

## **AGENDA ITEM NO 9**

**REPORT NO 383/21**

### **ANGUS COUNCIL**

#### **POLICY AND RESOURCES COMMITTEE – 7 DECEMBER 2021**

#### **WATER TESTING AND TREATMENT (LEGIONELLA) IN ANGUS COUNCIL PROPERTIES 2022-2026 – PROCUREMENT AUTHORITY APPROVAL REPORT**

#### **REPORT BY IAN COCHRANE, DIRECTOR OF INFRASTRUCTURE**

### **ABSTRACT**

This report seeks authority for the proposed procurement method where the maximum value of the contract arrangements is above the Chief Officer's delegated authority limit.

### **1. RECOMMENDATIONS**

1.1 It is recommended that the Committee:

(i) approves the procurement authority as contained in this report, including participation by the Council in the Advanced Procurement for Universities and Colleges (APUC) framework arrangement for Water Quality Management Services (including Legionella) in accordance with the process stated in Sections 16.6 and 16.8 of the Financial Regulations;

(ii) note the financial implications included in Section 6 of this report.

### **2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

2.1 This report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- An inclusive and sustainable economy
- Attractive employment opportunities
- Safer secure, vibrant and sustainable communities
- A skilled and adaptable workforce

### **3 BACKGROUND**

3.1 Angus Council is required to ensure that there are appropriate arrangements in place for the provision of Water Testing and Treatment of its properties which also discharges the legal Health & Safety obligations to manage the prevention of microbial infections including Legionella. This arrangement was previously procured through the use of a framework approved by the Tayside Procurement Consortium steering group in September 2017. This framework has now expired, and the contract put in place through the previous framework is due to end on 31 March 2022. To meet the legal requirements the proposal is to put in place for 1 April 2022 a new contract using the new APUC framework for Water Quality Management Services (including Legionella) which was put in place on 8 August 2021.

## **4 SCOPE OF CONTRACT**

- 4.1 The contract comprises the routine water testing and treatment (including Legionella) within Angus Council properties (Housing and Non-Housing) together with minor and urgent repair works which may not have been foreseen (e.g. arising from testing or breakdown).
- 4.2 The APUC Water Quality Management (including Legionella) Framework now in place runs from 6 August 2021 to 5 August 2023 with an option to extend by a further two years up to 5 August 2025. It is open for use by Scotland Excel members, which applies to the Council.
- 4.3 During the period the Framework is live the Council can carry out a procurement exercise to appoint a contractor and enter to a contract arrangement. The contract can be extended beyond the framework in accordance with APUC Framework Agreement. In this case the contract arrangement will mirror the Framework timescale and will be set up for two years with a two year extension.
- 4.4 The route to market for Angus Council will be through the use of mini-competition using APUC framework EFM1024 AP Lot 7 - Water Quality Management Services (Including Legionella). The contract will commence on 1 April 2022 and including extensions will have a completion of 31 March 2026.

## **5 PROCUREMENT AUTHORITY**

### **Objectives**

- 5.1 The main objective of this procurement is to ensure the Council meet its legal duties under Health and Safety regulations to provide regular water testing and treatment services to manage the prevention of microbial infections including Legionella. This covers all buildings owned and/or operated by Angus Council where water testing is required.
- 5.2 The proposed use of the APUC Framework is intended to speed up the procurement process by omitting the requirement to carry out a contractor selection process where the value of the contract is out with the Chief Officers delegated authority limit. In setting up the Framework APUC has carried out the necessary selection process and has ensured that the procurement process is a compliant route to market in line with current procurement legislation.
- 5.3 The use of this framework is also anticipated to result in better value for money and a benchmarking exercise will be carried out to ensure this is the case by comparing prices received through a mini-competition exercise with all the contractors appointed to Lot 7.
- 5.4 The framework allows for the performance of all of the contractors to be monitored through a set of key performance indicators and action taken against contractors who do not meet the targets. This will provide an effective service delivery and contract management process.
- 5.5 The mini-competition tender evaluation process will be carried out in accordance with the contract standing orders, rules and tender procedures as set out by APUC. This will be as contained within the Framework's Buyers Guidance document all in accordance with regulation 16.6.4 of the Council's Financial Regulations.

### **Sourcing Route/Collaborative Opportunities**

- 5.6 As the proposal is to use an approved sourcing routes through a Central Purchasing Body (APUC), this meets the requirements for identifying collaborative procurement

opportunities, Tayside Procurement Consortium (TPC) have been contacted and are aware that the Council is carrying out this procurement exercise. The use of this Framework meets the Council's obligations to ensure a compliant sourcing route is used for procurement.

- 5.7 The APUC procurement for Water Testing Framework was carried out following an open tendering procedure through Public Contracts Scotland. The exercise for Lot 7: One Stop Shop for Risk Assessment and Water Treatment Services included the following award criteria:

Quality: Service Delivery:20  
Quality: Responsible Procurement: 6  
Quality: Business Continuity: 4  
Quality: Service Delivery (Lot Specific): 30

Quality Total Weighting: 60

Price Weighting: 40

The quality criteria are split into sub-sections, the Responsible Procurement section includes specific questions on environmental management, community benefits and fair working practices.

