

<b>Item No.</b> 10.	<b>Classification:</b> Open	<b>Date:</b> 17 April 2012	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 - Procurement Strategy Approval Lift Maintenance and Repairs Contract	
<b>Ward(s) or groups affected:</b>		All Wards	
<b>Cabinet Member:</b>		Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	

## **FOREWORD – COUNCILLOR IAN WINGFIELD, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING MANAGEMENT**

With 755 lifts in the borough we have one of the largest stock in the country and at the same time some of the oldest stock. When lifts break down it is clearly important that they are repaired quickly to avoid the significant inconvenience break downs cause for residents. I am aware that the problem of lift break downs is particularly acute on some estates and we are in the process of identifying a longer-term solution to address the underlying issues.

I have taken a personal interest in the performance of our lift contractor and recently chaired a meeting of the communal repairs working party. The meeting took evidence from the lift contractor and crucially identified areas where lessons can be learnt. Chief amongst these were responding to breakdowns quickly, replacing parts in a planned way before they become obsolete and keeping residents informed of repair work at all times. It was pleasing to note that good progress is being made. Lift availability over the last 12 months has increased from 96% to 97.4% and the London Fire Brigade has recently congratulated us on reducing lift trap-ins by 50% from 1421 in 2009 to 749 at the end of 2011.

It is my expectation that this procurement will build on much of the good work achieved to date and deliver the excellent service residents deserve.

## **RECOMMENDATIONS**

That the Cabinet:

1. Approves the procurement strategy outlined in this report for the Lift Maintenance and Repairs Contracts – Contract A – north of the borough at an estimated annual cost of £696,803.40 and Contract B – south of the borough at an estimated annual cost of £464,535.60, for a period of 5 years from 1<sup>st</sup> October 2013, with the potential for 2 twelve month extensions, subject to performance, making an estimated contract value of £8,129,373.00.
2. Notes the rationale behind the geographical division of contract areas is based on the need to ensure efficient delivery of the service.

## BACKGROUND INFORMATION

3. The current contract delivers essential planned maintenance, repairs and refurbishments of passenger and disability lifts across the borough. The contract is split across the following three contract service areas:
  - Area 1 - Bermondsey, Leathermarket JMB, Borough & Bankside and Rotherhithe.
  - Area 2 - Walworth and Peckham
  - Area 3 - Camberwell, Peckham Rye and Dulwich
4. The provision of the services is essential for the day-to-day maintenance, repairs and refurbishment of passenger and disability lifts at residential properties owned by the council.
5. A contract for the services is currently in place with Liftec Lifts Ltd (“Liftec”) for all of the above areas and is due to expire on 1st January 2013.
6. Originally, Liftec were only awarded a contract for Area 3, with Areas 1 & 2 being awarded to Apex Lift and Escalator Engineers Ltd (“Apex”) for the same term. The contract term (applicable to both contracts) was 5 years from 2<sup>nd</sup> January 2008 with the option to extend by a further 24 months, in 12 month increments.
7. After the council determined the contract with Apex, Areas 1 & 2 were transferred to Liftec on the 22<sup>nd</sup> June 2010.
8. With the addition of Areas 1 and 2, Liftec are contracted to provide the Lift Maintenance and Repair works for the whole borough until 1<sup>st</sup> January 2013. A separate Gateway 3 Report will be submitted in April 2012 seeking approval to extend Liftec’s contract by a further 9 months until 30<sup>th</sup> September 2013.
9. The intention is to use the time between now and the 30<sup>th</sup> September 2013 to procure and award two (2) new separate contracts for the Lift Maintenance and Repair works and will commence on the 1<sup>st</sup> October 2013. The contracts will be awarded based on a revised geographical split of the borough as set out below, with an estimated term for each contract of 5 years. The contracts will include a provision for them to be extended by a further 24 months, in 12-monthly increments.
  - Contract A - North - Bermondsey, Borough & Bankside , Rotherhithe and Walworth
  - Contract B - South - Camberwell, Peckham, Peckham Rye and Dulwich
10. The revised geographical split of the borough shows that Peckham area has been transferred from former area 2 to the new Contract B – south of the borough, while Walworth area remains in Contract A for the north of the borough. This is to facilitate better logistical service coverage. Leathermarket JMB wish to be precluded from the proposed future lift contract. They will appoint their own lift contractor on expiry of the existing contract arrangement for lifts, with the council.
11. It should be noted that, given the number of lift assets across the borough, the appointment of a single contractor for the works would not be appropriate. It is

