


<p>London Borough of Hammersmith & Fulham</p> <p>CABINET</p> <p>4 MARCH 2019</p>		
<p>BUSINESS CASE & PROCUREMENT STRATEGY IN RELATION TO LIGHTNING PROTECTION</p>		
<p>Report of the Cabinet Member for Housing: Councillor Lisa Homan</p>		
<p>Open Report</p>		
<p>Classification: For decision Key Decision: Yes</p>		
<p>Consultation:</p> <p>Finance, Legal, Procurement, Business, Commercial IT, and Risk Management</p>		
<p>Wards Affected:</p> <p>All</p>		
<p>Accountable Director: Jo Rowlands Strategic Director Growth and Place</p>		
<p>Report Author: Richard Buckley Assistant Director Growth and Place</p>		<p>Contact Details: Tel: 07769882207 Email: Richard.buckley@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1. Lightning protection is a system that is designed to protect buildings and infrastructure being directly or indirectly affected by a lightning strike. Not only does lightning affect a building's structure but it can also interfere with operational aspects of a building including electrics, telecoms, and computers etc. Lightning strikes create a power surge which can cause fires, loss of electrics and even loss of human life. Lightning Protection systems are designed to channel current safely to the ground so it can dissipate safely.

- 1.2 Best practice advises that all lightning protection systems should be inspected and tested at least once a year. It is part of BSEN 62305 and Electricity at Work Regulations.

It appears that over the years the lightning protection in some Council buildings which is mainly constructed of copper has been damaged or removed. Measures will be taken to provide additional security to stop it being removed in future and regular inspections will be carried to ensure that any damage is identified and rectified in a timely manner.

- 1.3 Further to Cabinet Member approval on 18 February 2018 surveys have so far been carried out at 287 blocks (4 storeys and above) to ascertain the overall condition and to determine the work necessary to comply with current regulations. The estimated costs of the work to the 287 blocks is £350,000.
- 1.4 There are a further 100 blocks still to be surveyed and it is hoped that these will be completed by the end of February 2019. Based on the average cost of the blocks already surveyed the estimated cost of remedial work to the additional 100 properties is £122,000.
- 1.5 The total pre-tender estimate to carry out lightning protection works to all identified blocks that do not comply with current regulations is £472,000.

2. RECOMMENDATIONS

It is recommended:

- 2.1 That following completion of the remaining surveys and due to the specialist nature of the work a restrictive procurement exercise be implemented to carry out lightning protection remedial work to all Council blocks of residential dwellings that do not comply with current regulations.
- 2.2 That the expenditure of £472,000 be approved.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To comply with the requirements contained in Contract Standing Orders to seek Cabinet approval before a regulated procurement exercise is commenced.

4. PROPOSAL AND ISSUES

- 4.1. The proposal is to ensure all Council buildings within the housing stock that require lightning protection are fitted with adequate lightning protection which complies with BSEN 62305.
- 4.2. The Council has adopted a best practice policy regarding health and safety and currently around 300 blocks out of 487 blocks surveyed within the Council's housing stock do not comply with the regulations and urgent remedial work is required to remedy the issue.

- 4.3. A series of measures will be implemented to provide anti-vandal protection. Guards will be installed at ground level up to a height of 3 metres and will have tamper proof screws fitted to prevent systems from being vandalised or stolen. Similar security measures will also be carried out at roof level. Annual inspections will be carried out to test the systems and identify any remedial works that are required.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1 A Service Review Team (SRT) has undertaken a service review in accordance with Contracts Standing Orders. Appendix 1 sets out the commercial and procurement options, together with an analysis of these options.
- 5.2 The Council could opt to do nothing but this could endanger the safety of residents, damage the Council's reputation, and leave it liable to insurance claims in the event of damage caused by a lightning strike.
- 5.3 Due to the specialist nature of the works the Council could make a direct award of the contract to Horizon Limited who are carrying out the surveys but this would be in contravention of the Council's Standing Orders and cannot be justified as there are other specialist contractors in the market.
- 5.4 The preferred option is to carry out a restrictive procurement procedure with specialist contractors to carry out the necessary remedial work. Once the approved list of contractors has been compiled credit checks will be carried out of the selected contractors to ensure that they meet the Council's credit threshold.