- 5.8 The contractors appointed to the Lot 7 Framework are:

ChemTech Consultancy Ltd  
ECG Facilities Services  
HBE Risk Management  
Integrated Water Services  
SMS Environmental Limited  
Socotec Ltd

- 5.9 A quality assessment has been carried out as part of the Framework procurement process, the mini-competition tenders will be assessed using the quality assessment and tendered prices in line with the 'Buyer's Guide' for the APUC Framework Agreement. The mini-competition process will follow a single stage 'restricted' tender procedure with tender invitations sent out to all contractors who were successful in being placed on the Framework list. The most economically advantageous tender (MEAT) on a 60% quality/40% price assessment basis will be recommended for acceptance.

- 5.10 This report details the funding arrangements and procurement options that fall within the procurement authority requirements contained in Financial Regulations 16.8. This procurement is not considered to be a "major procurement" in terms of Financial Regulation 16.8.4. Approval of this report would mean that the result of the mini-competition through Lot 7 of the Framework can be accepted without the need for further approval by the relevant committee.

## **6 ALLOWANCE IN ESTIMATES AND FINANCIAL IMPLICATIONS**

- 6.1 The estimated total cost for the provision of Water Testing and Treatment (Legionella) during the period April 2022 to March 2024 based in historical information is anticipated to be in the region of £150,000 per annum. Including the option to extend the contract for 2 years it is anticipated the overall costs to be in the region of £600,000 over the four years subject to fluctuations in costs.

- 6.2 The servicing costs will be funded from allowances contained in Planned, Unplanned Maintenance and Housing Revenue Account Programme Budgets for each Council Directorate in 2022/23. Provision will be required within future years' Planned,

Unplanned Maintenance and Housing Revenue Account Programme Budgets to accommodate the annual expenditure on Water Testing and Treatment (Legionella).

## **7 RISK**

- 7.1 A risk assessment is being undertaken for this project and has identified one significant risk relates to ensuring the employment of a competent high quality contractor to allow Angus Council to discharge its legal Health & Safety obligations to provide regular water testing and treatment services to manage the prevention of microbial infections including Legionella. This risk has been reduced by procuring this service contract through the approved APUC framework agreement. APUC have appointed contractors to the framework agreement following a comprehensive selection process including assessing their competency and quality in accordance with current procurement regulations.
- 7.2 The Property Asset team has extensive experience of delivering this type of service contract in an appropriate manner and every measure will be taken to ensure that through effective contract management the service to be provided under this arrangement will be delivered on time and on budget.

**NOTE:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report

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## Equality Impact/Fairer Scotland Duty Assessment Form

### Step 1

#### Name of Proposal:

Procurement authority for Water Testing and Treatment (Legionella) in Angus Council Properties 2022-2026, in accordance with the process stated in Sections 16.6 and 16.8 of the Financial Regulations, including participation by the Council in the Advanced Procurement for Universities and Colleges (APUC) framework arrangement for Water Quality Management Services (including Legionella).

### Step 2

Is this only a **screening** Equality Impact Assessment No

**(A)** If Yes, please choose from the following options **all** reasons why a full EIA/FSD is not required:

- (i) It does not impact on people No
- (ii) It is a percentage increase in fees which has no differential impact on protected characteristics No
- (iii) It is for information only No
- (iv) It is reflective e.g. of budget spend over a financial year No
- (v) It is technical Yes

If you have answered yes to any of points above, please go to **Step 16**, and sign off the Assessment.

**(B)** If you have answered No to the above, please indicate the following:

Is this a full Equality Impact Assessment Yes  
Is this a Fairer Scotland Duty Assessment No

If you have answered Yes to either or both of the above, continue with Step 3.

If your proposal is a **strategy** please ensure you complete Step 13 which is the Fairer Scotland Duty Assessment.

### Step 3

(i)Lead Directorate/Service:

Infrastructure - Assets

(ii)Are there any **relevant** statutory requirements affecting this proposal? If so, please describe.

The Health & Safety at Work etc. Act 1974, COSHH 2002, MHSWR 1999 and the HSE Approved Code of Practice L8 'The control of legionella bacteria in water systems' 2013. The property will comply with relevant guidance (HSG 274) issued by the Health and Safety Executive in this respect.

(iii)What is the aim of the proposal? Please give full details.

Procurement of a contract to ensure the Council takes all reasonable precautions to prevent risk to health from exposure to legionellosis by implementing the appropriate control measures in all of its relevant buildings.

(iv)Is it a new proposal?      No      Please indicate      OR

Is it a review of e.g. an existing budget saving, report, strategy, policy, service review, procedure or function?      Yes      Please indicate

Procurement arrangements to ensure the Council meets its statutory obligations on water testing and treatment in buildings.

