

<b>Item No.</b> 13.	<b>Classification:</b> Open	<b>Date:</b> 29 October 2019	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 Procurement Strategy Approval Architectural Design Services Framework	
<b>Ward(s) or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Leo Pollak, Social Regeneration, Great Estates & New Homes	

## **FOREWORD – COUNCILLOR LEO POLLAK, CABINET MEMBER FOR SOCIAL REGENERATION, GREAT ESTATES & NEW COUNCIL HOMES**

Next week the council will be hosting an exhibition showcasing the highs and lows of Southwark's extraordinary council housing history as part of the centenary celebrations of the 1919 'Homes for Heroes' Addison Act. Part of this history has been driven not only by the moral crusade for healthier, lighter, more spacious and sanitary housing for working people, but also by a desire for architectural distinction that engenders pride of place and gives dignity to all.

As Southwark council moves into a phase of expanding and accelerating its delivery of new council homes across over 100 sites, we are eager to match this with a similarly generous and ambitious approach to council housing design, and to underscore our desire to restore the prestige of council housing in this era.

The new Architects framework authorised in this report, developed together with the London Housing Consortium, will create a new pool of architects working on Southwark council housing, as well as other council projects (commercial, social care and educational buildings), with a clear mandate for designers who are attracted to working with a progressive and enlightened design commissioner and client.

Where many procurement frameworks for architects ask onerous, non-design-related questions, set exclusionary thresholds and unnecessary bureaucratic obstacles, this framework takes a different approach. It not only pitches itself to architects of all sizes and experience, but deliberately sets low financial thresholds while maintaining a holistic view of value for money.

It also includes a special lot for new designers to enter into public sector design, with maximum turnovers and a first of it kind method for forward evaluation, based on current work and future commissions. We expect that this will nurture a new generation of designers to start working for Southwark and other London councils, marking a clean break from a design culture prevalent in the 00s that visibly prioritised private gain over public good.

The Stirling Prize victory for Norwich City Council's new council housing earlier this month is one of many signs that local authorities are now leading the way in creating homes and neighbourhoods that can truly provide for humane and sustainable ways of living. Our hope is this framework will provide a springboard for a new race to the top in public sector design and I would encourage all architects - large and small, young and old - to be a part of it.

## **RECOMMENDATIONS**

That Cabinet

1. Approves the procurement strategy for establishing an Architectural Design Services Framework, which is to be delivered by London Housing Consortium (LHC) in partnership with Southwark Council for a contract period of 4 years, commencing 8 April 2020, with the option to extend 1 year, for a forecast total contract value of £52.5m, and £10.5m annually.
2. Approves entering into a partnership agreement with LHC to govern the framework, commencing 10 November 2019 until a year after the end of the framework for reasons detailed in paragraphs 32 to 33.
3. Approves the process for placing orders up to £2m under the framework once established, as detailed in paragraph 40.
4. Notes that, subject to satisfactory review by the Director of Regeneration, LHC will be responsible for awarding a place on the ADS Framework to successful bidders for the reasons detailed in paragraph 32.

## **BACKGROUND INFORMATION**

5. On 18 July 2017 Cabinet approved a Gateway 0 for the strategic options assessment for professional technical services. On 26 June 2018 Cabinet approved a Gateway 1 for the procurement of two frameworks for consultants by way of an EU restricted process as follows:
  - A Professional Technical Services framework (PTS)
  - An Architects framework.
6. These are two separate frameworks and there are no restrictions on applying for and being on both. The Professional Technical Services (PTS) Framework procurement is still in progress since the publishing of the Supplier Qualification stage in August 2018. It consists of 10 lots and a variety of consultancy disciplines such as Employer's Agents, Quantity Surveyors and Mechanical Engineers. The purpose of the PTS framework was to primarily meet the needs of *existing* housing stock. The PTS procurement is now expected to issue the Invitation To Tender by the end of October 2019. It is anticipated the framework will commence early 2020.
7. It was always the intention for Southwark Council to create a separate Architectural & Design Services Framework. This project has a broader scope, to deliver new homes as well as landscape design, commercial, industrial, social care and other requirements. The objective is to appoint Architects of all sizes and experience who will be committed to working with Southwark and other London councils to create good quality public sector design for the 2020s. The framework will have low financial thresholds to make it more accessible for smaller providers and various sub-lots for lower value fee work.
8. This report replaces the recommendation for a separate Architect Framework in the original Gateway 1 that was approved on 26 June 2018 for the reasons set out below. The proposed framework has now been renamed the Architectural &

Design Services (ADS) Framework and will be developed with the support of the LHC as a procurement partner.

