
Decision Maker: **Executive**

Date: **20th July 2016**

Decision Type: Non-Urgent Executive Key

Title: **GATEWAY REPORT COMMISSIONING - PROPOSED TOTAL FACILITIES MANAGEMENT CONTRACT**

Contact Officer: Colin Brand, Assistant Director Leisure and Culture
Tel: 0208 313 4107 E-mail: colin.brand@bromley.gov.uk
Lesley Moore, Director of Commissioning
Tel: 0208 313 4633 E-mail lesley.moore@bromley.gov.uk
Dave Starling, Head of Corporate Procurement
Tel: 0208 313 4639 E-mail dave.starling@bromley.gov.uk

Chief Officer: Director of Corporate Services
Executive Director of Environmental & Community Services

Ward: All Wards

1. Reason for report

- 1.1 On March 2016 the Executive received a report about proposals for outsourcing all Total Facilities Management Services to Amey, subject to the outcome of due diligence and confirming the budget savings and redundancy liabilities.
- 1.2 The Executive also asked that staffing questions raised in the consultation period be responded to. This report provides an update.
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2. RECOMMENDATION(S)

Members of the Executive are asked to:

- 2.1 Agree to award a contract to Amey Community Limited, conditional upon legal and financial provisions being satisfactory, for the provision of Strategic and Operational Property Management Services and Facilities Management Services for a period of 5 years with an option to extend for a further 3 years.
- 2.2 Delegate approval to award the unconditional contract to the Director of Corporate Services after consultation with the Portfolio Holder for Resources and the Portfolio Holder for Renewal & Recreation, the Director of Commissioning and the Director of Environmental Services.
- 2.3 Note that it is expected that the contract will deliver part year savings of £105,000 in 2016/2017 (excluding £339,000 one-off costs) increasing to £210,000 in a full year, as set out in paragraph 6.1 of this report.
- 2.4 Note that the proposals and the further efficiencies identified by Amey could give rise to redundancies post transfer. The potential redundancy and early retirement costs that could arise from these proposals, which range from £0k to £150k, are explained in para 3.7 of this report.
- 2.5 Note that since the Executive meeting on 23 March, further meetings have taken place with staff affected by these proposals, as well as separate meetings with trade unions, without prejudice to any subsequent TUPE staff/trade union consultations in the event of the contracts being awarded as per 2.1 and 2.2 above. Officers have also arranged for the staff affected by these proposals to meet with Amey or Cushman & Wakefield directly.

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council & Quality Environment
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Financial

1. Cost of proposal: £309k net one-off costs. Savings of £228k in a full year
 2. Ongoing costs: As above
 3. Budget head/performance centre: Facilities Management, Operational and Strategic Property (TFM)
 4. Total current budget for this head: TFM £4.5m,
 5. Source of funding: N/A
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Staff

1. Number of staff (current and additional): 48 ftes for TFM this includes the 2 education posts
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: None
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The report to Executive in March 2016 around the provision of TFM services identified a number of benefits of the Amey proposal, both financial and around future service provision.
- 3.2 The Amey proposal:-
- Identified guaranteed revenue savings of £210k p.a.
 - Scope for further efficiencies in the delivery of some of the Operational and Facilities Management Services which they proposed should be shared 80/20 in favour of the Council
 - Provides resilience
 - Provides capacity
 - Provides Commercial experience
 - Provides flexibility to call off strategic work as required whereas currently officers have to tender for this work.
 - Will deliver a 5% reduction on Cushman & Wakefield's Framework rates for all new capital projects (which will be benchmarked to ensure value for money).
 - Identified the potential to generate new income opportunities £1m p.a.
- 3.3 In accordance with the previous decision of the Executive the Resources and Education Portfolio Holders agreed to the Director of Corporate services terminating arrangements for discretionary property services to schools with effect from 1 September 2016