### Step 4: Which people does your proposal involve or have consequences for?

Please indicate all which apply:

|                       |     |
|-----------------------|-----|
| Employees             | Yes |
| Job Applicants        | No  |
| Service users         | Yes |
| Members of the public | Yes |

**Step 5: List the evidence/data/research that has been used in this assessment (links to data sources, information etc which you may find useful are in the Guidance). This could include:**

**Internal data** (e.g. customer satisfaction surveys; equality monitoring data; customer complaints).

No specific equality data available. The monitoring that is undertaken relates to the buildings, the results don't generally identify any legionella but does identify areas that may need treatment of physical works to ensure water quality is maintained.

**Internal consultation** (e.g. with staff, trade unions and any other services affected).

Not applicable

**External data** (e.g. Census, equality reports, equality evidence finder, performance reports, research, available statistics)

Not applicable

**External consultation** (e.g. partner organisations, national organisations, community groups, other councils).

Only consultation involved Tayside Procurement Consortium and APUC on the procurement options available. No issues identified relating to equalities.

**Other** (general information as appropriate).

### **Step 6: Evidence Gaps.**

Are there any gaps in the equality information you currently hold?      No

If yes, please state what they are, and what measures you will take to obtain the evidence you need.

**Step 7: Are there potential differential impacts on protected characteristic groups?** Please complete for each group, including details of the potential impact on those affected. Please remember to take into account any particular impact resulting from **Covid-19**.

**Please state if there is a potentially positive, negative, neutral or unknown impact for each group. Please state the reason(s) why.**

Age

**Impact**

Positive

All ages may be affected but the disease mainly affects people over 50 years of age, and generally men more than women. Smokers and the immunocompromised are at a higher risk. Testing and water treatment ensures that legionella and other harmful bacteria is not present/removed in Council water supplies.

Disability

**Impact**

Positive

People with disabilities or are immunocompromised would be disproportionately affected. Ensuring a testing/treatment regime is in place will reduce that risk.

Gender reassignment

**Impact**

Neutral

Marriage and Civil Partnership

**Impact**

Neutral

Pregnancy/Maternity

**Impact**



Positive

Ensuring a testing/treatment regime is in place will reduce that risk.

Race - (includes Gypsy Travellers)

**Impact**

Neutral

Religion or Belief

**Impact**

Neutral

Sex

**Impact**

Positive

Legionella generally affects men more than women and ensuring a testing/treatment regime is in place will reduce that risk.

Sexual orientation

**Impact**

Neutral

**Step 8: Consultation with any of the groups potentially affected**

If you have consulted with any group potentially affected, please give details of how this was done and what the results were.

No groups were consulted all outcomes are positive or neutral.

If you have not consulted with any group potentially affected, how have you ensured that you can make an informed decision about mitigating action of any negative impact (Step 9)?

**Step 9: What mitigating steps will be taken to remove or reduce potentially negative impacts?**

Not applicable

**Step 10: If a potentially negative impact has been identified, please state below the justification.**

Not applicable

**Step 11: In what way does this proposal contribute to any or all of the public sector equality duty to:** eliminate unlawful discrimination; advance equality of opportunity; and foster good relations between people of different protected characteristics?

This is a statutory requirement and there are no specific contributions to the equality duty.

**Step 12: Is there any action which could be taken to advance equalities in relation to this proposal?**

Not applicable

**Step 13: FAIRER SCOTLAND DUTY**

This step is only applicable to **strategies** which are key, high level decisions. If your proposal is **not** a strategy, please leave this Step blank, and go to Step 14.

Links to data sources, information etc which you may find useful are in the Guidance.

**Step 13(A) What evidence do you have about any socio-economic disadvantage/inequalities of outcome in relation to this strategic issue?**

**Step 13(B) Please state if there are any gaps in socio-economic evidence for this strategy and how you will take measures to gather the evidence you need.**

**Step 13(C) Are there any potential impacts this strategy may have specifically on the undernoted groupings?** Please remember to take into account any particular impact resulting from **Covid-19**.

**Please state if there is a potentially positive, negative, neutral or unknown impact for each grouping.**

**Low and/or No Wealth** (e.g. those with enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future.

**Impact**

**Material Deprivation** (i.e. those unable to access basic goods and services e.g. repair/replace broken electrical goods, warm home, leisure and hobbies).

**Impact**

**Area Deprivation** (i.e. where people live (e.g. rural areas), or where they work (e.g. accessibility of transport).

**Impact**

**Socio-economic Background** i.e. social class including parents' education, people's employment and income.

**Impact**

**Other** – please indicate

**Step 13(D) Please state below if there are measures which could be taken to reduce socio-economic disadvantage/inequalities of outcome.**

**Step 14: What arrangements will be put in place to monitor and review the Equality Impact/Fairer Scotland Duty Assessment?**

It is not considered likely that the impacts on equality will change during the contract and the EIA will be assessed and the next contract renewal.

**Step 15: Where will this Equality Impact/Fairer Scotland Duty Assessment be published?**

This EIA is published with the associated Committee Report.

**Step 16: Sign off and Authorisation.** Please state name, post, and date for each:

Prepared by: Douglas Henderson, Manager Property Asset, 4 November 2021

Reviewed by: Walter Scott, Service Leader – Roads & Transportation, 11 November 2021

Approved by: Ian Cochrane, Director of Infrastructure 17/11/21

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