.</p> <p>See paragraph 4.1</p>
2. Estimated value	<p>The estimated value per year is £100,000.</p> <p>The agreement is proposed to run for a period of 48 months with an initial optional extension of 36 months and a final optional extension of 36 months.</p> <p>See paragraph 4.2</p>
3. Timetable	<ul style="list-style-type: none"> • Advert – November 2022 • Shortlisting – December 2022 • Award – March 2023 <p>See paragraph 4.3</p>
4. Options appraisal for tender procedure including consideration of collaboration opportunities	<p>The options considered are:</p> <ul style="list-style-type: none"> • In-sourcing the service • Accessing a procurement framework • An open tender – this is preferred procurement route <p>See paragraph 4.4</p>
<p>5. Consideration of:</p> <ul style="list-style-type: none"> • Social benefit clauses; • London Living Wage; • Best value; • TUPE, pensions and other staffing implications 	<p>The full details of these considerations are set out in detail within the report.</p> <p>See paragraph 4.5</p>
6. Award criteria	<p>The overall award criteria split is 60% quality/ 40% price.</p> <p>The award criteria price/quality breakdown is more particularly described within the report.</p>

	See paragraph 4.6
7. Any business risks associated with entering the contract	The business risk assessment is set out in detail within the report. See paragraph 4.7
8. Any other relevant financial, legal or other considerations.	See paragraph 5

5. Implications

5.1. Financial Implications

- 5.1.1. The report is seeking to procure a contractor to carry out Lightning Protection Equipment Servicing and Maintenance works, with an estimated contract cost of £100k per annum. The contract is not an annually fixed priced contract, actual costs incurred each year may vary and is dependent on demand and the need for the service.
- 5.1.2. It is proposed that the duration of this contract be for an initial period of 48 months, with an option for a further extension of 36 months and a final option to extend by a further 36 months. Should the contract be extended, the maximum total contract will be for a period of 120 months (10 years). The contract will include break clauses which the council may enact should circumstances necessitate the contract end earlier.
- 5.1.3. Lightning Protection Equipment Servicing and Maintenance works will be delivered through the Repairs and Maintenance service and has a budget allocation of £86k in 2022/23. In addition, as part of the re-integration of PFI 2 street properties to council management, a further £6.439m was provided to the repairs and maintenance service to meet the additional demand for servicing street properties. It is expected that Lightning Protection Equipment Servicing and Maintenance works cost will be met from both these budgets and thus should not create a pressure to the HRA.
- 5.1.4. To note, the contract would be subject to an annual inflationary uplift equal to the published CPI figure for the month prior to the contract anniversary date. Inflation rates are currently high and there is a risk that they could remain high for an extended period. Should it transpire, this is likely to cause a budgetary pressure to the service. It is expected that any future pressures will be managed from existing budget allocations for repairs and maintenance. This will need to be monitored closely to ensure appropriate management can be taken to manage risk arising

5.2. **Legal Implications**

- 5.2.1. The council is responsible for undertaking the repair, maintenance and improvement of its housing properties and installations therein (Part 2 of the Housing Act 1985 and section 111 of the Local Government Act 1972). The council has power to enter into contracts with providers of such services under section 1 of the Local Government (Contracts) Act 1997.
- 5.2.2. The proposed contract is a contract for services which is above the threshold of £213,477 for application of the Public Contracts Regulations 2015 (the Regulations) and therefore requires advertisement on the Find a Tender Service (FTS) and Contracts Finder. The Council's Procurement Rules require contracts of this value to be subject to competitive tendering. The proposed procurement strategy is for a competitive open tender process which is in compliance with the Regulations and the council's Procurement Rules.
- 5.2.3. On completion of the procurement process the contract may be awarded to the highest scoring tenderer subject to the tender providing value for money for the council.

5.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

This contract will have several environmental impacts. These include journeys made by the contractor, the use of energy, use of materials and the generation of waste and the potential for disturbance of biodiversity such as nesting birds or roosting bats during works on and around roof areas.

There are several ways in which these impacts will be mitigated. The quality score during the procurement will include up to 20% for commitments to social value and net zero carbon. This will assess commitment to reducing the carbon footprint of the delivery of the service. The specification for the service will set out expectations regarding use of materials, minimising and correct disposal of waste and encourage the use of electric vehicles and use of green energy. Contractors will be asked to source goods from sustainable sources and with recyclable packaging and ensure materials/equipment used is recyclable whenever possible. The contractor is also legally required to protect any roosting bats and nesting birds they encounter.

5.4. **Equalities Impact Assessment**

- 5.4.1. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or

minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

- 5.4.2. An Equalities Impact Assessment was completed in July 2022. It identified no adverse impacts to groups with protected characteristics.

6. Conclusion and reasons for the decision

- 6.1. The council needs to procure a new supplier to deliver lightning protection servicing and maintenance works to council housing buildings where such equipment is installed. This a legal requirement and a specialist area of work. Having conducted an assessment of the procurement options as set out within the body of this report we intend to use the open tender process to procure a new supplier to deliver these works for these the reasons set out above.

7. Record of the decision

- 7.1. I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

(The following section is to be left blank, and then completed at the point the decision is taken and re-submitted to Democratic Services)

Signed by:

Corporate Director of....

Date: **Date the decision was taken**

Appendices:

- Equalities Impact Assessment

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