

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 30 September 2019	<b>Meeting Name:</b> Strategic Director of Housing and Modernisation
<b>Report title:</b>		<b>Gateway 1 Procurement Strategy Approval</b> Housing Aids and Adaptions Contracts – (North, Middle & South)	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Asset Management	

## RECOMMENDATION

1. That the Strategic Director of Housing and Modernisation approves the procurement strategy outlined in this report, to undertake a competitive tender exercise using the council's works approved list (Exor) for three (3) housing aids and adaptions contracts as detailed below at an estimated annual combined cost of £1.3m for a period of 3 years making an total estimated value of £3.9m with an estimated start date in May 2020:
  - Contract A – north of the borough at an estimated annual cost of £500k;
  - Contract B – middle of the borough at an estimated annual cost of £400k;
  - Contract C – south of the borough at an estimated annual cost of £400k.

## BACKGROUND INFORMATION

2. Currently the housing aids and adaptions contracts are being awarded on an ad hoc basis by obtaining three (3) quotes from Exor and inviting the in-house teams to quote as well.
3. This is a new provision for the installation of housing aids and adaptations to housing stock in the London Borough of Southwark encompassing the installation of varying equipment to assist residents who have a physical impairment.
4. It is essential that the council has arrangements in place to deliver installation of housing aids and adaptions for housing and operational buildings.
5. The proposed scope of works for housing and operational buildings are:
  - a) Installation of level access showers and all associated works including plans;
  - b) Installation of wet rooms and all associated works including plans;
  - c) Mixer tap and thermostatic showers;
  - d) Lever taps;
  - e) Window, flooring and door alterations;
  - f) Concrete ramps/portable ramps;
  - g) Half steps; and
  - h) Galvanised and mop stick rails.
6. It is also proposed that the scope of works will include associated works to reduce disruption and inconvenience to council building users and help reduce the number of works orders required.

7. For aids and adaptations works including fees the actual spend for the last 2 years; 2017/18 the actual spend was £998,983 and for 2018/19 was £1.59m.
8. The spend for aids and adaptations in 2017/18 was significantly lower as a result of lack of staff resources within the asset management services resulting in an inability to process work requests and meet demand. The team has recruited and all vacancies are now filled. This has enabled the backlog to be cleared and this is reflected in the annual spend detailed in paragraph 7.
9. These new contracts will be awarded based on a geographical split (north, middle and south) of the borough, each providing all of the works for a maximum term for each contract of 3 years.
  - a) Contract A – north - Borough and Bankside, Rotherhithe & Bermondsey.
  - b) Contract B - middle – Camberwell, Walworth
  - c) Contract C – south - Nunhead and Peckham Rye, Dulwich, Peckham.
10. It should be noted that there is a need to ensure service delivery and so no single contractor will be awarded all contract areas and the three successful contractors appointed will act as backup to each other to their own tendered rates when required. The council has a duty to assist residents with aids and adaptations to their property.
11. The duration and value of these proposed contracts will achieve a balance between price competitiveness and provide three attractive contracts to the market.
12. The estimated total annual value for the contracts stands at £3.9m and is apportioned at £1.5m for Contract A, £1.2m for Contract B and £1.2 for Contract C.

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

13. The provisions of the works within these contracts are essential to meet legislative requirements in the management of installation of housing aids and adaptations works to council managed housing properties. The council has a duty of care to deliver welfare services which includes adaptations to the homes of vulnerable residents.
14. The rationale for the contract duration of 3 years is that it enables asset management to objectively review the effectiveness of these 3 new contracts after two years in the second annual performance review. This will release sufficient time to re-procure should the contractors not perform as well as anticipated. It also enables the in-house team, Southwark Building Services (SBS) to concentrate on their work core obligations to assist them to be in a stronger position to bid when these contracts are next procured in 2023.
15. There is a wide range of statutory regulations that must be met when providing this service to ensure the council is compliant with current legislation.

### **Market considerations**

16. As the estimated value falls below the EU threshold for works, it is proposed to carry out a competitive tender exercise with contractors on Exor under the general building maintenance and ground works categories.

17. Assessment by asset management team indicates that the market is well developed as between 30-40 suitable sized contractors have been identified within the London area to whom the council could tender the works to. A tender list will be drawn up in accordance with contract standing orders (CSO) 4.3 with the assistance of the council's finance and governance department.

## KEY ISSUES FOR CONSIDERATION

### Options for procurement route including procurement approach

18. The asset management team considered the following options before determining the procurement strategy set out in this report:

- a) Do nothing - this is not an option available to the council. As a landlord and employer, it is essential that the council has arrangements in place to carry out installation of housing aids and adaptations.
- b) The council provides these works in-house - current provision of these works is via quotation exercises from Exor. SBS were informed of these works in December 2018 and reconfirmed in September 2019 that their priority is to focus on delivering in-house repairs and improvement plan for the time being and therefore cannot deliver these works in-house.
- c) The use of internal or external frameworks - there are no existing external frameworks.
- d) Shared Services - the neighbouring boroughs already have their own contracts in place, which have not been opened up for other boroughs to use.