9. The proposed ADS framework is intended to be delivered by April 2020. Its purpose is primarily to provide design services for delivery of new homes and other regeneration schemes. The objectives of this Framework are to:
  - a) Provide an OJEU-compliant means for procuring services to deliver Southwark new homes and regeneration programmes to a high standard;
  - b) To encourage good design and innovation;
  - c) To appoint the very best emerging practices, including smaller and medium emerging London based architect practices;
  - d) To obtain value for money;
  - e) To achieve coherency between new homes and regeneration programmes to deliver on time;
  - f) To achieve effective administration with an experienced partner;
  - g) To be available for other London Councils to access for good design and maintain work through not relying on one London authority.

#### **Summary of the business case/justification for the procurement**

10. Officers have met to discuss lessons that could be learnt from the PTS framework (whilst the procurement is still in progress) and a realistic timeline for delivering the ADS Framework and resource requirements. Some key conclusions were:
  - Additional Project Management resource would be required to implement the ADS Framework and monitor performance.
  - At least 2 months would need to be allowed for evaluating a significant number of anticipated bids for the ADS Framework.
  - Time to recruit additional resource, then appoint a project team to take the tender forward, and find resource to evaluate the responses would result in a realistic contract award date of around December 2020, as well as the cost of recruiting 1 full time employee and other project costs.
  - There would be a reputational risk of further delaying the ADS project due to the difficulties faced if the council proceeds to deliver the project internally.
11. Founded in 1966, the LHC has knowledge, technical expertise and a commitment to better buildings and homes. They believe in fast and efficient procurement which delivers financial gains without compromising on quality or delivery. The LHC and Southwark council are united in their commitment to providing value for money, high quality affordable homes and enhancing local communities.
12. The LHC approached Southwark council as they intended to implement their own ADS Framework by early 2020, along with a number of other specialist technical service as individual work streams.
13. To avoid the two organisations competing for providers on the market and duplicating effort and cost, a partnership approach was considered.
14. The LHC have proposed a model whereby their Architect's framework could be designed to meet the council's requirements for high quality design, innovation. It

would be marketed and accessible to local and small architect firms and align to the council's social value priorities. LHC propose it is branded as a Southwark-LHC partnership and made available to other London authorities to access.

15. The cost of market engagement, implementing the framework, evaluating responses, awarding contracts and contract monitoring would all be borne directly by LHC and delivered using their own staff, but with full engagement and input from the council at all stages.
16. The council currently has no formal long term contracts for architect services and instead engages in competitive tendering on a demand led basis using suppliers from the council's approved list or external frameworks such as GLA ADUP and PAGABO.

### **Market considerations**

17. There are significant numbers of large, medium and small consultants (and a high concentration located within the borough of Southwark) which can provide the various service disciplines.
18. Local architect practices were originally engaged with at an event hosted by the Council in September 2018 to inform them of the intention to create a separate architect framework from the Professional Technical Services Framework.
19. Southwark Council and LHC invited interested bidders to an Open Day on 17 September 2019. Feedback on the ADS Framework was gathered and will be used to inform the tender documentation. LHC will publish a Prior Indication Notice (PIN) in October 2019 informing the market of the intention to establish an ADS Framework
20. LHC have expertise in setting up a variety of specialist construction frameworks for access by public sector bodies. This means the framework will be accessible by any London authority. LHC have proposed forming a Steering Committee made up of Southwark Council and other London authorities and Housing Associations interested in sharing design and innovation principles, case studies, best practice and expertise.

## **KEY ISSUES FOR CONSIDERATION**

### **Options for procurement route including procurement approach**

21. The nature and value of these services means that the full tendering requirements of the Public Contract Regulations 2015 and Public Sector Directive 2014/24/EU would apply.
22. **Do nothing** – This is not an option as it would make it extremely difficult for the council to meet its requirement of delivering 11,000 new council homes across Southwark by 2043. In addition to this it would make it extremely difficult to deliver on the council's commitments in the "Southwark Housing Strategy to 2043" strategic report and commitment to provide school and improvement to social care services.
23. **Procure the services required for each scheme individually as now** – This is not an option since it would not achieve the objectives as per paragraph 10 and relies on using external frameworks, see paragraph 29 and 30, which have their

own limitations. Occasionally the council runs individual tenders without using an external framework, but this is very resource and cost intensive.

