

Cabinet

Tuesday 2 February 2021

11.00 am

Online/Virtual: This meeting will be livestreamed on Southwark Council's YouTube channel here: <https://www.youtube.com/user/southwarkcouncil>

Supplemental Agenda No. 1

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Date: 26 January 2021

Item No. 15.	Classification: Open	Date: 2 February 2021	Meeting Name: Cabinet
Report title:		Gateway 3 – Variation Decision Extension of the Agency Worker contract	
Ward(s) or groups affected:		None	
From:		Councillor Rebecca Lury, Finance and Resources	

FOREWORD – COUNCILLOR REBECCA LURY, CABINET MEMBER FOR FINANCE AND RESOURCES

This report confirms our intention to extend the current contract with Comensura to provide the council with ongoing agency worker support as required.

This is in line with the contractual terms, and we will also be setting out our intention to begin a full procurement process for the future contract.

We are conscious of the pressures within the 2021-22 budget to make significant savings on the use of agency staff, and whilst those plans are being taken forward, we will be working closely with our current supplier to support these programmes of work. Looking ahead to the new contract, this will also remain front of mind, ensuring that we are procuring a service that best supports the ambitions for employment of staff across the council.

RECOMMENDATION

1. That cabinet approves the extension of the agency worker contract with Comensura Limited for a period of one year commencing 1 April 2021 at an estimated cost of £30m, making the total value of the contract £111.5m.

BACKGROUND INFORMATION

2. On 18 December 2017, the then cabinet member for finance, modernisation and performance approved a call-off contract with Comensura Limited (referred to as 'the contract'), via the Yorkshire Purchasing Organisation (YPO) framework. This was for an initial contract period of three years from 1 April 2018 to 31 March 2021 with the option to extend by a further one year.
3. The contract provides a vendor neutral managed supply solution for agency workers. Thus, Comensura does not supply workers directly but seeks to source agency workers from a variety of vendors (agencies) with assignment opportunities posted simultaneously to a tiered supply chain.

4. Although the existing contract has been in place for three years, the relationship with Comensura dates back to 2006. Over the 14 years, Comensura has developed an in-depth understanding of the council's resourcing requirements and has worked with colleagues across the borough to enhance the approach it takes to support Southwark values. Comensura have delivered tangible benefits to our local community through the below activity:

Social Values Work

- Working with external providers (Southwark Works) to increase employment opportunities within the borough by ensuring Southwark Works get access to entry level roles before the other providers on the supply chain (Southwark Works were able to access 64 out of the 64 entry level roles during 2019 - 2020).
- Engage with Southwark Works for large volume local employment opportunities, for example, the need to source polling officers and clerks for the local GLA elections in May.
- Working with the local branch of the Venn Group to provide CV writing and interview technique briefings for job hunters in the local community (including a remote offer during the pandemic). A total of 59 local residents signed up to the sessions with a final attendance of 39.
- Ensuring all Comensura employees and workers in the supply chain are paid the London Living Wage (LLW) as a minimum.
- Supporting the transition of agency workers from temporary roles to permanent or fixed term employment within the Council (73 roles were converted in 2019 to 2020 – 68 to permanent roles and five to fixed term opportunities).
- Working with the supply chain to increase the number of local unemployed people into employment. The data captured indicates that 23% of all the workers in the supply chain came from our local community and 12% of suppliers have their main office based within the Borough.
- To create within Comensura apprenticeship opportunities, which they have achieved at a minimum of one apprentice per year.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

5. The nature of the proposed variation is to exercise the option in the existing contract and extend for a period of 12 months.
6. The value of the initial three year contract, based on estimated demand, was £60m inclusive of the fixed charge to Comensura and YPO; plus the option to extend for one year with a total estimated value of £75m. However, the actual costs have been higher than the original estimate. These are detailed in the financial implications section of the report.

7. The council continues to place great emphasis on the reduction of agency worker usage and spend. This is being achieved through continuous review and monitoring of the contracts performance with Comensura which sits alongside a reduction strategy led by the councils Chief Officer team.
8. To further support the reduction strategy, a review of the employee establishment numbers, current vacancy rates and agency usage will be conducted with key stakeholders (HR, Finance and budget holders). This will ensure the reduction strategy targets root causes and influencing factors, rather than just the published agency numbers. Involving key stakeholders will also ensure the 2021 – 2022 budget challenges are considered when agreeing service demands, key priorities and associated resourcing needs.
9. Whilst there is an increased spend against estimated costs, the wider contract performance has met the required standards and there have been no critical performance issues.

Reasons for Variation

10. The current contract is due to expire on 31 March 2021 and in line with procurement guidelines the council needs to decide whether or not to utilise the extension option. Approving the extension will allow sufficient time for a new procurement exercise to be undertaken.
11. This report seeks to exercise the extension option and to increase the contract sum. Comensura has managed the contract positively and therefore, we foresee no reason not to extend.
12. The quarterly review meetings held with Comensura have been positive with data for the previous three months showing a 100% fill rate on engagements. Demand for agency workers during 2020-2021 has been attributed to a variety of reasons (such as addressing skills shortages and meeting high demand areas of the business at short notice) which has been necessary to maintain delivery of services across the council.