19. As none of the above options are suitable and these works are estimated below the EU threshold for works contracts, it is recommended that these works are competitively tendered in line with CSO 4.3 with contractors invited from the general building maintenance and ground works categories on Exor as set out in paragraph 20 below.

### Proposed procurement route

20. This proposed procurement route is to undertake a competitive tender exercise inviting a minimum of ten contractors from the general building maintenance ground works categories on Exor.

### Identified risks for the procurement

21. The table below identifies a number of risks with this procurement, the likelihood of occurrence and the controls in place to mitigate the risks.

R/N	Risk Identification	Likelihood	Risk Control
R1	The procurement process fails due to inadequate quality of submissions by tenderers	Low	Ensure that tender documents are drafted to facilitate submissions of required standard.
R2	The procurement process is delayed	Low	Effective procurement project management.
R3	Successful contractor(s) cease trading; go into liquidation or administration leaving works incomplete.	Low	Use of Exor means that credentials and financial stability of tenderers are assured.  Second stage appraisal will test financial stability of tenderers.

			As the contractors will act as back up to each other, in the unlikely event of all three contractors failing then contractor(s) will be selected from Exor on an interim basis.
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22. The contract documentation will include for a 6 percent retention of monies to be withheld until satisfactory completion of the contracts. A performance bond will not be required for these contracts. A parent company guarantee will be required if the successful contractors have a parent company.

### Key/Non Key decisions

23. This report deals with a non-key decision.

### Policy implications

24. The works provided through these contracts will contribute to the council's Fairer Future commitments, of value for money; a greener borough; revitalised neighbourhoods; fit for purpose; treating residents as if they were a valued member of our family; and being open, honest and accountable.
25. The procurement of these works will ensure the well fair of residents with physical impairment and ensure they live in a safe, well maintained home and building and comply with current legislation such as Housing Act 1985; NHS & Community Care Act 1990; Carers (Recognition and Services) Act 1995 Carers and Disabled; Children Act 2000; Children Act 1989; Disability Discrimination Act 1995; Housing Grants, Construction and Regeneration Act 1996; Mandatory Disabled Facilities Grant; Local authorities discretionary powers to provide financial assistance for housing adaptations; the Community Care (Delayed Discharges etc.) Act 2003; and Housing Health and Safety Rating Act.

### Procurement project plan (Non Key decisions)

26.

Activity	Complete by:
DCRB Review Gateway 1:	30/09/2019
Brief relevant cabinet member (over £100k)	03/10/2019
Approval of Gateway 1: Procurement strategy report	04/10/2019
Completion of tender documentation	25/10/2019
Invitation to tender	28/10/2019
Open Bidders Day	11/11/2019
Closing date for return of tenders	29/11/2019
Forward Plan (if GW2 is key decision)	Nov 2019
Completion of evaluation of tenders	20/12/2019
DCRB Review Gateway 2: Contract award report	20/01/2020
Notification of forthcoming decision (if GW2 is	28/01/2020

Activity	Complete by:
key decision)	
Approval of Gateway 2: Contract Award Report	31/01/2020
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	13/02/2020
Contract award	17/02/2020
Add to Contract Register	19/02/2020
Place award notice on Contracts Finder	24/02/2020
TUPE Consultation period (if applicable)	08/05/2020
Contract start	11/05/2020
Initial Contract completion date	10/05/2023

### **TUPE/Pensions implications**

27. There are no TUPE implications for the council as an employer as there are no, nor will there be, council employees undertaking the works being tendered. Whilst adaptation works are undertaken by a number of existing contractors, currently the contracts are awarded on an ad hoc basis and if none of those contractors have an organised grouping of employees dedicated to those works it is therefore unlikely that TUPE will apply to transfer any of their employees to a new contractor appointed to these new contracts. Due diligence will need to be undertaken to ascertain the position but the procurement timetable allows for TUPE should it apply. TUPE may apply on the termination or in the event that during the course of one of the contracts the council has to appoint a replacement contractor or brings the work in-house. The position will be reviewed in that respect and appropriate provision made in the contracts.

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

28. The asset management team with the assistance of legal services and the procurement advice team will prepare tender documentation. The form of contract to be used will be JCT Measured Term Contract 2016, which will be subject to amendment as directed by legal services. The contract documents will be passed to legal services for formal execution when awarded.