6. CONSULTATION

- 6.1 Consultation has been carried out with Legal, Procurement, Business, Commercial, IT and Risk Management.
- 6.2 Residents will be consulted through the Repairs Working Group and individual tenant and resident associations.
- 6.3 These works are rechargeable to leaseholders but projections indicate that all bar two buildings will fall under the threshold for statutory consultation. There will therefore be no need in the main for formal consultation and costs can be recovered through the day-to-day service charge account for each property.
- 6.4 In the two instances identified where costs may exceed £250 per homeowner, or in any later instance where the same is identified, the works will be consulted separately under Schedule 4 Part 2 of the consultation regulations. These instances will constitute separate contracts from that proposed here and leaseholders will be offered the opportunity to nominate the name of an alternative contractor. For further detail of Stakeholder Consultation see Appendix 1 Paragraph 7.

7. EQUALITY IMPLICATIONS

- 7.1. There will be limited inconvenience to residents as the work will be carried externally on the roof and the side of the building. The impact of the proposed works will be positive in that it will protect the integrity of the Council's Health and Safety policy.
- 7.2. It is not anticipated that there will be any negative impact on any groups with protected characteristics, under the terms of the Equality Act 2010.
- 7.3. Implications verified by: Peter Smith, Head of Policy & Strategy, tel. 020 8753 2206.

8. LEGAL IMPLICATIONS

- 8.1. As required by Contract Standing Order 8.12, this report is being presented to Cabinet for approval of the Business Case and Procurement Strategy for the proposed procurement of a contractor to carry out lightning protection remedial works on Council housing estates.
- 8.2. As recognised by the Business Case and Procurement Strategy, this procurement is below the EU threshold for works, so the full requirements of the EU public procurement rules do not need to be followed.
- 8.3. The proposal to follow a full tender process advertised on the Council's capital-sourcing tendering portal will secure compliance with the Council's Contract Standing Orders (CSOs). For a contract of this value, CSO 10.2 requires the placing of an advert on the Council's own tender portal if the Council's Repairs and Maintenance Contractor is not used.
- 8.4. Despite a two-stage process being followed, it is good practice to publish draft contract documents on the Council's tendering portal as soon as the advert is placed.
- 8.5. Legal services will continue to advise the service area in relation to the proposed evaluation methodology and the most appropriate contract terms.
- 8.6. Due to the estimated value of the contract, CSO 17.3 will permit the award decision to be taken by the Cabinet Member, provided that the successful tender recommended for award does not diverge by more than 10% from the estimated contract value set out in the Procurement Strategy.

Implications verified/completed by: Deborah Down, senior associate with Sharpe Pritchard LLP on secondment to the Council
ddown@sharpepritchard.co.uk

9. FINANCIAL IMPLICATIONS

- 9.1 The HRA Capital Programme 2018/19 to 2021/22 (Second Quarter) revised budget approved by Cabinet on 14 January 2019 includes £36.3m of unallocated budget. In the Third Quarter budget revision being considered by Cabinet on 4 February 2019 the unallocated budget stands at £29.2m after

taking into account Cabinet / Cabinet Member Decisions since the second quarter.

- 9.2 The proposal under this report is estimated to require a budget of £472,000 which will need to be funded from this unallocated budget. As outlined in Section 1.3 and 1.4 of this report, out of a total of 387 blocks to be surveyed for the lightning protection works, only 287 have been surveyed so far. This estimated cost is based on a straight-line extrapolation of the estimated cost of the surveyed blocks to the total number of blocks. If the actual cost turns out to be higher than the estimate, it will result in additional money being needed from the unallocated budget.
- 9.3 Project spend will be monitored and reported on via the Decent Neighbourhoods monthly budget monitoring and the quarterly Capital Monitoring by Cabinet. It is recommended that project managers maintain project cash flows that are shared with Growth and Place Finance to ensure strong budgetary control.
- 9.4 Based on computation carried out by the Leasehold Services team, amount chargeable to leaseholders for works on the 287 surveyed blocks is £105,000. A straight-line extrapolation of this to the total number, ie, 387 blocks gives an estimated chargeable cost of £142,000. Where any portion of these charges cannot be passed onto the Leaseholders for any reason, it will need to be funded within capital budgets and allocation for this scheme. This will result in an increase in the HRA Capital Financing Requirement by an equivalent amount.
- 9.5 Section 6.3 specifies that for the majority of blocks, these costs can be recovered through day to day service charge accounts of the relevant properties. We have obtained confirmation from the Service Charge Accounts team that in such cases, the relevant recovery can be passed on to the leaseholders' contribution for major works pot to fund the related capital spend.
- 9.6 Finance will carry out credit check of the contractors proposed for selection in future for the works approved by this report.