Future Proposals for this Service

13. A re-procurement exercise will begin in early 2021 with the considerations for a future model:
 - To continue with a managed service, applying a vendor neutral model by which the council contracts with a single organisation which in turn contracts with a range of agencies to meet the demand for temporary workers in all required disciplines.
 - To move to a managed service with a single supplier (master vendor); the provider endeavours to supply all workers directly and in the event

of not having a suitable candidate available, will work within their own supplier network to meet the demand. The council can (with the master vendor's agreement) nominate one or more specialist agencies to work with the master vendor.

Proposed timeline for new procurement (which will include a request for the Gateway 1 report to be delegated to the portfolio lead as the individual decision maker (IDM)).

Date	Activity
February 2021	Submission of Gateway 0 (options assessment)
March 2021	Submission of Gateway 1 report (procurement strategy)
June 2021	Expressions of interest to be received
July 2021	Date of sending out tenders
October 2021	Completion of the evaluation of tenders
November 2021	Submission of Gateway 2 report (contract award)
December 2021	Contract awarded
April 2022	New contract commences

Alternative Options Considered

14. The management and performance of the contract has worked well and been in line with the commitments made by Comensura. It is therefore appropriate to invoke the planned contract extension clause whilst preparations are made to retender the contract.

Identified risks for the Variation

15. The one year extension is provided for under the terms of the existing contract. The risk of a procurement challenge is low as the extension is permitted under regulation 72 of the Public Contracts Regulations 2015.

Policy implications

16. The continued use of agency workers as part of the council's wider resourcing strategy is likely to remain albeit in reduced numbers. Factors influencing are unlikely to be resolved in the medium term in areas of skills shortage or high demand.

Contract management and monitoring

17. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.
18. There is a well-established robust approach to monitoring which includes volume data, consideration of key performance indicators, managed through regular provision of management data, quarterly meetings and an

annual review. Feedback is also sought from the experience of operational HR staff and managers.

19. The performance by Comensura is deemed to have met the required standards and there are no critical performance issues that would prohibit approval of this extension request.

Community impact statement

20. As a supplies contract for internal use by the council, this decision has a small impact on local people and communities. However, the vendor neutral model enables the managed service contractor to encourage participation by local businesses in the vendor (agency) list.

Social Value considerations

21. 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 social value considerations included in the tender (as outlined in the Gateway 1 report) are set out above in the background section in relation to the commitments that will continue to be delivered under the contract.

Economic considerations

22. To exercise an existing provision to extend a contract is an efficient use of resources for the council. Recouping further the investment made in awarding the contract for the initial three year term.

Social considerations

23. The numbers of firms that supply a managed service are relatively few.
24. The use of a managed service has been significant in ensuring that agency worker at parity rate, receive London Living wage as a minimum. This would be impossible to police were the council to contract directly with individual agencies.
25. Comensura employ approximately seventy staff at across their headquarters in Luton and countryside.

Environmental/Sustainability considerations

26. Whilst there are no specific environmental implications, the service is web based and essentially paperless.

Financial Implications

27. This report proposes a one year extension to the existing three year contract based on existing terms & conditions.
28. Under present arrangements, payments are made to Comensura on a weekly basis upon receipt of an invoice, which comprises agency worker costs and contractual fee elements (sums payable to Comensura and the charge collected by Comensura on behalf of YPO).
29. The above mentioned costs are recharged to departments, with the addition of a 10% internal charge (retained within Strategic Finance and predicated against council wide resourcing requirements).
30. Payments to Comensura (extrapolated to the end of the current year) are detailed in the table below, along with estimates for the revised contract total, to include the proposed one year extension.

Year	Expenditure (excluding internal r/c) £
2018/19	22,815,947
2019/20	27,350,945
2020/21*	31,260,503
Total Estimated Initial 3 Year Contract	81,427,395
2021/22**	30,000,000
Revised Estimated Contract Total Including 1 Year Extension	111,427,395

* *Estimated amount based on pro-rata calculation of actuals @ Week 39*

** *Estimate quantified by HR elsewhere in this report*

31. If the current spend rate for 2020-2021 continues until the end of the financial year, the projected costs for 2020-2021 will be £31,260,503. Averaging the past three years spend for the one-year extension and accounting for the year on year increasing agency spend, we estimate the additional cost for one year extension as £30m. Our ambition is to reduce this level of agency spend. A reduction strategy is being developed by the Chief Officer team to deliver tangible outcomes for each department based on their budget targets to reduce agency spend and consolidate the permanent workforce by converting agency workers to permanent status where practically possible.

Investment Implications (Housing Contracts only)

32. Not applicable

Legal implications

33. Refer to the legal concurrent of the Director of Law and Governance.

Consultation

34. This is not a matter which requires public consultation or referral to the council's trade unions.

Other implications or issues

35. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (CE20/066)

36. The strategic director of finance and governance notes the recommendations in this report. The financial implications as noted will be managed within the existing agreed budgets for the council's general fund and housing revenue account.

Head of Procurement

37. This report seeks approval from cabinet to extend the agency worker contract with Comensura by one year from 1 April 2021 at a cost of £30m, making the total contract value of the contract £111.5m.
38. This extension is allowable under EU Public Contract Regulations 2015 (originally let under), the latest legislation applied after Brexit and the council's contract standing orders (CSO).
39. This report confirm that workers are paid London living wage (LLW) and risks are detailed in paragraph 14.
40. The contract is managed and monitored as detailed in paragraphs 16 – 18.