24. **Deliver the service in-house** – This would involve directly employing a high number of architects on permanent contracts. This would be cost-prohibitive and is not realistic for the same reasons outlined in paragraph 26.
25. **Council-led EU procurement for a framework** – invite the market to tender for the services and run a full OJEU compliant tender to establish a council owned framework. The resource and cost implications of this option have been explored. Whilst it would give the council the ability to design it to fully meet its own objectives, there is currently not sufficient resource already within the council to run the project due to its size and complexity.
26. Allowing time to advertise and recruit a full time project manager, and form a full project team, ensure a sufficient number of technical evaluators can be appointed to the panel to review what could be over 150 applications in addition to their business as usual responsibilities would result in a contract award date of December 2020. The cost of a project manager, legal and procurement advice, technical advice and engagement events are estimated to be approximately £100k for set up of the framework in year 1, then the ongoing cost of the project manager who would need to contract manage the framework, approximately £50k per annum.
27. **Access the council's PTS Framework Lot 10 (Architect services)** – The PTS Framework was intended to meet the needs of existing housing stock architectural services requirements and therefore the value allowed for Lot 10 was £10m. The intention set out in the Gateway 1 paper was to set up a separate framework for Regeneration schemes, for which forecast spend exceeds £10m over the next 5 years.
28. **Use existing external frameworks** - organisations who currently offer professional service frameworks include:
  - Notting Hill Genesis
  - Greater London Authority – ADUP 2
  - PAGABO
  - South East Consortium
  - SCAPE
  - Crown Commercial Services.
29. Although each framework will be EU compliant, many have the same architect firms on them which are not locally based and not classed as micro SMEs (small to medium enterprises). Existing external frameworks tend to be difficult for micro-SMEs to access as they require significant resource and experience to bid for, and often the same firms who are already experienced in bidding for and delivering government contracts, appear on multiple frameworks. Using an existing external framework would mean the council would seek bids from a limited pool of providers and would not be able to meet all of its own objectives as outlined in paragraph 10.
30. **Enter into a partnership arrangement with LHC (recommended)** – form a partnership with the LHC who can develop, deliver and manage an EU-compliant

framework on the council's behalf and make it accessible to other London authorities. There are many benefits to this approach:

- LHC already have the experience in and resource required to deliver the project by early 2020 and have over 50 years of experience delivering similar projects successfully (see Appendix 1)
- The tender can be designed to deliver the council's objectives and other relevant policies
- Local micro-SMEs can be directly engaged with and supported to apply
- Avoid reputational risks with failing to meet market expectations
- No direct or long term staffing liability (only indirect costs which may be offset by rebates through other local authorities accessing the framework) for establishing the framework and using it
- Benefits of joint working and sharing of expertise.

## **Proposed partnership**

31. It is recommended that the council enters into a partnership agreement with the LHC to deliver the ADS Framework to the council's specifications. The partnership agreement manages the relationship between LHC and the council. LHC will be the contracting authority awarding a place on the framework to successful providers. The council would enter into call-off contracts direct with providers.
32. The partnership would extend beyond the period that the framework exists since both parties will need to continue working together to ensure the success of ongoing call-off contracts awarded by the council.
33. A project plan has been agreed between the parties. The two parties will collaborate on developing the tender documentation prior to publishing, and work together on evaluation, short listing and award, and then will meet every six months after the commencement of the framework to ensure its ongoing success.
34. The cost to Southwark council for using the framework would be 0.25% of actual contract spend, with the potential for a rebate. This offers very good value for money when compared to other frameworks that frequently charge around 1%, sometimes as much as 5%.
35. Other London councils would be entitled to access the framework for a levy of 0.5% of contract spend if they are a member of the Steering Committee, or 1% for all others. However LHC expects no guarantee of spend through the ADS Framework from Southwark or any other council.
36. The method by which this levy is charged is by the framework supplier adding it to the invoice, following the council executing a call-off contract and the provider beginning to deliver services. At the end of the year LHC collect the levy from all framework suppliers and validate figures with the council and other clients. A sum of 20% (proportionate to the council's contract spend) will be returned in the form of a Community Benefit Fund for the council to determine how to spend. Appropriate internal governance arrangements will be put in place for this.
37. The remaining 80% of funds will be used to cover LHC's running costs, with any surplus distributed as a rebate to the authorities who accessed the framework. It

is noted that LHC distributed £1.25m in the form of rebates to its members based on the financial year 2018-19.

