

Item No.	Classification: Open	Date: 23/4/18	Meeting Name: Director of Regeneration
Report title:		Gateway 1 Procurement Strategy Approval Approval of procurement strategy to appoint an employers agent and architect to prepare a planning application for new council homes at Styles House	
Ward(s) or groups affected:		Cathedral	
From:		Head of Regeneration North	

RECOMMENDATION (S)

1. The Director of Regeneration approves the procurement strategy, as outlined in this report, for the appointment of the following consultants to prepare a planning application for new council homes at Styles House:
 - An employer's agent (EA) through tender process with an estimated maximum cost of £80,000 for a period of 12 months; and
 - Bell Phillips as the architect via a direct award through the Peabody framework with an estimated cost of £160,000 for a period of 12 months.

BACKGROUND INFORMATION

2. The purpose of this report is to seek approval to develop the concepts initially suggested by the TMO by procuring a design team in partnership with Transport for London (TFL) in order to develop a planning application for the construction of new council homes in the Styles House estate.
3. Southwark Underground station was opened in November 1999 and was constructed to facilitate the development of an air rights building above. Numerous proposals have been developed over the years to construct the building and have been principally hampered by the following constraints:
 - I. The engineering constraints and the cost of keeping the tube station open and running during the construction above
 - II. The relatively small size of the tube station site which can only accommodate a small floorplate which thus impacts the business case
4. In order to make the project stack up and to pay for the substantial extra over costs of building over a live station, the floorplates need to be bigger. To facilitate a larger floorplate, TFL have acquired 1 Joan Street also known as Algarve House or Platform Southwark in addition to 4 units in the Styles House tower and 1 of the 8 chalet units with a view to carrying out a land swap with the council.
5. In 2016, the Styles House Tenant Management Organisation (TMO) working with the council's direct delivery team and engagement support consultant Neil Purvis appointed Bell Phillips, an architect on the Peabody procurement framework for new council homes to develop a feasibility study for the construction of new homes within the estate. The feasibility study demonstrated the potential to construct a net increase in 20+ council homes in the estate, but this would rely on either a land

swap with TFL or the compulsory purchase order (CPO) of land from TFL. The council would struggle to justify making a compulsory purchase order (CPO) power to acquire TFL's landholdings. In any event, the length of time, cost and risk associated with endeavouring to obtain a CPO against a public sector organisation is excessive. TFL is willing and keen to facilitate the construction of new council homes by way of a land exchange and there is thus no public interest case in the use of CPO powers as homes can be constructed by working in partnership.

6. On 12 September, Housing Delivery Board gave approval for a strategy to consult residents of the Styles House estate on a series of concept options for the construction of new homes within the estate.
7. In October 2017, following the housing delivery board decision, the council extended the appointment of Bell Phillips architects via a combined gateway 1/2 to develop the concept ideas initiated by the residents in 2016 to build more council homes, and to work in partnership with TFL to investigate options for the construction of both the new council homes and the commercial space. Note a gateway 3 was not used as the original Bell Phillips work with the TMO was arranged by the TMO directly.
8. Bell Phillips attended three workshops with the TMO, TFL and the council and a series of options were developed which formed the basis of a consultation exercise with each of the residents and leaseholders in the estate.
9. On the basis of the feasibility studies and the in depth consultation exercise, the Leader of the Council and Cabinet members for Regeneration and New Homes and Housing support the development of further design work which can enable a land swap and a planning application for the construction of 20+ new council homes in the estate, and facilitate the construction of a commercial scheme above the tube station which will create 1,600 jobs.
10. The design work up to planning permission stage will be paid for by TFL, with the council acting as client for the project. In order to maximise the coordination between the council housing project and the commercial scheme by TFL (AHMM architects) it is recommended that two planning applications are submitted at the same time.

Summary of the business case/justification for the procurement

11. The planning consent would lead to the construction of new council homes in SE1. Transport for London have agreed to fund all costs associated with the completion of a planning application for the scheme.