Director of Law and Governance

41. This report seeks cabinet's approval to a variation of the existing agency worker contract which is being performed by Comensura Limited. This report sets out the extent of the required variation and the reasons why the variation is necessary.
42. There are six situations or safe harbours in Regulation 72 of the Public Contracts Regulations 2015 (the Regulations) in which contracts may be modified without a new procurement procedure. If the modification does not fall within one of the six safe harbours, a procurement exercise is required. Under Regulation 72(1)(a), a modification is permitted where the

initial procurement documents provide for amendments to the contract (regardless of their value), in clear, precise and unequivocal review clauses, as long as such clauses:

- (i) state the scope and nature of possible modifications as well as the conditions under which they may be used; and
 - (ii) do not provide for modifications that would alter the overall nature of the contract.
43. The proposed variation of the agency worker contract is consistent with the Regulations. As noted in paragraphs 5 and 6 of this report it is confirmed that the terms of the existing contract include express provision for extending the contract beyond its initial term by a further one year.
44. The proposed variation is also consistent with the council's Contract Standing Orders (CSOs). CSO 2.3 requires that no steps are taken to vary a contract unless the expenditure involved has been included in approved revenue or capital estimates, or is otherwise approved by the council. Paragraph 28 of this report confirms how the proposed additional expenditure will be resourced.

Director of Exchequer (for housing contracts only)

45. Not applicable

Director of Education (for schools contracts only)

46. Not applicable

REASONS FOR URGENCY

47. Urgent consideration of this report is required to ensure the one-year contract extension can be implemented before the expiry of the existing contract (April 2021). The financial impact of not extending the contract would be significant for our existing agency workers (circa 450 workers) and for the council regarding the cost savings the contract provides (approx. £1M in 2019 – 2020).

REASONS FOR LATENESS

48. It was not possible to circulate this report five days clear in advance of the meeting due to an administrative and technical error.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
None		

APPENDICES

No	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Rebecca Lury, Finance and Resources	
Lead Officer	Melanie Medley, Head of Human Resources	
Report Author	Andrea Armstrong, Strategic Lead, HR Customer Delivery	
Version	Final	
Dated	26 January 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Governance	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
Director of Education (for schools contracts only)	No	No
Cabinet Member	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		26 January 2021

Item No. 16.	Classification: Open	Date: 2 February 2021	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval Contractor Services for the Lindley Estate and Bells Gardens New Homes Development Projects	
Ward(s) or groups affected:		Old Kent Road & Peckham	
Cabinet Member:		Councillor Leo Pollak, Housing	

FOREWORD – COUNCILLOR LEO POLLAK, CABINET MEMBER FOR HOUSING

With over 14,000 households on our council housing waiting list, and more than 3,000 children growing up in temporary accommodation, Southwark Council is committed to pressing ahead with our ambitious commitment to build 11,000 new council homes by 2043 (including an additional 1,000 by 2022).

This report sets out the contractor procurement route for delivering 44 new council homes at Lindley estate site and 65 new council homes at Bells Gardens (further to 32 homes to own outright) — to be let at council rents on lifetime council tenancies – alongside a brand new community centre, games area, play spaces and landscaping on both estates. At least half of the new council homes will be reserved for residents who live in the immediate area who have an unmet housing need, ensuring local residents directly benefit from the new council homes and maintain their local social, childcare and family connections.

In line with all other procurement on new council homes this report sets out that the successful appointee will have sign up to Considerate Constructors Scheme, pay all trades workers a minimum London Living Wage, employ local apprentices, and not blacklist union members. They will also be required to establish a strong resident liaison to ensure local people are informed of each step and impacts of construction are minimised.

RECOMMENDATIONS

That the Cabinet:

1. Approves the procurement strategy for new build works at Lindley Estate and Bells Garden at an estimated cost of £46,000,000 with an contract duration of a maximum of 4 years.
2. Approves the delegation of the Gateway 2 award decision to the Strategic Director of Housing and Modernisation, in consultation with the Cabinet Member for Housing, for the reason outlined in paragraph 38 to 39 below.

BACKGROUND INFORMATION

3. This procurement strategy relates to the Lindley Estate and Bells Gardens projects within the council's New Homes Development Programme, which is part of the council's commitment to build 11,000 new homes by 2043.
4. The New Homes Development Programme is aimed at creating new homes from existing council assets and acquiring new assets. The principle of new homes development was agreed by Cabinet in July 2012.
5. Lindley Estate will deliver 44 units and has an estimated contract value of £13,000,000 and will provide a mix of 1, 2, 3 and 4 bed flats for Social Rent in a 5 storey block to be built on the corner of Peckham Park Road and Commercial Way on the Lindley Estate. The development will be integrated with the existing estate and deliver estate and landscaping improvements. Lindley Street will be submitted for planning in early 2021.
6. Bells Gardens will deliver 97 units, which will be delivered over 2 phases, with an estimated contract value of £33,000,000. The scheme will provide a mix of 1 and 2 bed flats for Private Sale and Social Rent in three blocks ranging from 4 to 8 storeys, a new community centre on the site of the current community centre on Buller Close and multi use games area (MUGA). A planning application will be submitted in early 2021.
7. A Gateway 1 approval for Lindley Estate was granted in May 2020, however given the close proximity of these sites and that the revised timetable indicates that both schemes will receive planning permission relatively close together, officers have decided that it makes commercial sense for the sites to be packaged together and a single contractor procured.
8. Officers have undertaken an analysis of the benefits of combining the sites, which include reduced preliminary fees, less disruption for local residents, a construction management and access plan coordinated across both sites, and a consolidation of the required consultation once the projects are on site.
9. The sites separately and together are over the Public Contracts Regulations 2015 (as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations') ("PCR 2015 (as amended)") and will deliver a total of 141 new homes at an estimated works cost of £46,000,000. The estimated total scheme costs (inclusive of fees) are £52,500,000. The fees include:
 - a. Architects Fees;
 - b. Employer Agent Fees;
 - c. CDM Coordinators;
 - d. Surveys;
 - e. Planning Application Fee;
 - f. Contingency; and
 - g. Administration and Development Allowance.