### **Proposed procurement route**

38. The proposed term of the framework agreement is 4 years with the option to extend by 1 year. The basis for this exception to the usual EU procurement term of a framework agreement being 4 years is due to the size and scale of the council's housing and regeneration programme which is for a 5 year period.
39. Call off awards (i.e. following mini competition) from the ADS Framework up to an estimated contract value of £2 million will require approval via a bespoke Gateway 2 short form report. These will include concurrents from Procurement, Legal and Finance but will not require review by DCRB before being signed off by the Director of Regeneration. Approval of any proposed call off awards above £2 million will be made in line with Contract Standing Orders (CSOs). Any proposed direct awards to a single supplier without mini competition will follow the CSOs.
40. LHC and the council invited interested bidders to an Open Day on 17 September 2019. The event was an opportunity to market test the proposed partnership and structure of the ADS framework and share best practice and guidance with practices who have never tendered for local government contracts before. The proposal is that LHC will be responsible for publishing the tender and making appointments to the framework. The tender documentation will be published on LHC's procurement portal by 11 November 2019.
41. Officers have identified what demand for architectural services is likely over the next 5 years and in which sectors (see Table 1 below). The framework will be split into lots, with bidders being allowed to apply for (and win a place on) a pre-determined maximum number of lots.
42. Splitting the framework into specialist lots would ensure it gets a good range of providers with the right experience and skills. The lots in Table 1 are still being considered and the final structure, including sub-lots, will be signed off by Head of Regeneration in consultation with LHC.

Table 1: Proposed Lots (to be finalised)

<b>Lot Description</b>	<b>Est. Fee Value (Southwark)</b>	<b>Est. Fee Value (other LAs)</b>
1. Master planning & Feasibility	£10.5m	£6.5m
2. Education, Social Care, Community	£9m	£7m
3. Housing	£12m	£4m
4. Commercial & Industrial	£7m	£4m
5. Conservation & Heritage	£3m	£2m
6. Landscape design	£6m	£2.5m
7. New Design	£5m	£1.5m
<b>TOTAL</b>	<b>£52.5m</b>	<b>£27.5m</b>
<b>Levy</b>	<b>£131,250</b>	<b>£137,500</b>
<b>Community Benefit Fund rebate</b>	<b>£26,250</b>	<b>£27,500</b>

43. The framework will allow for mini-competitions and direct awards for each project, the circumstances for which will be outlined in more detail in the tender documents and subsequent Gateway 2 reports.
44. LHC will carry out a tender in accordance with an EU restricted procedure through its e-procurement portal. Organisations who formally express an interest in tendering for this framework in response to the portal advert and OJEU notices will need to complete an SQ and confirm which lots they would like to bid for. The maximum number of lots allowed for each bidder, value bands within sub-lots and financial threshold requirements (see Table 2) are still being considered and will be signed off by the Head of Regeneration in consultation with LHC.
45. The SQ will contain a set of standard questions which bidders will only need to complete once, irrespective of the number of lots they wish to bid for in the framework. However, there will be additional specific questions asking for case studies of experience in the specialist lot they are bidding for, as well as general skills with design methodology.
46. There will be a Lot 7 for “New Design” which will be less prescriptive in its requirements for previous sector experience and will evaluate on current work and future commissions previously won outside frameworks. It is intended that this Lot would be attractive to smaller practices that would be selected at SQ on recent experience and evidence of design innovation. The intention would be to further encourage new talent to work for London authorities and give the option for a council to use firms on this Lot rather than a specialist Lot, depending on the requirements of the project and the balance of skills required taking account of the need for experience, alongside innovation. This reflects the feedback from recent market testing.
47. The SQ will be evaluated based on agreed criteria in consultation with LHC who will shortlist the bidders against each lot, including any sub-lots. Bidders will then be notified as to whether they have or have not been successful and an ITT will be issued to each successful bidder for their relevant lot(s).
48. At the ITT stage the shortlisted bidders will be required to make a full tender submission. The most economically advantageous tender(s) for each lot will be recommended for a place on the framework, up to the maximum number of places noted.

Table 2: Proposed thresholds and sub-lots (to be finalised)

Lots	Construction Value	No. of appointments	PI Insurance minimum*	Annual Turnover required
1 – Master Planning & Feasibility	N/A	12	£2m	None
2 – Education/Social Care/ Community Provisions	£0-£5m	4/5	£2m	None
	£5m-20m	4/5	£2m	£1m minimum
	£20m+	4/5	£2m	£1m minimum
3 – New Homes	£0-£5m	4/5	£2m	None
	£5m-20m	4/5	£2m	£1m minimum
	£20m+	4/5	£2m	£1m minimum
4 – Commercial & Industrial	£0-£5m	4/5	£2m	None
	£5m-20m	4/5	£2m	£1m minimum
	£20m+	4/5	£2m	£1m minimum
5 – Conservation & Heritage	N/A	12	£2m	None
6 – Landscape Design	N/A	12	£2m	None
7 – New Design	N/A	8-12	£2m	<b>Maximum of £2m</b>

