

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 19 July 2019	<b>Meeting Name:</b> Director of Customer Experience
<b>Report title:</b>		<b>Gateway 1 Procurement Strategy Approval</b> Contractor Services for the New Homes Delivery Sites Under OJEU Threshold	
<b>Ward(s) or groups affected:</b>		All wards	
<b>From:</b>		Director of New Homes	

## RECOMMENDATIONS

That the Director of Customer Experience, under the housing and modernisation scheme of management:

- Approves the procurement strategy to use the council's approved list to procure the works contract for future sites which are included within the New Homes Delivery programme (as noted in paragraph 5 and 6), with values under the EU threshold for works of £4.5m for which procurements have commenced before 31 May 2023.
- Notes the total estimated contract sum of this approval is £33,000,000. It is estimated that the length of the individual build contracts will range from 12 to 18 months depending on the complexities of each site.

## BACKGROUND INFORMATION

- This procurement strategy relates to a number of sites that form the council's New Homes Development Programme, which is part of the council's commitment to build 11,000 by 2043.
- 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.
- This approval seeks to include all New Homes Delivery sites, which fall under the OJEU procurement limit. This includes the following:

Phase	Scheme Name	No. of Units	Value
4	Rodney Place	9	£ 2,750,000
4	Bassano Street Garages	6	£ 1,500,000
4	Henslow Garages	3	£ 820,000
4	275/275a Underhill Road	7	£ 1,650,000
4	Slippers Place	12	£ 2,770,000
4	Lomond Grove	14	£ 3,450,000
4	Vestry Road	9	£ 2,940,000
4	Heaton House	8	£ 1,560,000
	<b>Total</b>	<b>68</b>	<b>£ 17,440,000</b>

6. In addition to the above, there will also be a number of schemes which will come in the programme as part of other and future phases. We anticipate a potential of a further 50 units and approximately £15.5m contract value of OJEU sites, although the individual site / lot values will not exceed £4.5m.
7. The sites, all of which are under the OJEU threshold, will deliver a total of 118 new homes at an estimated works cost of £33,000,000. The estimated total scheme costs (inclusive of fees and Contingency) are £40,000,000. This include:
  - a. Architects
  - b. Employer Agent
  - c. CDM Coordinator
  - d. Survey
  - e. Planning Application
  - f. Contingency
  - g. Administration and Development Allowance (capitalised staff costs & internal fees)
8. The above fees and costs are subject to a separate approval process and procurement routes.
9. Due to the nature of the New Homes Development Programme, with the scheme design likely to progress at different speeds, it is intended that each site will be tendered individually. However there may be occasions when grouping sites together for procurement purposes makes sense and therefore would be an option where appropriate and where it does not exceed the £4.5m OJEU threshold.

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

10. The council has committed to the delivery of 11,000 new homes by 2043. This procurement exercise will build on the progress made to date and enable the progression of 118 new homes completed over the next 4 years.
11. 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 permeability
    - Employment and training opportunities
  - b) Deliver high quality and fit-for purpose public buildings at good value.

#### **Market considerations**

12. These are relatively small sized projects and likely to be attractive to small and medium sized local contractors, and therefore our tendering process needs to reflect this by ensuring that the appropriate building contractors participate.
13. The last year for the construction industry has been very buoyant and we have had a relatively good response with the various tenders that have been

undertaken. There is still a very high demand for construction services, and with many London boroughs engaging in the development of affordable housing, this is only likely to increase.

14. There is a level of uncertainty in the construction industry over the impact of Brexit, which could lead to a shortage of labour and increases in the costs of material. In February 2019 it was reported that development activity fell for the first time in 10 months but the indications suggest that the industry will remain relatively buoyant due to the level of demand.
15. The impact for the council over the next few years could be that the market is more competitive and contractors are more selective in terms of the projects they wish to take on.