Guaranteed Revenue Savings

- 3.4 The proposal from Amey and Cushman & Wakefield identified full year revenue savings of £210k for TFM services effective from the date of transfer. Detail discussions between officers and Amey/Cushman & Wakefield have been on-going since March to confirm how these savings will be made and what if any, the redundancy costs might be arising from Amey's proposal for the future delivery of the services.
- 3.5 Cushman & Wakefield have identified savings in strategic property of £60k p.a. of which £12k will be funded from a vacant technical support post (0.6 fte), £8k from their own internal reorganisation and £40k from restructuring of the valuation team post transfer.
- 3.6 Amey also confirmed their savings of £150k p.a. which will be generated from reviewing the overall resources needed in the operational property division. There are several vacant posts which will transfer across to Amey and contribute towards this saving figure.
- 3.7 The final TUPE list will not be confirmed until members approve the Amey proposal and the Client Team established. Once that is undertaken it will be clearer which staff will TUPE across to either Amey or Cushman & Wakefield and then any redundancy costs that might arise as a consequence of any restructure that Amey or Cushman and Wakefield may propose following the award of the contract. The potential redundancy costs range from £0k - £150k including early release of pensions, depending on the overall number of vacant posts at the point of transfer and any internal vacancies within both organisations. Whilst responsibility for consulting on any future proposed structure would be the responsibility of the employer post

transfer (either Amey or Cushman and Wakefield) the Council would bear the cost of any redundancies/early retirements undertaken in the first six months of the contract.

Incentivised Savings

- 3.8 Amey also identified scope for further efficiencies in the delivery of some of the Operational and Facilities Management Services which they proposed should be shared 80/20 in favour of the Council. They have indicated that this is likely to generate a further £65k p.a. saving to the Council.
- 3.9 In addition as highlighted in the previous report Cushman and Wakefield will also, on an incentivised basis, seek to grow our net investment income (excluding property generated by new capital) by a minimum of £1m (index adjusted) within three years. This will be achieved by:
- Reshaping the investment portfolio to improve returns and income growth prospects.
 - Adopting a more commercial approach to managing rents.
 - Adopting a more commercial approach to service charge recoveries.

The incentive for Cushman and Wakefield will be that after the first £350k of new income generated for the Council, they will retain a % of the income based on a banded fee. This is broken down in the table below:-

Band 1	0 to £350k of increased income	No fee
Band 2	£351k to £700k	7% of increment
Band 3	£701k to £1m	10% of increment

Due Diligence – One off Costs

Asset Validation

- 3.10 A sum of £45k was approved by the Executive for one off work by Amey to create a record of all assets (e.g. boilers etc.) within Council sites and confirm statutory compliance. A risk tracker is in place to manage this process.
- 3.11 As part of the due diligence process that has been undertaken by Amey, it has identified issues relating to the following areas:-
- Water Treatment
 - Emergency Lighting Provision
 - Asbestos
 - Fire Prevention
- 3.12 Difficulties have been caused through issues with compliance /best practice by former contractors and through changes and lack of resilience in the core team. Work is in hand to complete work on emergency lighting testing and to implement remedial work arising from that

and to address issues at 7 premises (out of 48) where issues were identified from tests carried out by the present Water treatment contractor. It is anticipated that the necessary work will be undertaken before contract commencement (in the event that an award is made).

Condition Surveys

- 3.13 A sum of £30k one-off costs was approved by the Executive to undertake visual condition Surveys on 27 key sites (the Council has already undertaken a number) to provide officers with a better understanding of the level of maintenance in the Council's estate, including risks and liabilities and help inform our asset strategy going forward.

IT Costs

- 3.14 The Executive approved a sum of £150k for IT costs relating to building of the CAFM property data system (£140k) and updating the Room Booking system so that it is separate from the Councils IT systems (£10k). Officers continue to explore with Amey the most cost effective way to migrate data across and what data will need to be retained and archived.
- 3.15 Any one off work required from BT may result in additional costs where funding will need to be identified.