Market considerations

12. The new council homes will be constructed by the councils direct delivery team who require all architects to be selected from the Peabody architects framework.
13. For the EA, the council initially explored the option of sharing the same EA used by TFL in order to benefit from maximum coordination between the two projects. Both planning applications for the office scheme (by TfL) and the housing (by the council) will be developed in parallel and must be submitted at the same time, and are both funded by TFL. However, the EA for the TFL scheme, Gardiner and Theobald generally deliver large commercial schemes, and this housing project was not cost efficient for them to deliver.

14. The council is building 11,000 new council homes across Southwark and has engaged a number of EA firms from both the Peabody and Hyde framework lists. We would look to approach firms from both lists who have capacity and have experience of delivering via the direct delivery programme.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

15. The following procurement options are available to the council for both procurements:

Option No.	Procurement Route	Comments
1	Full tender process using the council's Works Approved list following the council's contract standing orders	The use of the works approved list, allows the council to ensure a competitive procurement process, whilst having the reassurance that all contractors included on the list meet a minimum criteria. This allows for a quicker procurement process as much of the company information is already on hand. The council should seek a minimum of 3 quotes for the Employer's Agent and 5 quotes for the architect in line with the council's CSOs.
2	Single Supplier Negotiation	This will impact on the council's ability to secure value for money.
3	Framework consultant	There are a number of suitable frameworks that the council could use for the procurement of EA's and architects. However, as these new council homes will be constructed by the council's direct delivery team there is a requirement from the department to select all architects for their schemes from the Peabody architects framework which has been subject to an OJEU procurement process.
4	Do nothing This is not possible due to the council's commitment to deliver the project and the significant reputational risk this project carries.

Proposed procurement route

16. There is no requirement to follow the EU Regulations since the individual contract values for the architect and employer's agents estimated fees are below the EU threshold for services.
17. It is recommended that the Peabody Framework will be used to select architectural services as this has been subject to OJEU procurement process and has been selected corporately by the council's direct delivery team as the route for the selection of all designers for new council homes. The Peabody Framework was tendered in 2015 and lasts for 4 years.

18. This is the preferred procurement route for architects as the project is a very sensitive scheme which will involve the demolition of 7 existing council homes, the relocation of council tenants, construction of new homes and amenity space plus the construction of a new office scheme which will create 1,600 jobs in Southwark with an estimated future business rate return of £3m a year. The residents initially selected Bell Phillips architects from the Peabody Framework to develop a feasibility study and the architects have developed a good working relationship with the residents. It is recommended that this initial quality feasibility work is continued and a fee proposal is sought from Bell Phillips to extend their initial work to planning stage.
19. It is recommended that the council undertake a tender process to appoint an Employer's Agent using the Peabody / Hyde frameworks.

Identified risks for the procurement

Risk	Risk Rating	Mitigation
Reputational – not delivering these manifesto pledges if appointments are not made in a timely fashion.	Low	Ensure adherence to internal decision making process. Gateway reports to be presented to decision maker. Regular progress meetings will be scheduled with the project board and key stakeholder groups to ensure all timeframes and decisions are communicated.
Failure to identify suitable consultant	Low	Bell Phillips, who completed the initial design feasibility work, have indicated they have the capacity to extend the appointment. Both Hyde and Peabody frameworks have a number of available firms with capacity
Best value is not achieved as using single supplier negotiation	Medium	Bell Phillips have completed a number of housing projects recently for the council and their fee proposal will be benchmarked to demonstrate best value.
Consultation – The project is politically charged as it involves the rehousing of existing residents, a land swap agreement with TFL, and is linked to the planning permission for a large commercial scheme.	High	Design work will be developed incrementally in stages with key interface with residents, politicians and planners to ensure that the best balance between the new commercial and residential schemes can be achieved.
Programme slippage	Low	Realistic programme linked to resource plan and risk register.

Key /Non Key decisions

20. This report deals with a non key decision.

Policy implications

21. This project will help facilitate the regeneration of the London Bridge Bankside opportunity area, contribute to the council's strategic objectives of delivering new homes and jobs.