## KEY ISSUES FOR CONSIDERATION

### Options for procurement route including procurement approach

16. The following procurement options are therefore available to the council:

#### A. Tendering sites individually through use of the council's approved Exor list

17. The council maintains an approved list of contractors through Exor, which the council can use to target and identify appropriate contractors.
18. In the process of drawing up a tender list, a credit check will be undertaken to ensure that they have the financial capacity to deliver the project.

#### B. Tendering the schemes in lots

19. The council could group the schemes together and tender them in lots. As mentioned in paragraph 6, there may be benefits to this including efficiencies of scale, greater purchasing power for the contractor, greater expertise to enable efficient delivery, and greater efficiency of internal resources. Providing the total estimated value of the contract sums do not exceed the OJEU threshold there doesn't necessarily need to be a different approach in terms of procurement.
20. Should the contract value exceed the OJEU threshold, then the procurement would need to be undertaken through an OJEU compliant process, which the council would then pursue.

### Proposed procurement route

21. This paper is seeking approval to use the council's approved list.

### Identified risks for the procurement

	Identified Risk	Likelihood	Risk Control
1	Insufficient interest from contractors.	Low	A soft market approach to contractors will be engaged.
2	Quality of submitted tender proposals do not	Low	Officers will ensure that

	meet the Councils expectations		comprehensive project briefs that are clear and without ambiguity are produced. Tenders will also be rigorously assessed during the evaluation stage.
3	Cost proposed is in excess of budget and does not deliver value for money	Low	Officers will ensure that all necessary surveys are undertaken and a cost plan that identifies any associated risk is developed. A detailed specification will form part of the tender packs so that expectations are clearly identified.
4	Contractors cease trading, goes into administration / liquidation	Medium	Officers will undertake financial and credit checks when they are drawing up the list of contractors they wish to include in the tender to ensure that only financially healthy companies progress. Additional credit checks prior to entering into the JCT contracts will also be undertaken. A performance bond / a parent company guarantee is considered and/or sought for each contract to mitigate this risk.

#### Key /Non Key decisions

22. This report deals with a non key decision; however the Gateway 2 reports for each contract will be a key decision.

#### Policy implications

23. 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.
24. 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 achieving its target of building 11,000 new council homes by 2043.
25. These procurement exercises will also be subject to the Fairer Future Procurement Framework (FFPF) and Southwark's construction charter. Each competitive tender process undertaken will ensure that the Council is receiving value for money and delivering added social value.
26. 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 our 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.
- d. The council will help vulnerable individuals and families to meet their housing needs and live as independently as possible.

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

27. There will be a number of procurement exercises and a number of Gateway 2 reports arising from this procurement strategy. The first tendering exercise is likely to start in summer 2019.

<b>Activity</b>	<b>Complete by:</b>
DCRB Review Gateway 1:	08/07/2019
Brief relevant cabinet member (over £100k)	20/06/2019
Approval of Gateway 1: Procurement strategy report	01/07/2019
Completion of tender documentation	17/06/2019

28. Dates for the activities from completion of tender documentation to contract completion date will be specific to the individual scheme.

### **TUPE/Pensions implications**

29. Not applicable.

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

30. The New Homes Development Team have developed template tender documentation and the quality and pricing evaluation methodologies.
31. Officers in the New Homes Development Team will work with the Employers Agent to include the scheme specific information within the tender packs.
32. The tender packs, ITT questions and price/quality evaluation criteria will all be reviewed as part of a process with legal and procurement team prior to the tender commencing.
33. The tender documents will include:
  - a. Instructions To Tenderers
  - b. Contract documents, amendments and terms and conditions
  - c. Employers Requirements
  - d. Scheme details including;
    - i. Site information
    - ii. Project drawings
    - iii. Project plan

- iv. Relevant surveys & reports
- e. Tender evaluation methodology
- f. Contract Sum Analysis Template
- g. Form of Tender and necessary undertakings and certificates
- h. Compliance table

### **Advertising the contract**

- 34. There will not be a requirement to advertise this contract as the contractors shall be selected from the council's approved list, however any new contractors will be encouraged to become one of LBS approved contractors through the contractors approved list registration process.
- 35. A list of appropriate contractors from the approved list will be chosen by project officers in collaboration with our Employers Agent, this is will be on the basis of:
  - a. Experience of building new build housing
  - b. Responses to previous tenders
  - c. Financial capacity