\*PI insurance requirement at point of call-off may be higher depending on risk profile of contract

## **Identified risks for the procurement**

49. The following risks have been explored for this project:

R/N	Risk Identified	Risk Rating	Mitigation
R1	Procurement process is delayed	Low	Awareness of other LHC work running parallel to this, effective project management and good communication.
R2	Bidders challenge procurement outcome	Low	Good up front communication and engagement with the market. Sufficient timescales allowed for submission and evaluation. Audit trails kept of decision making. Robust procurement in line with EU procurement regulations.
R3	Bidders become insolvent or go into administration/liquidation	Low	Appropriate financial checks will be undertaken as part of the evaluation process. Each lot will have a number of specialist providers who can cover in case one becomes insolvent. The LHC framework also allows a “reserve list” of suppliers to be held for the first 6 months of the framework in case of any insolvencies. The first firm on this list (ranked by their overall bid score) would be appointed to the framework to take the insolvent company’s place.
R4	Successful providers fail to deliver service	Low	The council will work with LHC to develop an effective and relevant quality evaluation. The framework will have multiple providers against each lot so if one or even two providers fail to deliver there will be alternative providers available. Funds will be withheld until satisfactory completion of each call-off contract. If the provider has a parent company, a parent company guarantee will be required.
R5	The Council's Objectives are not met in the LHC evaluation process and insufficient local micro-SMEs apply	Low	A mailing list of interested parties has been built up by the council over the last year, two Bidders Days have been held, and a communication plan agreed with

R/N	Risk Identified	Risk Rating	Mitigation
			LHC. LHC have also their own means of marketing via website, Twitter and email, and a PIN is to be issued. An Open Day was held to support inexperienced bidders in how to write bids for government contracts.
R6	LHC's levy income is lower than expected as the estimated level of spend for Southwark or other councils fall short of predicted figures.	Medium	LHC have over 20 other frameworks which generate income for them through levies. LHC will not be overly reliant on the ADS framework for revenue. LHC also place no obligation on Southwark Council or any other client to use the ADS framework agreement.

- 50. A performance bond will not be required for the individual call off contracts from the framework. The contract documentation will include for retention of monies in respects of consultant fees to be withheld until satisfactory completion for each call off contract. An ultimate holding/parent company guarantee will be required for all call-off orders if the successful consultant(s) has a parent company.
- 51. Each call off contract will contain a break clause to terminate the call-off contract at will with no consideration of any loss or expense at any time.

#### **Key /Non Key decisions**

- 52. This report deals with a key decision

#### **Policy implications**

- 53. This report relates to the delivery of council targets contained in the "Southwark Housing Strategy to 2043".
- 54. The delivery of the framework fits with the council's objectives as outlined in the Southwark Fairer Futures Procurement Framework to deliver the council's Fairer Future Plan 2018-2022. The Fairer Future Themes and commitments will be incorporated into the terms and conditions of the ADS Framework where they will then form part of the requirements of the council's suppliers.

#### **Procurement project plan (Key decisions)**

- 55. The table below sets out the intended timescales for the ADS Framework. This is subject to the number of expressions of interest received and resources available.

<b>Activity</b>	<b>Complete by:</b>
Enter Gateway 1 decision on the Forward Plan	30/07/2019
DCRB Review Gateway 1:	10/09/2019
CCRB Review Gateway 1:	19/09/2019
Brief relevant cabinet member (over £100k)	02/09/2019
Hold market engagement day and workshop	17/09/2019
Publication of PIN (by LHC)	11/10/2019
Notification of forthcoming decision – Cabinet	21/10/2019
Cabinet Approval of Gateway 1: Procurement strategy report	29/10/2019
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	10/11/2019
Completion of tender documentation	31/10/2019
Publication of OJEU Notice (by LHC)	11/11/2019
Publication of Opportunity on Contracts Finder (by LHC)	12/11/2019
Closing date for expressions of interest (SQ stage)	12/12/2019
Completion of short-listing of applicants	10/01/2020
Invitation to tender	13/01/2020
Closing date for return of tenders	13/02/2020
Completion of evaluation of tenders	20/03/2020
Evaluation report presented to Director of Regeneration	24/03/2020
Contract award (by LHC)	27/03/2020
Debrief Notice and Standstill Period	07/04/2020
Place award notice in Official Journal of European (OJEU)	08/04/2020
Place award notice on Contracts Finder	09/04/2020
Contract start	08/04/2020
Initial Contract completion date	07/04/2024
Final expiration date if contract extended	07/04/2025

### **TUPE/Pensions implications**

56. There are no TUPE implications for the decision to enter into creation of a Framework agreement in partnership with LHC. A TUPE situation may arise on exit from the partnership with LHC dependant on the practical aspects of allocation of tasks for management of the Framework Agreement between the parties at the time of exit, in the event the Council wishes to access architectural design services in another way.