10. The above fees are subject to a separate approval process and the services will be procured in line with the council's Contract Standing Orders.

Summary of the business case/justification for the procurement

11. The council has committed to the delivery of 11,000 new homes development programme by 2043. This procurement exercise will build on the progress made to date and enable the progression of a further 141 new homes (109 new social rent homes) with both of the schemes anticipated to be complete by late 2022 / early 2023.
12. Additional key deliverables are as follows:
- a) Maximise and enhance the utility, value and quality of council-owned land and buildings to deliver:
- High quality homes for rent
 - Improved streetscapes and
 - Employment and training opportunities and
- b) Deliver high quality and fit-for purpose public buildings at good value.

Market considerations

13. The combined project is relatively significant in size and likely to be attractive to local, medium and large sized contractors, therefore, the tendering process needs to reflect this by ensuring that the appropriate building contractors are targeted.
14. In the last year the council has had relatively good responses from the various tender processes that it has undertaken. There still appears to be a very high demand for construction services with many London boroughs engaging in the development of affordable housing and this is only likely to increase.
15. The Coronavirus outbreak has had a significant impact on the construction industry, reports indicated that outputs have fallen which would have primarily been due to temporary suspension of work as well as supply chain delays. Construction sites across the capital are back up and running, however working restrictions and the impact on working practices will continue to have a short to medium term impact across the sector, especially as London has now entered Tier 5 restrictions. Most contractors have learnt to adapt to ensure that they provide a Covid safe working environment and the sector appears to be reasonably robust in its approach to working within the current restrictions. Government guidance indicates that construction can continue even under the Tier 5 restrictions; however this report notes that guidance is likely to change as the Covid pandemic unfolds.
16. The impact of the Covid restrictions on these projects is likely to be seen in the tender returns with construction management timeframe taking longer (some indication mean works could take up to 20% longer), higher costs to

account for new working practices and losses from the pandemic, with contractors being more risk adverse.

17. As we are now under Tier 5 restrictions and London could move to stricter restrictions, there may be a requirement to review or adapt the published terms and conditions during our tendering process, or to extend the procurement process, as circumstances unfold.
18. It should also be noted that there still remains a level of uncertainty in the construction industry over the potential impact of Brexit, which still could lead to a shortage of labour and increases in the costs of material.
19. Officers believe that demand for construction services is not likely to decrease and suspect that the sector is likely to remain relatively buoyant, as contractors become keen to fill up their order books with new work. The impact for the council over the next few years could be that the market is very competitive and contractors are more selective in terms of the projects they wish to take on. This means that it will be important for the New Homes Development Team to have range of procurement routes at their disposal, in order to ensure that they are robust enough to adapt to changes in the market conditions.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

20. As the value of this procurement exercise is above the PCR 2015 (as amended) threshold for works the full tendering requirements of the aforementioned apply. As doing nothing is not an option and the council currently do not have the in-house capability to deliver these services, the procurement options set out in sections 21 to B below are, therefore, available to the council:
21. **Use of a Framework that is Compliant with Public Contract Regulations**
22. There are a number of frameworks available for the council to use, these include:

Framework	Expiry	No. of Contractors	Fee
SE Consortium	New Framework Pending Release		
Notting Hill Genesis	31 May 2021	14	Free
Scape	31 May 2021	1	Free
London Construction Panel	31 July 2024	10	Free
Hyde	05 December 2024	11	£5,000

23. Most frameworks offer a good range of contractors (with the exception of the Scape framework); however they still offer a more limited selection than a

restricted tender process. It should be noted some of the same contractors appear on a number of the frameworks.

24. Frameworks can offer an expedited procurement route in comparison to a restricted tender process.
25. The following table summarises and compares each of the frameworks in terms of contractors available:

Notting Hill Genesis	London Construction Panel	Hyde	Scape
Large Contractors	£20m+	£25m+	£10 - £50m
Ardmore Construction Ltd	Bugler Developments Ltd	Kier Construction London	Wates Construction Ltd
Bouygues (UK) Ltd	Durkan Ltd	Bouygues UK Ltd	
Durkan Ltd	ENGIE Regeneration Ltd	ENGIE Regeneration Ltd	
Galiford Try Partnership Ltd	Galiford Try Partnership Ltd	Higgins Construction Plc	
Higgins Construction PLC	Geoffrey Osbourne Ltd	Hill Partnerships Ltd	
Hill Partnerships Ltd	Kier Construction Ltd	John Graham Construction Ltd	
Keepmoat Regeneration Ltd	McLaren Construction Ltd	McAleer & Rushe Contracts Ltd	
Kier Construction Ltd	Morgan Sindall Ltd	McLaren Construction Ltd	
Lovell Partnership Ltd	Rydon Construction Ltd	Midgard	
Mulalley & Co Ltd	Willmott Dixon Holdings	Vistry Partnerships Ltd (Galliford)	
Rydon Construction Ltd		Wates Construction Ltd	
United Living (South) Ltd			
Wates Construction Ltd			
Willmott Partnership Homes Ltd			