### **Advertising the contract**

29. Not applicable as contractors will be selected from Exor and any contractors nominated.

### **Evaluation**

30. Tenders will be evaluated on the basis of M.E.A.T (most economically advantageous tender) using a weighted model of;

- 50% price
- 40% quality
- 10% Social Value.

31. The weighted model has changed from the standard 70:30 model as the successful contractors will be working closely with the elderly, disabled and vulnerable people and the council require a minimum quality standard when delivering the housing aids and adaption works.
32. Price evaluation will be undertaken by officers in the asset management team and checked by officers in the housing and modernisation finance team. The price evaluation will also include an allowance for working in the congestion and ultra low emission zone for Contract A.
33. The quality evaluation will encompass the following;
  - a) Resources
  - b) Scenarios
    - i. Communication with all stakeholders
    - ii. Delivery and management of the works.
    - iii. Quality of works management
    - iv. Value for money
  - c) Contracts compliance and social value
34. Officers in the housing specialist services team will undertake quality evaluation.
35. The combined quality and price evaluation scores will be ranked and the top three (3) scoring contractors will be awarded a contract. Contract A will be awarded first, Contract B will be awarded to the second top scoring contractor and Contract C will be awarded to the third top scoring contractor.
36. An evaluation methodology will be agreed with the procurement advice team and legal services.

### **Community impact statement**

37. The three contracts will operate borough wide and will support the council's Fairer Futures commitments by treating residents as if they were a valued member of our own family.
38. The contracts will be of a medium to high impact to residents and other stakeholders as it delivers installation of varying equipment to assist residents who have a physical impairment.

### **Social Value considerations**

39. 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. The details of how social value will be incorporated within the tender are set out in the following paragraphs.

### **Economic considerations**

40. The cost of these contracts is contained in paragraph 1 of this report.
41. The successful contractors will be required to provide apprenticeship opportunities to Southwark residents through the Southwark apprenticeships standard. The contract manager will monitor the contractors and report on progress. The

standard addresses four key areas that the council has learnt are central to the success of any apprenticeship:

- Minimum contract of 12 months
- Payment of London Living Wage (LLW)
- Quality training provision
- Mentoring and support

42. The contracts will contain the requirement to provide work experience for schools and those not in education, employment or training.

43. Small and medium enterprises (SMEs) will be selected from Exor.

### **Social considerations**

44. The successful contractors will be required to demonstrate that they operate an Equal Opportunities Policy, comply with the provisions of the Equalities Legislation, the Employment Relations Act 1999 (Blacklists) Regulations 2010 and the Prevent Duty under section 26 of the Counter-Terrorism and Security Act 2015

45. The council can exclude companies who break the law by blacklisting if they are either still blacklisting or have not put into place genuine acts 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 wrong doing 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 authority

"Cleaned Up": taken concrete technical, organisation 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.

46. The council's contract conditions will include an express condition requiring compliance with the blacklisting regulations and include a provision to allow the contracts to be terminated for breach of these requirements. In addition, the council's contract conditions will include an express condition requiring compliance with the Prevent Duty. The council's working in occupied premises policies will include this provision and will require the successful contractors to notify the council if they have any concerns.

47. The successful contractors are expected to meet the LLW requirements. For these contracts, the quality improvements are expected to include a high calibre of staff that will contribute to the delivery of the services on site and it is therefore considered that best value will be achieved by including this requirement. As part of the tender process, tenderers will be required to confirm that they pay the staff, who will be engaged on the contracts, equal to or more than the minimum LLW hourly rate and will continue to do so through the contract term and confirm how productivity will be improved by payment of LLW. On award, any associated quality improvements and cost implications will be monitored as part of an annual review of each contract.

48. The successful contractors will be encouraged to consider trades union recognition in line with the council's Fairer Future Procurement Strategy.

49. The successful contractors will be encouraged to register with and seek to secure accreditation through the TfL Fleet Operator Recognition Scheme (FORS).

## **Environmental/Sustainability considerations**

50. The use of sustainable materials to the appropriate British Standards will be required to ensure fire integrity for re-instatement works.
51. The use of low emission vehicles and planning of journeys will be encouraged within the contracts.
52. All works will be managed by the successful contractors to ensure the waste materials are disposed of in accordance with the law and council policies to minimise the impact on the environment, and reduce exposure to landfill tax and other disposal costs.
53. All chemicals will be stored, use and disposed of in accordance of Control of substances hazardous to health 2002 (COSHH).
54. Contractors are encouraged to reuse/repurpose any materials where possible in accordance with the British standards.