57. Separate potential TUPE situations may apply in relation to individual call off contracts with suppliers appointed to the Framework Agreement and advice will be sought for those.

### **Development of the tender documentation**

58. A project board has been set up, lead by the Head of Regeneration, to work with LHC and approve the final tender pack. Meetings will be held with internal stakeholders to ensure that the scope and specifications are fully captured ready for the procurement.
59. The SQ will be based upon the government's Standard SQ with some additional sections included and the ITT documentation will be based on a set of Employers Requirements after consultation with the delivery teams.
60. Specifications will be developed based on the council's bespoke requirements. Policy related requirements will be referenced using relevant appendices, links and insertions.

### **Advertising the contract**

61. The contracts will be advertised by way of an OJEU notice and the Contracts Finder website. In addition to this LHC held an Open Day on 17 September 2019 and engaged with providers who have previously expressed an interest in the tender.

### **Evaluation**

62. The SQ and ITT quality questions will be carefully constructed to ensure that outcomes align with the council's objectives for this framework. It is intended to shortlist the bidders against each lot in accordance with the agreed criteria and scoring, with the final outcome being approved by the council project team.
63. A joint panel made up of council officers from the Housing and Regeneration teams and LHC staff will evaluate SQ submissions based on the agreed criteria. There will be a final moderation session facilitated by the council.
64. Following shortlisting at SQ stage, a panel made up of council officers from the Housing and Regeneration teams and LHC staff will evaluate ITT submissions based on the agreed criteria. There will be a final moderation session facilitated by the council.
65. Evaluation criteria will be based on 70% quality (including 15% social value – to be finalised by the Head of Regeneration) and 30% price in order to deliver council strategic objectives and commitments to social value. The higher weighting applied to quality is in line with other similar frameworks (e.g. the ADUP framework) and reflects the nature of the service being procured. The emphasis on quality demonstrates that the council expects a high standard of service and not simply the cheapest, with a view to whole life cost efficiency through good project design work, as opposed to short term up front cost efficiency. The price proportion will ensure the council has affordable suppliers to select from on the framework. The market is currently very competitive and it is expected that a high volume of applications will be received, however the emphasis on quality is a reflection of the well evidenced view that high design standards result in the best whole life cycle value for money.

66. Quality will be assessed based on the following broad areas (to be finalised by the Head of Regeneration):
  - a) Design quality
  - b) Mobilisation, management systems and quality of resources available
  - c) Service delivery including stakeholder engagement
  - d) Accountability life cycle costing and defects management.
67. Price will be evaluated based on a financial assessment of each provider and a ranking of their percentage fees for projects, and day rates. LHC will undertake this assessment in consultation with the council's Finance officers. Each quality question will be given a score of 0 – 5. Once each question is scored, the appropriate weighting will be applied to each score. The council is likely to require a minimum threshold criteria for some quality and financial implications.
68. The council will reserve the right to make site visits at ITT stage to clarify tender submissions for Lot 7. Bidders with the highest combined quality and price score will be ranked and used to select a final list of providers for the individual lots.

### **Community impact statement**

69. The ADS Framework will support the council's commitment to providing quality affordable housing and social regeneration.
70. The framework is intended to provide a service of benefit to the local community and support the council's commitment to providing high quality educational and mixed use developments. One of the main objectives of the services will be to ensure the quality of design and innovation whilst minimising the impact on the whole community regardless of age, disability, faith/religion, gender, race, ethnicity and sexual orientation.
71. In addition to this the framework will be of a medium impact to future tenants, homeowners and other stakeholders as these services will provide the design, specification of the council's new housing stock and regeneration schemes.

### **Social Value considerations**

72. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured.
73. Further details of how social value will be incorporated within the tender are set out in the following paragraphs.

### **Economic considerations**

74. As the council explores ways it can continue to deliver value for money, it is essential that it make even better use of its resources to meet the needs of residents and businesses in the borough. Under promise 8 Education, employment and training of the Fairer Future Promises, the council has made a commitment to create 2,000 new apprenticeships by 2018. This programme will seek providers to employ at least one apprentice for every £1m spent.

75. Suppliers will be evaluated at tender stage on how they intend to attract and support more women and BME residents into these opportunities who are underrepresented in the professional technical services industry.