26. The Scape framework only has one contractor on it, the purpose of this is to assist contracting authorities to develop and mobilise works quickly. The framework has a very specific requirement to use the frameworks Employers Agent, which would mean the council either reneging on its existing contract or duplicating services and costs. Further, a single contractor framework does raise issues with regards competitiveness and whether this would provide the council with best value for money, the New Homes Development Team is in the process of exploring this further.
27. The South East Consortium framework does not offer any contractors in addition to those provided by Notting Hill Genesis, London Construction Panel or Hyde. In addition, approval has already been granted to the council to enter into the necessary access agreements for the Notting Hill and LCP frameworks and the Hyde framework is currently being considered.

A. Restricted Tender in line with PCR 2015 (as amended)

28. A restricted tender process in line with PCR 2015 (as amended) will offer the council access to the full market and allows the council to be able to demonstrate value for money. This is a route the New Homes Development Team has successfully used to procure contractors for a number of development projects from 2017 to date, with a number of others project currently in the procurement process.
29. This offers a competitive route to procuring contractors with tenderers having to demonstrate that they offer the most economically advantageous tender in order to be awarded the contract. This route does have its drawbacks, one of which is that it can take longer when compared to calling off a framework.
30. The stages of this approach generally are:

- a. Selection Questionnaire – the PAS91 form of SQ is used for suppliers to express an interest and for the council to shortlist; and
- b. Invitation to Tender – the tenderer submits its proposals for delivering the works.

31. It should be noted that this project may require the standard restricted procurement process to be adapted to include additional stages for the second phase of the scheme and/or adapt the pricing evaluation methodology to address the scheme phasing, this detail will be discussed further with the procurement and legal teams to ensure that the process delivers both quality and value for money.

Proposed procurement route

32. Officers are seeking approval to undertake a restricted tender process in line with PCR 2015 (as amended) for these projects, officers feel that this route will provide full access to the market and offer current market values. Whilst a framework offers a slightly shorter procurement period, this is not a significant length of time, therefore a wider access to the market is considered more beneficial.

Identified risks for the procurement

33. The following risks have been identified for this procurement:

	Identified Risk	Likelihood	Risk Control
1	Planning risk	Low	The New Homes Development Team work very closely with the planning department which should result in a successful planning outcome.
2	Insufficient interest from contractors.	Low	A soft market exercise will be used to promote interest prior to publication of the contract notice / PIN.
3	Quality of submitted tender proposals do not meet the council's expectations	Low	Officers will ensure that comprehensive project briefs that are clear and without ambiguity are produced. Tenders will also be rigorously assessed during the evaluation stage.
4	Cost proposed is in excess of budget and does not deliver value for money	Medium	Officers will ensure that all necessary surveys are undertaken and a cost plan that

	Identified Risk	Likelihood	Risk Control
			identifies any associated risk is developed. A detailed specification will form part of the tender packs so that expectations are clearly identified. The tender process will follow the guidance from the council's legal; team on Covid-19 tangible cost of compliance safety standards being included as a capped provisional sum.
5	Challenges to procurement outcome	Low	Officers will ensure a robust procurement process in line with the PCR 2015 (as amended) is followed and will liaise closely with the council's Procurement and Legal departments.
6	Contractors cease trading, goes into administration / liquidation	Medium	Officers will undertake appropriate financial assessments and credit checks as part of an PCR 2015 (as amended) compliant procurement process. A performance bond / a parent company guarantee is considered and/or sought to mitigate this risk. Officers will also monitor the market through out the tender process to ensure that the council addresses any emerging risks and exposures.
7	Individual sites not ready to progress at the same time.	Low	Officers are liaising closely with planning and working to minimise this risk. Officers will continue to monitor and address any risk that arises during the tender process.
8	The impact of site delivery, cost and the risk exposure of the council due to Covid-19	High	Officers will give more attention to scrutiny around the mobilisation plan, health and

	Identified Risk	Likelihood	Risk Control
			safety practices and the contract sum during the tender process to ensure that exposure of the council is duly considered and addressed.
9	The impact of Brexit on delivery of the project.	Medium	It is difficult to assess all of the potential risks around Brexit due the level of unknowns around future trade deals and agreements. Officers will ensure that as risks become apparent, these will be factored into the process and the contract where possible.

Key /Non Key decisions

34. This is a key decision.

Policy Implications

35. The new homes delivered through the new homes development programme are in line with the council's principles and vision for a new housing strategy which is aimed at increasing the availability, affordability and quality of homes in the borough.
36. This procurement exercise supports the council's Fairer Futures Commitment – A place to belong to. The new homes will play a key role in assisting the council to achieve its target of building 11,000 new council homes by 2043.
37. This procurement exercise will be carried out in line with the Fairer Future Procurement Framework ("FFPF"). The competitive tender process undertaken will ensure that the council is receiving value for money and delivering added social value.
38. The long term housing vision for the borough (agreed by cabinet in January 2014) sets a clear policy direction for the council that directly impacts the delivery of the new homes set out in this report. The vision comprises four overall principles:
- a. The council will use every tool at its disposal to increase the supply of all kinds of homes across Southwark
 - b. The council will demand the highest standards of quality, making Southwark a place where you will not know whether you are visiting homes in private, housing association or council ownership
 - c. The council will support and encourage all residents to take pride and responsibility in their homes and local areas and

- d. The council will help vulnerable individuals and families to meet their housing needs and live as independently as possible.