Financial Context

- 9.7 The plans set out in this report are not expected to adversely impact on the current projected level of HRA cashable reserves. The plans in this report are also not expected to adversely impact on the level of debt in the HRA as measured by the HRA Capital Financing Requirement (CFR), as the Capital Programme Monitor & Budget Variations, 2018/19 (Second Quarter) report that went to Cabinet on 14 January 2019 has a sufficient budget envelope to fund the award of this contract.
- 9.8 Implications completed by: Sudhir Kafle, Housing Investment Accountant, tel. 020 8753 4391.

- 9.9 Implications verified by: Emily Hill, Assistant Director, Corporate Finance, tel. 020 8753 3145.

10. IMPLICATIONS FOR LOCAL BUSINESSES

- 10.1. Delivery of Lightning Protection Systems require specialist contractors who will be encouraged to use local supply chains for the supply of materials and labour where possible.
- 10.2. The Commissioning Manager will work with the Economic Development Team to ensure that economic and social criteria is delivered and to create employment and skills prospects for residents and supply opportunities for local businesses.
- 10.3. Implications verified/completed by: Albena Karameros Albena Karameros Economic Development Team, tel. 020 7938 8583.

11. COMMERCIAL IMPLICATIONS

To be completed by Procurement

- 11.1. The estimated value of the contract is under the statutory threshold for works £4,551,413 and therefore the full Procurement Regulations do not apply. However a restricted procedure is possible under Reg 111.
- 11.2. The recommendations and the procurement strategy are in line with the Council's Contract Standing Orders (CSOs). A two stage process will ensure that all suppliers considered meet the Council's minimum standard. A TAP will be formed to assess the tender responses based on a 60%-40% quality price ratio.
- 11.3. A tender will be advertised appropriately, in Contracts Finder and capitalEsourcing.
- 11.4. A Privacy Impact Assessment must be signed off before publishing the tender to be compliant with internal Data Protection processes.
- 11.5. The Procurement Team will support the officers in ensuring compliance with the Regulation for the multi procurement exercise recommended.
- 11.6. Implications verified/completed by Andra Ulianov, Procurement Consultant, tel. 0208 753 7181.

12. SOCIAL VALUE

- 12.1 The Social Value aspect has been considered, which is satisfying the Social Value Act 2012 requirements. Social Value, sustainability, and environmental issues will account for 5% of the Quality awarding criteria. One KPI shall be set around Social Value to ensure accurate management and delivery.

- 12.2 Implications verified/completed by Ilaria Agueci Procurement Consultant (e-projects), tel. 020 8753 4762.

13. IT IMPLICATIONS

- 13.1. There are no apparent direct ICT implications resulting from the proposal in this report.
- 13.2. If the new contractor will be processing personal data on behalf of H&F a privacy impact assessment will need to be completed to ensure all data protection risks are properly assessed with mitigating actions agreed and implemented. For example, a contract data protection and processing schedule or an information sharing agreement template and a Supplier Security Checklist to ensure the systems used by the contractor comply with H&F's regulatory requirements.
- 13.3. The contract with the new supplier will need to include H&F's data protection and processing schedule. This is compliant with the General Data protection Regulation (GDPR) enacted from 25 May 2018.
- 13.4. Implications verified/completed by Karen Barry, Strategic Relationship Manager, IT Services, tel. 0208 753 3481.

14. RISK MANAGEMENT IMPLICATIONS

- 14.1. Details of the risks and issues implications identified by the SRT are given in Appendix 1 (see Paragraph 3).
- 14.2. Implications verified/completed by: Michael Slonowski Risk Manager, tel. 020 8753 2587.

15. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None

LIST OF APPENDICES

Appendix 1: Business Case and Procurement Strategy in relation to Lightning Protection

APPENDIX 1:

BUSINESS CASE AND PROCUREMENT STRATEGY IN RELATION TO LIGHTNING PROTECTION

BUSINESS CASE

1. BUSINESS CASE – WHY THE PROCUREMENT IS NEEDED

- 1.1 The procurement is needed to ensure that all Council buildings within the Council's housing Stock are adequately protected against lightning. The Council has adopted a best practice policy in respect of health and safety and around 300 blocks do not comply with the regulations and urgent remedial work is required to remedy the situation.