### **Social considerations**

76. The council can exclude companies who break the law by blacklisting if they are either still blacklisting or have not put into place genuine actions concerning past blacklisting activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:

"Owned Up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities

"Cleaned Up": taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and

"Paid Up": paid or undertaken to pay compensation in respect of any damage caused.

77. The council will include a request for the necessary information from tenderers (using the council's standard documentation in relation to blacklisting). The council's contract conditions will include an express condition requiring compliance with the blacklisting regulations and include a provision to allow the contract to be terminated for breach of these requirements.

78. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, development partners engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful consultants on these frameworks will result in quality improvements for the council. These should include a high calibre of multi-skilled providers who will contribute to the service and will provide best value for the council. It is therefore considered appropriate for the payment of LLW to be required. The successful providers will be expected to meet the LLW requirements and call-off contract conditions requiring the payment of LLW will be included in the tender documents. As part of the tender process, bidders will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the call-off contract review process.

### **Environmental/Sustainability considerations**

79. The contract documents will include specifications to ensure that designs incorporate the following:
  - i. Low energy use building designs
  - ii. materials from sustainable sources
  - iii. use of high efficiency building services and
  - iv. use of renewable energies.
80. Using LHC's e-procurement portal will reduce the amount of paper used.

### **Plans for the monitoring and management of the contract**

81. Responsibility for managing the partnership with LHC will lie with the Head of Regeneration. The framework shall be monitored by the designated officers in LHC and project manager support from the Regeneration team.
82. LHC will be responsible for overall management of the framework agreement and collection of levies.
83. A Steering Committee (to consist of Southwark Council and other London authorities, to be established by LHC) will manage the set up of the ADS framework and periodically monitor its performance. Southwark council will be a lead member of the Steering Committee.
84. Officer resource from the council will be required in the setting up of the framework by LHC during the marketing, specification, tender development and evaluation stages. These are to be from Housing and Asset Management, Regeneration and Procurement.
85. Performance Management of individual call-off contracts are the responsibility of the contracting authority and will be managed by officers from Regeneration.
86. For all schemes across the New Homes Programme, the architect selection strategy and site brief will be developed in consultation with the Lead Member for Social Regeneration, Great Estates & New Homes, and then delivered in accordance with Contract Standing Orders and the Council Plan for design quality of new homes.
87. Each council project manager will be responsible for recording performance of the provider that has been issued an order under the framework. The financial spend of each provider will also be recorded to ensure:
  - That no provider is overburdened with projects
  - All providers get an equal opportunity to submit tenders as part of the mini competition rules
  - A detailed record of expenditure is maintained for each framework and lots to ensure compliance with contract standing orders and agreed call-off processes.
88. Where performance issues are identified in relation to a call-off contract, LHC will suspend the provider from bidding for new work until it is confident that the service issues have been resolved.
89. Officers will produce six monthly and annual performance reports in line with the contract standing orders.
90. Details will be provided in the Gateway 2 at call off stage on the measures put in place to achieve Social Value, what has been gained, and future monitoring.

### **Staffing/procurement implications**

91. Resource for this project will come from existing teams within the council, including Regeneration, Housing and Asset Management, Procurement, and Legal.

### **Financial implications**

92. The proposed procurement strategy entails working in partnership with LHC to develop a framework through which architectural design services will be procured. LHC will bear the cost of developing the framework, which it intends to recoup by way of a levy on framework suppliers. The council's input will be officer time, the cost of which will be contained within existing revenue budgets. Once established, the anticipated cost to the council of using the framework is 0.25% of contract spend, which is estimated at £131,250 over the five years with the potential for a rebate which is dependent upon LHC achieving a surplus on the operation of the framework. The justification for adopting this approach is set out in the option appraisal in paragraphs 22 to 31 of this report. The only other option that would fully meet the council's objectives would be to run full OJEU compliant tenders. This option would require additional staff resources estimated at £300,000 over five years, which is more expensive than the framework option.
93. The cost of the levy will be contained within the capital cost of the scheme being tendered. For example if a scheme were to cost £10m in total, and 10% of this were design services, this would come to £1m. The levy would be 0.25% of £1m which means a cost of £2,500 for accessing the LHC framework.
94. The estimated cost of the services of £50m over 5 years is indicative at this stage. The framework will support a programme of capital works across a range of services and will be funded by capital resources supporting both the General Fund and Housing Investment programmes.

### **Investment implications**

95. N/a

### **Legal implications**

96. Please see concurrent from the Director of Law and Democracy

### **Consultation**

97. Officers from Legal, Finance, Procurement, Regeneration and Housing departments were consulted in the development of the proposed strategy. Soft market testing with architect practices was also undertaken through two Bidder's Day events, one in September 2018 and one in September 2019.