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	21/09/2020
DCRB Review Gateway 1	26/11/2020
CCRB Review Gateway 1	11/12/2020
CMT Review Gateway 1 (if applicable)	n/a
Brief relevant cabinet member (over £100k)	21/12/2020
Notification of forthcoming decision - Cabinet	21/01/2021
Approval of Gateway 1: Procurement strategy report	02/02/2021
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	16/02/2021
Issue Notice of Intention (Applies to Housing Section 20 Leaseholder consultation only)	n/a
Completion of tender documentation	31/01/2021
Publication of Contract Notice	22/02/2021
Publication of Opportunity on Contracts Finder	22/02/2021
Closing date for receipt of expressions of interest	26/03/2021
Completion of short-listing of applicants	09/04/2021
Invitation to tender	12/04/2021
Closing date for return of tenders	21/05/2021
Completion of any clarification meetings/presentations/evaluation interviews	04/06/2021
Completion of evaluation of tenders	18/06/2021
Issue Notice of Proposal (Applies to Housing Section 20 Leaseholder consultation only)	n/a
Forward Plan (if Strategic Procurement) Gateway 2	01/06/2021
DCRB Review Gateway 2:	21/06/2021
CCRB Review Gateway 2	01/07/2021
CMT Review Gateway 2 (if applicable)	n/a
Notification of forthcoming decision	n/a
Approval of Gateway 2: Contract Award Report	09/07/2021

Activity	Complete by:
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	16/07/2021
Debrief Notice and Standstill Period (if applicable)	23/07/2021
Contract award	01/08/2021
Add to Contract Register	01/08/2021
TUPE Consultation period (if applicable)	n/a
Place award notice in Find a Tender	01/08/2021
Place award notice on Contracts Finder	01/08/2021
Contract start	01/09/2021
Initial contract completion date	01/09/2025
Contract completion date – (if extension(s) exercised)	n/a

39. This report is seeking approval to delegate the Gateway 2 decision to the Strategic Director of Housing and Modernisation in consultation with the Cabinet member for Housing.
40. The rationale for this is to streamline and speed up the approval process, as contractors generally only guarantee build costs for a period of 3 months. Seeking Cabinet approval for the Gateway 2 could delay the timeframes set out in the procurement plan above.

TUPE/Pensions implications

41. As this procurement strategy relates to a new programme of works and there is no existing contractor delivering the work which is being tendered, TUPE should, therefore, not apply on its commencement. Although considered unlikely, TUPE could apply if the identity of the contractor were to change during the period of the works and relevant provisions will be included in the contract amendments to provide for this.

Development of the tender documentation

42. The New Homes Development Team has developed template tender documentation and the quality and pricing evaluation methodologies for PCR compliant restricted processes.
43. Officers in the New Homes Development Team will work with the Employers Agent to include the scheme specific information within the tender packs.
44. The tender packs, ITT questions and price/quality evaluation criteria will all be reviewed as part of a process with the council's legal and procurement teams prior to the tender commencing.
45. The tender documents will include:

- a. Selection Questionnaire / Expression of Interest and guidance document
- b. Instructions To Tenderers
- c. Tender evaluation methodology
- d. Contract documents (JCT 2016), amendments and terms and conditions
- e. Employers Requirements
- f. Scheme details including;
 - i. Site information
 - ii. Project drawings
 - iii. Project plan
 - iv. Relevant surveys & reports
- g. Contract Sum Analysis Template
- h. Form of Tender and necessary undertakings and certificates
- i. Compliance table

Advertising the contract

46. The contract will be advertised by way of an official notice that will be published in the Find a Tender and advertised on Contract Finder.

Evaluation

47. Contracts will be awarded on the basis of using a combined price/quality/social value ratio which takes into account the council's requirement to include social value evaluation for all procurements above £100,000. The weighting ratio is likely to be 60/30/10 however it will also be reviewed as other procurement processes complete.
48. The process will consist of following stages which are published at the same time.

Selection Questionnaire (PAS 91)

49. The purpose of the SQ is to create a shortlist of organisations who have demonstrated that they have sufficient technical capacity and financial and economic standing and ability to be invited to tender. In order to determine sufficient financial and economic standing, and technical capacity and ability, SQs will be evaluated in accordance with the criteria as set out in the council's standard SQ (PAS 91).
50. The PCR 2015 (as amended) and the council's requirement is to have a minimum of five organisations who tender. Where other tenderers are within 5% of the fifth highest scoring tenderer, at the council's discretion they may also be invited to tender.