Mobilisation costs- £114k

- 3.16 As with any contract Providers will include mobilisation costs within their bid to cover the work they will undertake to ensure the contract mobilisation is as smooth as possible. This includes the cost of their transition team, delivery manager, procurement, legal & HR support etc.

Update on Staff Queries

- 3.17 A considerable number of questions were raised as part of the consultation process and responses were provided to staff at the time where possible, although any issues relating to the TUPE transfer particularly in relation to what measures the new employer may envisage as a consequence of the proposed transfer, need to be dealt with at a later stage as part of a TUPE consultation process, if members agree to award the contract to Amey.
- 3.18 Officers decided to allow the consultation process to go beyond the normal 30 day period which meant that some questions were not received until the day of the Executive on 23 March 2016. Consequently the "late" questions from staff were not sufficiently covered in the previous report. Since then a number of follow up meetings were arranged with the staff affected by these proposals as well as separate meetings with trade unions. All non TUPE issues that were raised have been responded to. In addition to this, staff have now met or will be meeting officers from Amey or Cushman & Wakefield.

4. PROCUREMENT

- 4.1 If members approve the Amey proposal then the anticipated start date of the contract, subject to completion of all substantive terms and conditions being agreed will be the 1 October 2016. The proposed timetable is set out below:-

Executive meeting	20/07/2016
Mobilisation	On-going
TUPE consultation	01/08/2016 to 30/09/2016
Contract start date (subject to terms & conditions being sorted)	01/10/16

- 4.2 The intended contract makes use of a Tri Borough Framework Contract (Westminster, Kensington & Chelsea and Hammersmith & Fulham), specifically developed by London Council's to provide an EU Compliant Contracting arrangement, which benefits from economies of scale in both its preparation and operation. The Contracting arrangement includes for all the services required by the Council and the Tri Borough Councils have also amended their core contract to allow for its use for the provision of a Strategic Property services via Amey's partner Cushman and Wakefield.
- 4.3 The Contracting arrangements proposed benefit from their drafting, on behalf of the Tri Boroughs, by Sharpe Pritchard and provide a solid basis for the intended contract and its onward management, and also provide the required degree of flexibility to accommodate the change agenda in which the Council is currently engaged.

5. POLICY IMPLICATIONS

- 5.1 Moving to a Commissioning Authority is in line with the Council's Corporate Operating Principles and is key to achieving the Building a Better Bromley 2020 Vision in ensuring that services continue to be provided as efficiently and effectively as possible, in light of the financial pressures facing the Council over the next few years.

6. FINANCIAL IMPLICATIONS

- 6.1 The table below summaries the part-year and full year potential savings arising from the Amey proposal:-

	2016/17 £'000	2017/18 £'000	Full Year £'000
Amey Proposal			
Contract Savings - Guaranteed	-105	-210	-210
Further potential contract efficiencies	-20	-65	-65
	<u>-125</u>	<u>-275</u>	<u>-275</u>
Additional Income Opportunity - Amey (£1m)	<u>-350</u>	<u>-675</u>	<u>-945</u>
Other costs			
One-off Amey costs	339		
Reimbursement from Amey	-30		
Provision for Pension Risk	100	100	100
	<u>409</u>	<u>100</u>	<u>100</u>
Potential Net Savings	<u>-66</u>	<u>-850</u>	<u>-1,120</u>