2. FINANCIAL INFORMATION

- 2.1 The pre- tender estimate for the remedial work is £472,000. The breakdown is as follows:

Properties	Average Cost	Total Cost
287 Surveyed	£1220	£350,000
100 To be surveyed	£1220 (extrapolated)	£122,000
<u>387 Total</u>		<u>£472,000</u>

- 2.2 Detailed surveys have been carried on 287 blocks and the estimated cost of the remedial works is £350,000 at an average cost per building of £1220. This figure has been extrapolated to the 100 blocks not yet surveyed which adds £122,000 to the overall cost giving a total estimated cost of £472,000

3. OPTIONS APPRAISAL AND RISK ASSESSMENT

- 3.1 The Council could opt to do nothing but this is not really an option as it could endanger the safety of residents, damage the Council's reputation, and leave it liable to insurance claims in the event of damage.
- 3.2 Due to the specialist nature of the works the Council could make a direct award of the contract to Horizon Limited who have carried out the surveys to date and have detailed knowledge of the blocks. However this would be in contravention of the Council's Standing Orders and cannot be justified as there are other specialist contractors in the market. The preferred option is to carry out a restrictive procurement procedure from specialist contractors to carry out the necessary remedial work.

RISK MANAGEMENT IMPLICATIONS

- 3.3 Works are required to ensure mitigation of continuity of service risks to our residents of a critical system in accordance with Corporate Risk and Statutory Duties. The impact of the proposed works is expected to be positive with homes provided with a reliable lightning protection system.
- 3.4 Proportionate and targeted action is being taken to reduce the risks to an acceptable level. It is essential that in managing these risks the Council is:
- Achieving Council priorities to put resident's first
 - Being ruthlessly financially efficient
 - Protecting Residents
 - Maintaining and promoting the Council's reputation.

The appointed contractor will undertake the Principal Contractor role in accordance with the requirements of the CDM regulations.

- 3.5 The contractor will prepare and maintain a Construction Phase Plan for all the works. The CPP will comply and preferably exceed the requirements set out in the following:
- The Management of Health and Safety at Work Regulations 1999
 - Construction (Design and management) Regulations 2015 and Associated L 153 Guidance Document
 - Provision and use of Work Equipment Regulations 1998
 - Health and Safety (Young Person) Persons Regulations 1997
 - The Control of Asbestos at Works Regulations 2012

HEALTH AND SAFETY PLANNING

- 3.6 Contractors will be expected to provide risk assessments and method statements before a project commences. It will not be necessary to erect scaffolding as access to the roof is generally via roof hatches and ladders. Contractors are asked to submit details of their own code of contract and this is checked to ensure it complies with our own requirements. Copies of the Risk Assessment will be held on site.
- 3.7 The required information will be provided to the Principal Designer to allow them to issue the Pre-construction Information Plan (PCIP) and submit a notification to the HSE.
- 3.8 Once the contractor has received the PCIP they will continue to develop the Construction Phase Plan (CPP) considering the details provided by the in the PCIP. The contractor will ensure that we deliver the CPP in a timely manner

to LBHF and Principal Designer for approval in advance of the work commencing on site.

The CPP will be maintained throughout the contract and updated to allow for any changes in design, H&S procedures, Legislation, LBHF Requirements and new risks that may arise in delivery.

HEALTH AND SAFETY MANAGEMENT

- 3.9 Once projects are live, Health and Safety is the number 1 priority and the first agenda item at monthly progress meetings. Risks are constantly monitored with an ongoing action plan as per the live Risk Register.
- 3.10 The Health and Safety file/O&M manual will be developed throughout the delivery of the project to ensure that those involved in future maintenance work can benefit. The file will be agreed with the Principal Designer and made available to LBHF in both electronic and hard copy. The file will provide detail of drawings, certificates, guarantees, approvals and details of the project team.

4. THE MARKET

- 4.1 There are a limited number of specialist contractors who have the capacity and skills to carry out works of this nature. We are confident that there are a select number of contractors in the market to allow a successful procurement exercise to take place.