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

55. The contracts will be let and managed by the housing specialist services team.
56. The in-house building surveyors and the successful contractors will carry out joint inspections, identify an agreed schedule of work and each successful contractor will issue the design briefs for each adaption.
57. Key performance indicators will be set and challenged to ensure the successful contractors' performance.
58. The council's commercial team will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.
59. The social value element of the successful contractors will be monitored using internal resources.
60. To ensure robust contract management arrangements are in place, officers will undertake audit site inspections to ensure that method statements are adhered to and re-instatement works are compliant and delivered to a high standard.
61. Monthly progress meetings, to be attended by officers will be arranged and recorded to review performance and compliance.

## **Staffing/procurement implications**

62. There will be no impact on staff as the existing housing specialist services team are already delivering current contract management functions.

## **Financial implications**

63. There are no financial implications arising directly from the procurement strategy approval sorted from this report.
64. The potential total cost to be procured from this strategy is £3.9m excluding internal fees and contingency. The estimated cost will be funded from HRA resources earmarked for the adaptations such as capital receipts and revenue contributions. The cost will be coded on the existing project code H-7610-1405 for effective monitoring and reporting.



## **Legal implications**

65. Please see supplementary advice from the Director of Law and Democracy below.

## **Consultation**

66. Consultation with residents will be held at the monthly tenants and residents associations meetings.

67. Any specific requirements required from the various council teams who intend to use these contracts will be incorporated in the contract documents before tendering.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

68. This report is seeking approval of Strategic Director of Housing and Modernisation for the procurement strategy outlined in this report for three (3) Housing Aid and Adaptations contracts.

69. The Housing Aid and Adaptations contracts will commence in May 2020 for a duration of three years. The scope and value of each contract will cover the installation of housing aids and up adaptations to council stock with estimated costs of £1.2m for two contract areas and 1.5 m for the third area making an estimated maximum total cost of £3.9m. Each of these contracts will be awarded to a single supplier with the arrangement for each supplier to backup one of the other contract areas.

70. London Living Wage will apply to all of the contracts above and would be included in the tender documentation as set out in paragraph 47. Blacklisting information for suppliers would be managed in line with the council's policy as set out in paragraph 44 to 46.

71. The plans for monitoring and management of the contracts are set out in paragraphs 55 to 61.

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

72. This report seeks the approval of the Strategic Director of Housing and Modernisation for the procurement strategy to procure three contracts as further detailed in paragraph 1.

73. The nature and value of these works are such that they are subject to the council's contract standing orders (CSO). CSO 4.3 requires all reasonable steps to be taken to obtain at least 5 tenders and those invited to submit tenders must be selected from the council's works approved list. Paragraph 20 of this report confirms that this process is to be followed and a minimum of 10 contractors will be invited to tender.

74. As the values of the intended contracts are below the relevant EU threshold, the decision to approve this procurement strategy is reserved to the relevant chief officer (or under his delegated authority).

**Strategic Director of Finance and Governance (H&M19/050)**

75. The Strategic Director of Finance and Governance notes the recommended procurement strategy to undertake a competitive tender exercise using the council's works approved list (Exor) for three housing aids and adaptations contracts. The procurement strategy aims to provide flexibility and value for money, with indicative costs for the areas proceeding through this procurement strategy estimated at £3.9m. As outlined in the financial implications section of the report, these costs will be met from resources supporting the Housing Investment Programme

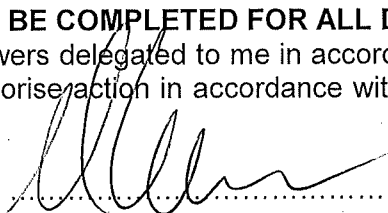
**Director of Exchequer (for housing contracts only)**

76.

**PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS**

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature



Date

3 October 2019

Designation **Strategic Director of Housing and Modernisation**

**PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.
<b>2. REASONS FOR DECISION</b>
As set out in the report.
<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
As set out in the report.
<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>

<b>1. DECISION(S)</b>
<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<p>I declare that I was informed of no conflicts of interests.*</p> <p>or</p> <p>I declare that I was informed of the conflicts of interests set out in Part B4.*</p> <p>(* - Please delete as appropriate)</p>

#### BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Contract File	Housing & Modernisation/ Asset Management 160 Tooley St, SE1 2QH	Gavin Duncumb X50685

#### APPENDICES

No	Title
None	

#### AUDIT TRAIL

<b>Lead Officer</b>	David Hodgson – Director of Asset Management	
<b>Report Author</b>	Gavin Duncumb – Commercial Manager	
<b>Version</b>	V5	
<b>Dated</b>	26 Sept 2019	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes/No
Head of Procurement	Yes	Yes/No
Director of Law and Democracy	Yes	Yes/No
Director of Exchequer (for housing contracts only)	Yes/No	Yes/No
Cabinet Member	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No

<b>Cabinet Member</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>Date final report sent to Constitutional Council/Scrutiny Team</b>	<b>/Community</b>	<b>TBC</b>