Procurement project plan (Non Key decisions)

Activity	Complete by
Brief relevant cabinet member (over £100k)	27/02/2017
Approval of Gateway 1: Procurement Strategy Report	23/04/2018
Completion of tender documentation	23/04/2018
Invitation to tender architect	23/04/2018
Invitation to tender EA	30/04/2018
Closing date for return of tenders EA	18/05/2018
Completion of evaluation architect	25/04/2018
Completion of evaluation of tenders EA	23/05/2018
Approval of Gateway 2: Contract Award Report for architect	27/04/2018
Approval of Gateway 2: Contract Award Report for EA	04/06/2018
Contract award	04/06/2018
Add to Contract Register	04/06/2018
Add to Contracts Finder	04/06/2018
Contract start	11/06/2018
Contract completion date	24/05/2019

TUPE/Pensions implications

22. None

Development of the tender documentation

23. A brief setting out the requirements for both the architect and employers agent will be developed in partnership with the direct delivery team.

Advertising the contract

24. The council will directly contact both companies; for the architects this will be done via the Peabody framework.

Evaluation

25. the quality of Bell Phillips architects is well known to the council and can be verified through recent performance with the initial feasibility work and housing projects so the key issue will be best value and benchmarking their fee proposal pro-rata against recent work for us and their tendered framework rates.

26. For the EA, the tender will be evaluated on the basis of 50% price and 50% quality.

27. The pricing response (50%) is to take the form of a pricing schedule with tenderers required to provide a fixed fee with the total tender price consisting of the pricing of the prelims, mark ups and cost plan.

28. The quality response (50%) is expected to include an assessment of the following areas each scored from 0 – 5 with the following estimated weightings:

- Project Team / Org chart 5%
- Relevant experience 5%
- Previous project experience 20%
- Project Strategy and methodology 5%
- Project programme, risks and quality plan 15%

29. Marking of 0-5 will fall in line with the following:

Assessment	Score	Basis of score
Cannot be scored	0 points	No information provided or incapable of being taken forward either because the Supplier does not demonstrate an understanding of our requirements or because the solution is incapable of meeting our requirements.
Unsatisfactory	1 point	Although the Supplier does demonstrate an understanding of our requirements there are some major risks or omissions in relation to the proposed solution to deliver the service and we would not be confident of our requirements being met.
Satisfactory	2 points	A response which is capable of meeting our requirements but is unlikely to go beyond this.
Good	3 points	A response which shows that the Supplier demonstrates an understanding of our requirements, has a credible methodology to deliver the service and could evolve into additional benefits.
Very good	4 points	A response which shows that the Supplier demonstrates an understanding of our requirements, and has a credible methodology to deliver the service alongside a clear process and plan to deliver additional benefits and deliver value.
Excellent	5 points	A response which shows how the service can comprehensively be taken to the next level in terms of exceeding our requirements and/or offering significant added value to the council's overall strategic requirements and objectives.

30. An evaluation panel, including council officers from regeneration and direct delivery will assess the tender.

31. There will be opportunities for tenderers to clarify any of the information during the tender process. Upon submission of tenders, the council will then also have an opportunity to clarify the information submitted.
32. The tenderer with the highest overall score will be notified of their success and all other tenderers will be notified and offered feedback.
33. Subject to planning permission being granted, the implementation of the scheme will be handed over to the council's direct delivery team who will procure the final phase.
34. Appointment will only be made if the council is satisfied that best value can be achieved.

Community impact statement

35. Extensive consultation has been carried out to date and the residents have access to a resident engagement specialist who has been appointed by the council to assist the community throughout the project.

Social Value considerations

36. 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

37. The project will deliver circa 20 new council homes and create 1,600 jobs in the development with targets to get local people into work during the construction and end development.

Social considerations

38. The project will deliver a new and enlarged community meeting hall in the housing estate and a new cultural facility for Southwark in the office scheme to encourage mixing and interaction.
39. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. This will be confirmed at tender stage.
40. The council can exclude companies who break the law by blacklisting from public contracts if they are either still blacklisting or have not put into place genuine actions concerning past blacklisting activities.
41. 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.