### **Evaluation**

- 36. Contracts will be awarded on the basis of using a combined price/quality/social value ratio which takes into account the councils requirement to include social value evaluation for all procurements above £100,000. Once the FFPS is approved and online the ratio is likely to be 60/25/15. Any deviation from the intended 60/25/15 price/quality/social value ratio (which would be decided by the Director of New Homes on the basis of current market conditions and recent experience) will be highlighted in the Gateway 2 report.
- 37. 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.
- 38. The quality assessment will include a number of method statements based on the following criteria:
  - a. Experience
  - b. Delivery, Quality & Compliance
  - c. Design Management
  - d. Subcontractors
  - e. Health & Safety
  - f. Constraints & Delivery
  - g. Fire Safety
  - h. Community Engagement
  - i. London Living Wage, Apprenticeships & Local Labour
- 39. 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 15% of the estimated contract value. There are currently 37 national TOMS of value, each with an assigned value which officers will select according to the nature of the procurement (see appendix A)

40. For the Price Assessment the contractors will be asked to cost plan, detailing the contract sum, qualifying any provisional sums that are included.
41. The aspects of the financial submission will be weighted on the following basis:
  - a. Maximum points awarded to the tenderer which has an overall combination of the lowest price and the closest to the median price will be awarded maximum points. Each remaining tenderers' price will be awarded a score based on the percentage difference between their submission and that of the most competitive. The median price element will be up to a maximum of weighting within the price score.

OR

  - b. Maximum points awarded to the tenderer with the lowest price with each remaining tenderers' price will be awarded a score based on the percentage difference between their submission and that of the most competitive.
42. The intention is to use a combination of lowest price and closest to median price as standard approach, however should market conditions change or the methodology proves to be ineffective. Any change will be captured on a signoff sheet from the Development Manager / Head of Development, which will set out the reason why the price scoring method has been changed. This will be approved and signed off by the Director of New Homes and be kept on file.
43. The submitted tenders will be evaluated and scored by a panel made up of:
  - a. Employers Agent
  - b. Development Manager
  - c. Project Manager
  - d. Project Officer
44. The Employers Agent, will submit a Tender and Value for Money Report, this 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**

45. 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.
46. Southwark is a borough with high levels of deprivation, low income levels and high levels of 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.

47. 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.
48. The proposals 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 older people and people with disabilities.
49. 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.
50. 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 November 2014.

#### **Social Value considerations**

51. 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 paragraphs 26.

#### **Economic considerations**

52. 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.
53. 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 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, these quality improvements and any cost implications will be monitored as part of the contract review process.
54. The council will be seeking the appointed contractors to participate in local employment and training initiatives 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**

55. The new housing will provide high quality affordable housing for local people in need of accommodation. 50% 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.
56. The new rented homes will be let at social rent levels.
57. 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 concerning past blacklisting activities. The council can require "self cleaning" which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:
  - "Owned Up": clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities
  - "Cleaned Up": taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct, and
  - "Paid Up": paid or undertaken to pay compensation in respect of any damage caused
58. The contract conditions will 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.
59. Contractors will be required to provide apprenticeship and work placement opportunities linked to the value of the contract with a minimum of one apprentice for every £1m of contract value.

### **Environmental considerations**

60. 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.
61. As part of the design development process, there will be a requirement for environmental assessments to be completed, with a view to identifying what impact would be caused by any proposed development.
62. The council will be looking for new homes to be designed and built to a standard that ensures they are low energy, efficient and cost effective building engineering services design that keeps running costs to a minimum will be an essential component of the project brief. Key considerations will 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.
- Ensuring projects achieve Code of Sustainable Homes criteria or any successor requirement.