considered that such an arrangement would present a significant risk to the council should the contractor default or fail to perform. Such a risk would increase in the absence of any 'back-up' or support arrangement with an alternative contractor. Therefore no single contractor will be awarded both Contract Areas and there will be two separate contractors.

12. The current annual budget for the whole Lift Maintenance and Repairs contract stands at £1,161,339.00 and is apportioned at £ 696,803.40 for Area A and £464,535.60 for Area B.
13. Based on the current annual budget above, the total estimated value of the proposed contracts stand at £ 8,129,373.00 broken down as follows:
  - (i) Total cost for 5 year term = £ 5,806,695.00
  - (ii) Total cost of additional 2 year term = £2,322,678.00

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

14. The work proposed under these contracts will form an essential service to all residential blocks, with lift facilities, within the borough.
15. Residents with passenger and/or disability lifts facilities within their block, or stair lifts in their properties, rely on the council to ensure such that equipment is maintained in good working order, at all times. This step-free access provisions is essential to the health, safety and quality of life, of council residence.
16. By putting the works out for retender, the council will avail itself of the current market forces within the Lift Maintenance and Repairs sector and any commercial and technical benefits that may be available to promote a regime of continual improvement and cost reduction. A return to the works being contracted to two separate contractors, will also limit the council's risk exposure that exists under the current single source arrangement.
17. The contract duration of 5 plus 2 years achieves a balance between ensuring price competitiveness and allowing sufficient time to develop, embed and improve service delivery.

### **Market considerations**

18. There are a number of lift contractors within the market with the necessary capabilities and resources to undertake lift maintenance and repairs work on such a large scale. Most of these contractors specialise in commercial properties as opposed to social housing developments.
19. In some respects, social housing is considered a niche market within the lift industry and some of the larger contractors prefer not to bid for social housing contracts. It is envisaged that interest in the contract will come from medium to large size lift contractors, who have extensive experience of maintaining large numbers of lift assets for local authorities.

### **Proposed procurement route**

20. Procurement will be carried out in accordance with an EU Restricted Procedure. In response to the notices, contractors interested in tendering will be required to

formally express an interest in order to receive a Pre-Qualification Questionnaire (PQQ).

21. In accordance with the requirements of an EU Restricted Procedure a minimum of 5 contractors will be selected for the tender list, subsequent to the PQQ process.

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

22. The council considered the following options before determining the procurement strategy set out in this report:

- Do Nothing – This is not an option open to the council. As a landlord and an employer, the council has a statutory obligation to provide ‘step free’ access in residential buildings. The council must therefore provide this essential service at all times.
- Use an existing Framework Agreement – The council has no existing framework agreements in place for this type of work. There are no other suitable frameworks for this type of work available. This has been precluded as an option.
- Shared Services - The feasibility of sharing services with neighbouring borough council's was investigated by Engineering and Compliance. However, shared services were precluded as an option based on the following:

- **Greenwich Council**

Greenwich Council is 2 years into a 10 year partnering deal with Apex. There is a lack of feedback from them on the contractors' performance to-date.

The contract arrangement does not have provision for the scope to be extended to allow other boroughs to join.

- **Lewisham Council**

Lewisham Council is 2 years into a 5 year contract with Precision Lifts. The total contract value is significantly lower (more than 50%) than the council's Lift Maintenance and Repairs Contract and cannot be varied. This option has therefore been precluded from further consideration.

- **Lambeth Council**

Lambeth Council is 11 months into a 7 year contract with Apex. No detailed feedback was received as the contractors' performance is being assessed.

The contract arrangement does not have provision for the scope to be extended to allow other boroughs to join.