Invitation to Tender

51. The Quality Assessment will be undertaken through the provision of method statements which will be used to evaluate applicants against the key quality criteria, for which there will be a minimum pass mark for each question.
52. The social value assessment will be undertaken by a third party via the Social Value Portal. For each procurement tendered a number of Themes Outcomes and Measures (TOMS) will be selected that will reflect 10% of the estimated contract value.
53. The submitted tenders will be evaluated and scored by a panel made up of:
 - a. Employer's Agent
 - b. Development Manager
 - c. Project Manager and
 - d. Project Officer.
54. The Employer's Agent, who will submit a Tender and Value for Money Report, which will conclude that the highest scoring tenderer be recommended for award through a Gateway 2 to enable the contract to be entered into.

Community impact statement

55. The Public Sector Equality Duty requires public bodies to consider all individuals when carrying out their day to day work, in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The council's consultation with residents on the 11,000 council homes programme has been specifically designed to be inclusive of all the borough's communities and provide a range of mechanisms to provide residents with the opportunity to engage.
56. Southwark is a borough with high levels of deprivation, low income levels and high levels of affordable housing need. Southwark's Housing Strategy to 2043 identifies that the supply of affordable housing in the borough outstrips demand. There is a demand for larger properties for younger families, many of whom are experiencing overcrowding.
57. Cabinet has agreed a new vision for the future housing strategy including a principle to use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
58. The proposal is to increase the supply of affordable, good quality homes will benefit households in need from all Southwark communities, and will increase the housing options available for people with disabilities.
59. Those households in the vicinity of the new developments may experience inconvenience and disruption in the short term whilst works are taking place

but such communities will benefit in the longer term from the provision of new homes particularly as at least 50% of these homes will be let to existing tenants from the local area subject to an agreed local lettings policy.

60. Local residents will continue to be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by cabinet in September 2017.

Social Value considerations

61. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits which 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 paragraph 51.

Economic considerations

62. The design briefs for the new homes will be developed in consultation with the 'user client' officers and make it clear that the council is seeking developments that are not only attractive and functional in their design but also durable and easy to maintain with low running costs.
63. The council is an officially accredited London Living Wage ("LLW") Employer and is committed to ensuring that, where appropriate, contractors 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 contractor for this contract will result in quality improvements for the council. These should include a high calibre of multi-skilled operatives that will contribute to the delivery of works on site and will provide best value for the council. It is, therefore, considered appropriate for the payment of LLW to be required. The successful contractor will be expected to meet the LLW requirements and contract conditions requiring the payment of LLW to all operatives, which will be included in the tender documents. As part of the tender process, tenderers will also be required to confirm how productivity will be improved by payment of LLW. Following award, the contractor will be required collect data on employment status of any sub-contracted operatives and confirm payment of LLW. All quality improvements and any cost implications will be monitored as part of the contract review process.
64. The council will be requiring the appointed contractor to participate in a local employment and training initiative in line with Southwark Economic Wellbeing Strategy 2012-20. The initiative will generally conform to any Local Government policy including requirements set-out by the Homes and Community Agency and/or Greater London Authority that generally will encompass the contractor, wherever possible, being encouraged to employ local subcontractors and labour and shall involve the training and employment of local people. Such employment and training will be relevant to the needs of the local community.

Social considerations

65. The new housing will provide high quality affordable housing for local people in need of accommodation. Fifty percent of these homes will be made available to existing tenants in need based on an agreed local lettings policy. The remainder will be made available to other households in need of accommodation from the council's housing register.
66. The new rented homes will be let at social rent levels.
67. The council can exclude companies who break the law by blacklisting from public contracts if they are either still in the process of blacklisting or have not put into place genuine measures to resolve 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.
68. The council is required to use a government standard form of selection questionnaire which allows for limited amendments. However, this will be amended to include the council's standard preliminary assessment questions relating to blacklisting. The contract conditions will also include an express condition requiring compliance with the blacklist regulations, and include a provision to allow the contract to be terminated for breach of these requirements.
69. Contractors will be required to provide apprenticeship and work placement opportunities; this will either be linked to the value of the contract with a minimum of one apprentice for every £1,000,000 of contract value or in line with any other condition imposed by planning.

Environmental/Sustainability considerations

70. By investing in high quality and well designed buildings and estates the council aim to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough.
71. As part of the design development process, there will be a requirement to achieve a level of sustainability through the building regulations. In order to achieve this environmental assessments will be undertaken and potential

sustainability solutions will be considered. Key considerations for this project include:

- Consideration of whole life-cycle costs
- Sustainable sourcing
- Incorporation of environmentally benign heating and lighting provision
- Provision of facilities and equipment to encourage the re-use and recycling of materials including, where practical, water recycling and
- Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.

Plans for the monitoring and management of the contract

72. The project clienting, including the management and administration of the contractor appointment will be run and resourced through the New Homes Development Team in the Development Delivery Division of the Housing & Modernisation Department. Performance of the consultant team will be subject to constant scrutiny and monthly formal review including reviews on cost, quality and programme. The officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including:

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly financial statements by the consultant
- Monthly appraisals of progress against programme and monthly reports by the consultant
- Tracking and chasing actions on critical issues
- Periodic project team 'look ahead' workshops covering key phases of work and risks and
- Risk and issues log.

73. To ensure the quality of the construction the council will engage the services of a Clerk of Works, whose role will include:

- a. Reviewing drawings and instructions
- b. Ensuring the design standards and specification are adhered to
- c. Making visual inspections, particularly around elements of the building that will be unseen
- d. Reviewing quality of workmanship
- e. Ensuring the correct use of materials
- f. Taking samples and ensuring the materials meet specifications and quality standards
- g. Identifying defects.