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

63. The project clienting, including the management and administration of the contractor appointments, will be run and resourced through the New Homes Development Team in the Asset Management 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
- Risk and issues log

64. Internal governance arrangements for the 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.

65. A 6 monthly contract monitoring report will be taken to DCRB.

66. The social value deliverables will be independently monitored and reported to council officers by the Social Value Portal.

### **Staffing/procurement implications**

67. The staff resources deployed to this procurement are sufficient to meet the proposed timetable.

68. The project will be resourced by existing staff, within existing budgets.

69. Officer time relating to the management of this project is funded from the capital budgets for the individual projects.

### **Financial implications**

70. The report is requesting approval for a procurement strategy, there are no financial implications arising directly from the report's recommendations. The strategy is will potentially deliver 118 new homes.

71. The potential total cost to be procured through the strategy is £40m (£33m works contract and £7m includes homeless and disturbance payments, professional

fees, internal costs, and contingency). The individual project costs will be funded from a combination of GLA Grant Funding, section 106 receipts, and existing HRA resources. However there might be a need to borrow depending on the outcome of the main programme final spend due to the funding shortfall within HRA capital programme.

### **Legal implications**

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

### **Consultation**

73. Local residents will be consulted at each stage of the proposals as outlined in the Charter of Principles agreed by cabinet in November 2014.

### **Other implications or issues**

74. None.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

75. This report seeks approval for the procurement strategy of future construction contracts below the EU works threshold for the New Homes Delivery Programme up to 31 May 2023.

76. The report advises that these works are required as part of the overall New Homes Delivery Programme which is aimed at creating new homes from existing council assets.

77. The options for procuring these works have been considered and the report recommends that each of the schemes is tendered separately using the councils approved works list which is in line with the Council's contract standing orders (CSO's) and EU regulations.

78. The report confirms that for each construction contract the evaluation shall be carried out on the basis of the most economically advantageous tender and in determining this shall use a combination of price/quality/social value with a minimum of 15% for social value.

79. Paragraphs 64 to 65 confirms the governance and monitoring/ management arrangements that will be in place to ensure each procurement delivers value for money including oversight by the delivery programme board which is chaired By the Strategic Director of Housing and Modernisation.

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

80. This report seeks the approval of the Director of Customer Experience to the procurement strategy for works contracts in relation to the New Homes Delivery Programme for values under the EU threshold, as further detailed in paragraphs 1 and 2. As the individual value of each procurement is below the EU threshold then the procurement strategy decision is reserved to the relevant chief officer.

81. At a value below the EU threshold, Contract Standing Order 4.3 requires that all reasonable steps are taken to obtain at least 5 tenders, and where the contract is for works, those invited must be selected from the council's works approved list. As noted in paragraph 21, it is the intention for tenders to be sought through the council's approved list.
82. The director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to (a). The director is specifically referred to the community impact statement at paragraphs 46-51, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

**Strategic Director of Finance and Governance (H&M 19/049)**

83. The Strategic Director of Finance and Governance notes the recommended procurement strategy for the delivery of an anticipated 486 new homes on procurements commencing before May 2023. The procurement strategy aims to provide flexibility and value for money, with indicative costs for schemes proceeding through this procurement strategy estimated at £33m plus a further £7m for fees and contingency. As outlined in the financial implications section of the report, these costs will be met from resources supporting the Housing Investment Programme.

**FOR DELEGATED APPROVAL**

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

  
Richard Selley, Director of Customer Experience

Date

23/7/19

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Southwark Council's Fairer Future Procurement Framework	Corporate Procurement 160 Tooley Street	Elaine McLester 020 7525 7733
Southwark Construction Charter	Corporate Procurement 160 Tooley Street	Elaine McLester 020 7525 7733

## APPENDICES

No	Title
A	National Themes Outcomes and Measures

## AUDIT TRAIL

<b>Lead Officer</b>	Stuart Davis, Director of New Homes	
<b>Report Author</b>	Tim Bostridge, Head of Development	
<b>Version</b>	Final	
<b>Dated</b>	22 July 2019	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	N/a	N/a
<b>Date final report sent to Constitutional /Community Council/Scrutiny Team</b>	N/a	