- The council provides these services in-house - the work is highly specialised and the expertise does not exist within the council.

23. Given the specialist nature of the work and its high value, the work will be tendered under an EU Restricted Procedure.

**Identified risks and how they will be managed**

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

<b>R/N</b>	<b>Risk Identification</b>	<b>Likelihood</b>	<b>Risk Control</b>
R1	Gateway 1 approval delayed	Low	Ensure report submitted to DCRB, CCRB and Cabinet on time with all concurrents in place
R2	Procurement process becomes delayed	Medium	Continual review of the procurement process.  In the event of a possible delay, re-visit the process and evaluate with the Engineering and Compliance team
R3	Deadline for advertising delayed	Low	Re-evaluate and adjust the programme for procurement
R4	Challenges to procurement outcome	Low	Ensure procurement process is transparent and conducted in accordance with CSO governance and OJEU. Continually monitor throughout the procurement process.

<b>R/N</b>	<b>Risk Identification</b>	<b>Likelihood</b>	<b>Risk Control</b>
R5	Contract award delayed	Medium	Engineering and Compliance to liaise with Legal. If necessary, approach incumbent contractor to provide interim arrangements and extend contract.
R6	Security For Due Performance	Medium	Contractors will be required to provide Performance Bonds and Parent Guarantees (subject to ownership by a parent company)

## **KEY ISSUES FOR CONSIDERATION**

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

25. This report is a strategic procurement and is therefore a key decision.

### **Policy implications**

26. In order to fulfil its duties as a landlord and employer, the provision of 'step free' access in residential buildings across the borough is essential. The Lift Maintenance and Repairs contracts ensure that the council continues to comply with current legislation.

## Procurement project plan (Key decisions)

<b>Activity</b>	<b>Complete by:</b>
Forward Plan (if Strategic Procurement)	April 2012
DCRB/CCRB/CMT Review Gateway 1: Procurement strategy approval report (this report)	27 Feb 2012 29 March 2012
Notification of forthcoming decision - Five clear working days (if Strategic Procurement)	5 Apr 2012
Approval of Gateway 1: Procurement strategy report (this report)	17 Apr 2012
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	30 Apr 2012
Issue Notice of Intention	14 May 2012
Completion of tender documentation	26 Jun 2012
Advertise the contract	12 July 2012
Closing date for expressions of interest	3 Sept 2012
Completion of short-listing of applicants	17 Sept 2012
Invitation to tender	19 Sept 2012
Closing date for return of tenders	4 Dec 2012
Completion of evaluation of tenders	19 Feb 2013
Completion of any interviews	27 Mar 2013
Issue Notice of Proposal	28 Mar 2013
DCRB/CCRB/CMT Review Gateway 2: Contract award report	6 May 2013 9 May 2013
Notification of forthcoming decision (five clear working days)	6 Jun 2013
Approval of Gateway 2: Contract Award Report	14 Jun 2013
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	26 June 2013
Alcatel Standstill Period (if applicable)	16 Jul 2013
Contract award	12 Jul 2013
Contract start	1 Oct 2013
Contract completion date	30 Sept 2018

## **TUPE implications**

27. The appointment of two new contractors in this proposed retender will amount to a Service Provision Change and therefore TUPE is likely to apply however until due diligence is carried out definitive advice on TUPE cannot be provided. This due diligence work needs to be carried out before the tender process commences as its results need to be included in the tender pack.

## **Development of the tender documentation**

28. The specification and contract documentation will be prepared by the Engineering & Compliance team in conjunction with the council's legal department.
29. The form of contract to be used will be JCT Measured Term Contract 2011, which will be subject to amendment as directed by the council's legal department.

## **Advertising the contract**

30. The contracts will be advertised by way of an official notice that will be published in OJEU.
31. Subsequent to publication of the OJEU Notice, the contracts will also be placed on the council's website.