42. 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.

Environmental/Sustainability considerations

43. Both the housing and office scheme will be designed to ensure compliance with all council sustainability standards as set out in the New Southwark Plan.

Staffing implications

44. The regeneration team using existing staff resources will manage the project.

Financial implications

45. The estimated fees for the architects and employers agent are not expected to exceed £240,000 with an estimated architect's fee of £140,000 -160,000 and employers agent fee of £60,000 - 80,000. All of this cost will be funded by TfL. Hence, there are no immediate financial implications arising from this report.
46. A letter by TFL confirming commitment to fund the fees for submitting a planning application on the Styles House site to a maximum budget of £500,000, was received on 19 March 2018.
47. The regeneration team will provide oversight of the exercise without a call on additional resources or budgets. Therefore there are no financial implications to the council.
48. Any extension of the contract beyond the scope of this report in terms of costs shall be subject to confirmation of additional funding and a formal approval in line with procurement protocols.
49. The total expenditure for the scheme will be monitored on cost code RE354 and reported as part of the overall revenue programme monitoring.

Legal implications

50. The construction of the housing and office schemes will be subject to a land swap between the council and TFL which will need to be agreed by Cabinet before planning can be submitted.

Consultation

51. Public consultation has been carried out over the last 3 years to get to this stage and will continue as set out above.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (CE17/030)

52. This report seeks the approval from Director of Regeneration to approve the procurement strategy outlined in this report for the appointment of the an employer's agent (EA) through tender process with an estimated maximum cost of £80,000 for a period of 12 months to prepare a planning application for new council homes at Styles House;.
53. This report also seeks the approval from Director of Regeneration to approve the award of the contract to Bell Phillips as the architect via a direct award through the Peabody framework with an estimated cost of £160,000 for a period of 12 months.
54. The strategic director of finance and governance notes that there are no immediate financial implications arising from this report and the total costs associated with this contract will be fully contained within the TfL funding, as mentioned in financial implications.
55. The total expenditure for the scheme will be monitored and reported as part of the overall revenue monitoring of the business unit.
56. Staffing and any other contract monitoring costs connected with this project to be contained within existing Regeneration North Team's revenue budgets.

Head of Procurement

57. As both procurements are below the EU threshold no procurement concurrent is required.

Director of Law and Democracy

58. As the value of the procurement does not exceed the relevant EU threshold there is no requirement for supplementary advice from the director of law and democracy. As this is a retrospective decision in excess of £100k, there is a requirement to report the decision to the audit, governance and standards committee.

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
Designation Director

Date 23/4/18

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.

1. DECISION(S)

Appointment of an employers agent and architect to prepare a planning application for new council homes at Styles House

2. REASONS FOR DECISION

As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

Not applicable

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

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.

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

I declare that I was informed of the conflicts of interests set out in Part B4.*

(* - Please delete as appropriate)

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Project brief and tender documents	Regeneration team 160 Tooley Street	Dan Taylor 55450

AUDIT TRAIL

Lead Officer	Jon Abbott	
Report Author	Dan Taylor	
Version	Final	
Dated	24/4/18	
Key Decision?	No	
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	Included
Director of Law and Democracy	No	No
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes/No	Yes/No
Corporate Contract Review Board	Yes/No	Yes/No
Cabinet	No	No
Date final report sent to Constitutional/Community Council/Scrutiny Team	Date/Month/Year, e.g. 5 July 2010	

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 1

Contract Name	Styles House new council homes
Contract Description	Housing design
Contract Type	RIBA
Lead Contract Officer (name)	Dan Taylor
Lead Contract Officer (phone number)	02075255450
Department	Chief Exec
Division	Regeneration
Procurement Route	Single supplier
EU CPV Code (if appropriate)	
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed
Supplier(s) Name(s)	
Contract Total Value	
Contract Annual Value	
Contract Start Date	May 2018
Initial Term End Date	March 2019
No. of Remaining Contract extensions	
Contract Review Date	
Revised End Date	
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	
Comments	
London Living Wage	Yes
Comments	

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.