5. PROCUREMENT STRATEGY

CONTRACT PACKAGE, LENGTH AND SPECIFICATION

- 15.1. The total contract value is estimated at £472,000. Following completion of the remaining surveys it is proposed to award a single contract phased over 2 years, starting in 2019/20 and completing in 2020/21. The contract is below the EU threshold for works. Contract Standing Order 10 requires a contract of this value to be advertised to the market (if not being placed with the Council's Housing repairs contractor).

SOCIAL VALUE, LOCAL ECONOMIC AND COMMUNITY BENEFITS

- 5.2 It is hoped that the proposal will see local companies involved in the supply of materials for the work. As these are specialist works there may be limited opportunities for any local direct employment training.

Local suppliers will be utilised where possible.

- 5.3 The lightning protection works will provide protection against lightning strikes thus protecting residents against any incidents and ensuring that the Council's assets are protected and comply with current regulations.

6. OTHER STRATEGIC POLICY OBJECTIVES

- 6.1 The Housing Capital Programme seeks to meet the corporate objectives of improving the quality of the Council's housing stock. The lightning protection works will help to provide safe protected homes that comply with current regulations.

7. STAKEHOLDER CONSULTATION

- 7.1 Residents will be written to advising them of the proposed works.
- 7.2 There will be no need in to formally consult with the majority of leaseholders as projections indicate that all of the buildings, apart from two, will fall under the threshold at which statutory consultation is required. This will mean costs can be recovered through the day-to-day service charge accounts.
- 7.3 Where costs are projected to exceed the statutory threshold, leaseholders will be separately consulted for the works under a separate contract. This will require two stages of consultation and lessees will be able to nominate the name of an alternative contractor. Those contracts will be separate from this.
- 7.4 Consultation will also take place through the Repairs Working Group and individual Tenant and Resident Associations.

8. PROCUREMENT PROCEDURE

- 8.1 It is intended to use the restricted procurement procedure as the works are of a specialist nature and going out to open tender may attract bids from companies without the necessary skills and knowledge to carry out the works. Relevant experience and qualifications will be assessed at the SQ stage 1 one of the procurement process.

9. CONTRACT AWARD CRITERIA

- 9.1 It is proposed to use a 60 Quality/40 price ratio as it is felt that this is the right balance between quality and price to ensure that the works are completed to the highest standards whilst also achieving best value for money.

Quality will be scored as follows:

•Detailed Method Statement	25%
•Understanding of the Council's requirements	20%
•Health and Safety Plan and Management	20%
•Resources to be deployed and experience of the managing team	20%
•Resident Engagement	10%
•Social Value, sustainability, and environmental issues	5%

10. PROJECT MANAGEMENT AND GOVERNANCE

PROJECT MANAGEMENT

- 10.1 The contract will be managed by the Head of Mechanical and Electrical supported by the appointed contractor's Project Manager. They will monitor progression and quality of work through bi weekly and monthly site meetings. These meetings will be logged along with the Senior Engineer's weekly site inspections. Internal progress meetings will be scheduled to allow formal reporting to the Head of Mechanical and Electrical.

11. INDICATIVE TIMETABLE

- Completion of remaining surveys and start preparation of contract documents February 2019
- Pre-tender Section 20 Process March 2019
- Advertisement will be placed on Contracts Finder April 2019
- Short listing of bidders May 2019
- Final Tenders June 2019
- Tender Evaluation July 2019
- Completion of Section 20 process September 2019
- Award of Contract September 2019
- Start on Site October 2019

12. CONTRACT MANAGEMENT

- 12.1 The Head of Mechanical and Electrical will manage the relationship with the contractor.

The Senior Electrical Engineer will raise all project contract documentation for change control i.e. Variation Orders, Engineers instructions etc

The Senior Electrical Engineer will complete periodic valuations and authorise payment certificates in accordance with the contract.

There will be handover inspections to ensure that work has been carried out to specification and to a satisfactory standard of workmanship.

- 12.2 On completion of the project (or project phases) the electrical engineer will raise sectional practical completion certificates and final Certification of Practical Completion.
- 12.3 Towards the end of the Defect Liability Period an inspection survey will ascertain whether the work has been maintained correctly during the Defects Liability period and that there are no outstanding items that need to be addressed by the contractor.