### **Other implications or issues**

98. N/a

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

99. This report seeks approval for the procurement strategy as outlined in paragraphs 1 to 4.
100. As the forecast contract value exceeds the EU threshold for services, the full procurement regulations apply and a number of options were considered.
101. A partnership with LHC offers the ability to deliver a framework that meets the council's objectives at minimal cost and significantly faster than if the project was delivered in house. LHC will publish the tender on their own e-Procurement platform.
102. Evaluation of bidders will be based on 70/30 quality/price which is in line with other architect frameworks and is expected to achieve whole life cost efficiency by appointing the right providers to the framework who have the appropriate skills and experience. 70% quality will include 15% on social value in line with the Fairer Future Policy Framework, and it will be a requirement that London Living Wage is paid by any successful bidders.
103. Procurement will continue to work closely with LHC and the project team on developing the tender documentation.

### **Director of Law and Democracy**

104. This report seeks the Cabinet's approval to the procurement strategy for establishing the ADS framework (to be delivered by LHC) and associated approvals as further detailed in paragraphs 1-4. As this relates to a Strategic Procurement the decision to approve this strategy is reserved to the Cabinet.
105. The scope and value of services to be procured means that they are subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraph 30, the framework will be established by the LHC following a restricted process in accordance with PCR15, and will be advertised through OJEU. Regulation 22 of the PCR15 sets out specific requirements which must be met when establishing a framework, which will be met. Whilst framework periods are generally limited to 4 years, this period may be extended in exceptional circumstances where a longer period is required relating to the subject matter of the procurement. As noted in paragraph 40, a possible 5 year period is required due to the housing and regeneration programme.
106. The Cabinet's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, which requires public bodies to have regard, when making decisions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The Cabinet is specifically referred to the community impact statement at paragraphs 68-70, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

107. Officers from the contracts team in legal will continue to assist the project team during this procurement and will advise on the terms of the agreement to be entered into with LHC to govern the framework.

#### **Strategic Director of Finance and Governance (H&M 19/092)**

108. This report seeks approval for the council to enter into a partnership agreement with the London Housing Consortium (LHC) to establish and govern an Architectural Design Services Framework for the reasons outlined in the business case set out in paragraphs 11 to 17 of this report. The costs associated with developing the framework will be met by LHC. Once established, procurement through the Framework is expected to provide the council with a cost effective means of obtaining design services primarily for new homes and other regeneration schemes, which are expected to cost in the region of £50m over the next five years, as set out in the financial implications section of this report.

#### **BACKGROUND DOCUMENTS**

<b>Background Documents</b>	<b>Held At</b>	<b>Contact</b>
Gateway 0 report Professional Technical Services	Housing and Modernisation Floor 3 Hub 4, 160 Tooley St	Gavin Duncumb Tel: 020 7525 0685
<b>Link (please copy and paste into your browser):</b> <a href="http://moderngov.southwark.gov.uk/documents/s69810/Report%20Gateway%200%20Strategic%20Options%20Assessment%20for%20Service%20Provision%20of%20Professional%20Technical%20Serv.pdf">http://moderngov.southwark.gov.uk/documents/s69810/Report%20Gateway%200%20Strategic%20Options%20Assessment%20for%20Service%20Provision%20of%20Professional%20Technical%20Serv.pdf</a>		
Gateway 1 report Professional Technical Services	Housing and Modernisation Floor 3 Hub 4, 160 Tooley St	Gavin Duncumb Tel: 020 7525 0685
<b>Link (please copy and paste into your browser):</b> <a href="http://moderngov.southwark.gov.uk/documents/s75959/Report%20Gateway%201%20-%20Procurement%20Strategy%20Approval%20-%20Professional%20Technical%20Services%20Frameworks.pdf">http://moderngov.southwark.gov.uk/documents/s75959/Report%20Gateway%201%20-%20Procurement%20Strategy%20Approval%20-%20Professional%20Technical%20Services%20Frameworks.pdf</a>		

#### **APPENDICES**

<b>No</b>	<b>Title</b>
Appendix 1	LHC Partnership Proposal

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Leo Pollak, Social Regeneration, Great Estates and New Homes
<b>Lead Officer</b>	Kevin Fenton Strategic Director of Place and Wellbeing
<b>Report Author</b>	Jacqui Flynn, Projects Manager and Shona Snow, Procurement Business Partner
<b>Version</b>	Final
<b>Dated</b>	21 October 2019
<b>Key Decision?</b>	Yes

### CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	N/a	N/a
Cabinet Member	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	21 October 2019	