- 6.2 The one-off costs totalling £339k as detailed in para's 3.10 – 3.16 will be funded from the 2015/16 underspends agreed by the Executive in May and will need to be drawn down from the Central Contingency now that Amey have completed this work.
- 6.3 Until this proposal is approved, officers are unable to recruit to the Client Unit posts. This will need to be undertaken quite quickly after Executive, if approved, so that the TUPE list can be finalised with Amey and then the worst case scenario redundancy and early retirement costs which may arise from these proposals can be finalised. These potential costs range from £0k - £150k. These will be charged to the Central Contingency provision for redundancy/early retirement costs.
- 6.4 The table above identifies guaranteed full year revenue savings of £210k, potential further efficiencies of £65k p.a. based on 80/20 split and the potential to generate additional income of £945k based on £1m new income that is likely to be generated by C&W through better management of our assets. There are also the additional benefits resulting from using Cushman and Wakefield as our preferred consultant on all Projects relating to Strategic Asset Management.
- 6.5 If the Amey proposal is agreed there could also be savings arising from the Liberata Contract. Liberata currently process around 14,500 property invoices each year through the Property database Confirm to various organisations, in the future they would only pay one organisation so the volume of invoices will greatly reduce. If Amey does not require all this resource a saving could be realised on the contract of up to £28k p.a. but this will only confirmed following contract award once officers are clearer about activity and the split between income (no change in volumes) and expenditure (volumes should reduce significantly). Any saving will be actioned via a Change Control Notice with Liberata during 2016/17.

- 6.6 The table below summarises the guaranteed net additional saving that will be delivered from the Amey Contract not assumed in the 2016/17 Budget: -

	2016/17 Part Year £'000	2017/18 Full Year £'000
Contract savings from Amey Proposal - guaranteed	-105	-210
Less new savings assumed in the 2016/17 budget	40	40
Assured net saving from Amey	-65	-170
Mail Delivery savings	-33	-58
Total assured saving	-98	-228

Risks

- 6.7 The biggest area of risk that was identified in the last report to Executive was around the condition of our assets given our decision some years ago to reduce the maintenance budget. The standard TFM model used in the Framework is to have a “no comprehensive limit” but this has been modified for Bromley given our decision a few years ago to delay repairs and maintenance where possible to our buildings, in the light of having to make significant budget savings. The results of the condition surveys will be available mid- August and will help inform future decisions around strategy for retaining properties etc.

The other risk identified was around statutory compliance. The audits undertaken by Amey will now resolved this risk.

8. PERSONNEL IMPLICATIONS

- 8.1. Formal consultation on the proposals took place with staff and trade unions prior to the report being presented to Executive on 23 March 2016 and details of that consultation were outlined in the earlier report, along with the engagement with staff that began as early as November 2014. As outlined in paragraphs 3.17 and 3.18 above, responses were provided to a significant number of questions which were received up to the day of the Executive meeting. Acknowledging staff concerns and their request for more detailed responses to some of their questions two further meetings took place with staff during April and May along with two separate meetings with the trade unions. Responses have been provided to questions that were raised with the exception of those questions that could only be dealt with as part of any subsequent consultation on TUPE.
- 8.2. For the reasons outlined in paragraph 6.3. above it is not possible to confirm the exact numbers of staff who it is proposed would transfer to Amey or Cushman and Wakefield as part of these proposals. Any staffing implications arising from these proposals or any potential award will need to be carefully planned for and managed in accordance with the council policies and procedures and with due regard for the existing framework of employment law. Further dialogue with Amey and Cushman and Wakefield and the creation of the Client Team would inform the process as to which posts would be in scope for transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended (2014). There are currently 43 staff permanent staff plus 6 vacant posts (48.5 FTEs in total) along with an additional 7 casual staff working across the services covered by this report.

- 8.3. Should the proposed contract award be agreed then a period of consultation on the detailed transfer proposals would take place with staff, trade unions and other staff representatives in accordance with employment legislation and the Council's managing change procedures. This will enable staff to explore in more detail the impact of the proposed transfer on their employment situation.

9. LEGAL IMPLICATIONS

- 9.1 Under rule 16.6 of the Contract Procedure Rules contracts with a total value over £1,000,000 shall be approved by the Executive.
- 9.2 The Public Contracts Regulations 2015 apply to this contract. The Council has used a Framework Agreement which complied with the said Regulations.
- 9.3 Officers are working with the Legal Department regarding the terms and conditions of the contract.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Information held in the Finance and Commissioning Teams, which includes the detailed specifications, form of Tender KPIs etc.