74. Internal governance arrangements for the new homes development programme were reported to cabinet in December 2014. These confirmed that ultimate responsibility for the overall programme resides with the Delivery Programme Board, chaired by the Strategic Director of Housing & Modernisation.

- 75. Contract monitoring reports will be taken to DCRB and to CCRB in line with Contract Standing Orders.
- 76. The social value deliverables will be independently monitored and reported to council officers by the Social Value Portal.

Staffing/procurement implications

- 77. The staff resources deployed to this procurement are sufficient to meet the proposed timetable.
- 78. These projects will be resourced by existing staff, within existing budgets.
- 79. Officer time relating to the management of these projects is funded from the capital budgets for the individual projects.

Financial implications

- 80. As the report is requesting approval for a procurement strategy, there are no financial implications arising directly from the report's recommendations. The strategy is intending to deliver 109 new council homes, 32 new private sale homes, and a new community centre.
- 81. The total cost of this procurement including professional fees and other costs is estimated at £52.5m (£46m works contract and £6.5m which includes, professional fees, internal costs, and contingency). The cost of the community centre, which occupies the ground floor of one of the blocks, is estimated at £480k with an additional £30k fit out costs.
- 82. The individual project costs will be funded from resources supporting the Housing Investment Programme and are likely to be subsidised by GLA Grant Funding, section 106 receipts, other available and permitted resources as well as borrowing where needed. The Bells Gardens project will provide 32 private sale units, which will also subsidise the project, the total sales receipts are estimated at £16.1m.

Legal implications

- 83. Please see concurrent from the Director of Law and Governance.

Consultation

- 84. As noted in paragraph 59, local residents will be consulted at each stage of the development proposals as outlined in the Charter of Principles agreed by Cabinet in September 2017.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M 20/118)

85. This report seeks Cabinet approval for the procurement strategy procurement strategy for new build works at Lindley Estate and Bells Gardens at an estimated cost of £46,000,000 with an estimated contract duration of a maximum of 4 years and to delegate the Gateway 2 award decision to the Strategic Director of Housing and Modernisation, in consultation with the Cabinet Member for Housing. The scheme will deliver 141 new homes, of which 109 will be new council homes as well as a new community centre.
86. As outlined in the financial implications section of this report, including fees and contingency, the total estimated cost of this procurement including professional fees and other costs is £52.5m. At this stage, costs are indicative only, but will be met from resources supporting the Housing Investment Programme.

Head of Procurement

87. This report seeks Cabinet Member approval of the procurement strategy for new build works at Lindley Estate and Bells Garden at an estimated cost of £46,000,000 .
88. This contract is scheduled to commence in September 2021 for a duration of up to 48 months, with the objective to deliver new homes as detailed in paragraphs five and six.
89. The report summarises the context and rationale for procuring this contract. With a contract of this size and nature, Public Contracts Regulations 2015 (as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations') ("PCR 2015 (as amended)")) will apply. The report confirms that the restricted procedure will be followed which is in line with these amended PCR 2015 regulations and satisfies the council's contract standing orders.
90. Paragraphs 21 -26 confirms that an alternative procurement option, using an established framework has been considered and discounted.
91. Paragraph 37 confirms the timetable that will be followed for this procurement which is achievable provided the appropriate resources are available when necessary. The report confirms that the project will be supported by external and internal resources to help ensure the project delivers the contract to the required standards, on time and within budget.
92. The report confirms that the evaluation of potential contractors will be in two stages. The first stage will assess capability, technical capacity and economic standing and a second stage mini competition where bids will be evaluated the basis of most economically advantageous tender. In

determining this, it is anticipated that a weighted model with a quality/price / social value ratio of 60:30:10 will be applied.

93. The report also confirms that officers will closely scrutinise the continued impact of the Covid 19 pandemic and Brexit in relation to the health and safety practices, mobilisation and financial health of companies bidding for these contracts.
94. Paragraphs 71 to 75 confirms the monitoring and management arrangements including governance measures that will be in operation.

Director of Law and Governance

95. This report seeks the approval of the cabinet to the procurement strategy for new build works at Lindley Estate and Bells Garden as further detailed in paragraph 1. As the estimated contract value comes within the definition of a Strategic Procurement the approval of the procurement strategy is reserved to cabinet, after consideration of the report by CCRB.
96. The nature and value of these works to be procured are such that they are subject to the Public Contract Regulations 2015 (as amended). As noted in paragraph 31, a full tendering process is to be undertaken which meets the requirements of those Regulations.
97. Cabinet is also asked to delegate the approval (gateway 2) decision for the reasons noted in paragraph 39 to facilitate award of the contract.
98. 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 54-59, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

Director of Exchequer (For Housing contracts only)

99. Not applicable.

REASONS FOR URGENCY

100. The scheme is due to go into planning shortly and any delay in the cabinet decision will push back the procurement time frames and the ability for the scheme to commence on start prior to May 2022.

REASONS FOR LATENESS

101. This report is late due to the New Homes Team waiting for comments from all key stakeholders, which meant that the submission deadline was not met.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
None		

APPENDICES

No	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollak, Housing	
Lead Officer	Stuart Davis, Director of New Homes	
Report Author	Tim Bostridge, head of Development	
Version	Final	
Dated	26 January 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
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)	No	N/a
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		26 January 2021

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