## **Evaluation**

32. The PQQs returned will be evaluated by the Engineering and Compliance team. The selection process will be an evaluation of each contractor's economic and financial standing and their technical knowledge, experience, ability and capacity provide the service. Those who successfully pass the short listing stage will be invited to tender. The threshold score percentage, for a successful pre-qualification will be 50%.
33. The tender evaluation criterion will follow the Most Economical Advantageous Tender (MEAT) protocol. The assessment of the tender will be based on price/quality ratio of 70:30.
34. Price evaluation will be undertaken by members of the Engineering and Compliance team. Method statements will be used in assessing the quality and appropriateness of working practices. Tenderers will be required to provide information on their organisation, which will include (but not be limited to) experience, approach to and compliance with health and safety, organisation structure, number of personnel and their relevant qualifications, transport / logistics infrastructure, out of hours working and 24 hour helpdesk support etc., that demonstrates their ability to fulfil the requirements of the contract. The full evaluation methodology will be agreed by the Engineering and Compliance Team.



### **Community impact statement**

35. The Lift Maintenance and Repair contracts will be a borough-wide service. They are concerned with responsive and planned works and seek to improve the quality of the service to residents.
36. They will affect all communities/ groups in the borough and will in turn improve the quality of life for the residents. Direct benefit to residents will include limiting the incidence of breakdown and a more effective lift service.

### **Sustainability considerations**

37. The contracts will adhere to the council's Sustainability Policy. Where possible, materials purchased will be from sustainable sources. However, the overriding decision on material selection will be the materials conformity to BS and IS standards to ensure maximum safety and suitability.
38. Sustainability goals will be set for the contracts and where possible the Lift Maintenance and Repairs contractors will be required to carry (and evidence) out the following:
  - Re-use of materials that can be recycled or reclaimed on site
  - Avoidance of environmentally damaging materials
  - Avoidance of materials that are potentially harmful to humans

### **Economic considerations**

39. It is envisaged that expressions of interest will be submitted by interested parties within the EU in response to the OJEU advertisement for the contract. As the contract will also be put on the Southwark website, it is anticipated that this will also attract the interest of more local lift contractors and afford them the opportunity to register their interest in competing for the work.

### **Social considerations**

40. Contractors will be required to demonstrate that they operate an Equal Opportunity Policy and that they are fully aware and compliant with council's own Equal Opportunity Policy.
41. Operatives pay is based on the Lift and Escalator Association Standard pay rates which exceed the London Living wage.

### **Environmental considerations**

42. The use of low emission vehicles and planning of journeys will be encouraged within the contracts. A waste consignment note will be requested from removal contractors by the consultants to ensure materials containing asbestos are not fly-tipped but disposed at a controlled site.

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

43. The contracts will be managed by the Engineering and Compliance team, who will also monitor both the value and quality of the work carried out.

### **Staffing/procurement implications**

44. There will be no impact on council staff caused by re-tendering these contracts. The Engineering and Compliance team are already fulfilling the works ordering and monitoring roles of the current contract and these functions will continue under the new contracts.

### **Financial implications - (FIN0679 – JP)**

45. The Lift contract is an essential contract to ensure Housing Services can provide step free access to Tenants and Leaseholders for their health, safety and quality of life.
46. The current housing management budget is sufficient to cover the £1,161,339 proposed cost for the Lift contract for the foreseeable future.

### **Legal implications**

47. These are contained in the supplementary advice from the Strategic Director of Communities, Law & Governance.

### **Consultation**

48. Consultation will be conducted with residents through tenants' forums.

### **Other implications or issues**

49. Not applicable

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

50. This report seeks the approval of the cabinet to the procurement strategy for the lift maintenance and repairs contracts – Areas 1 and 2 (Contract A) at an estimated annual cost of £696,803.40 and Area 3 (Contract B) at an estimated annual cost of £464,535.60 for a period of 5 years, with the potential for 2 twelve month extensions, making an estimated contract value of £8,129.373.00 as outlined in this report.
51. Contract standing orders 5.4 requires all reasonable steps to be taken to obtain at least 5 tenders following a publicly advertised competitive tendering process for non-construction works and services over £75,000 and construction works and services over the EU threshold.
52. As these services are Part A services under the Public Contracts Regulations 2006 and the estimated value of this contract exceeds the relevant EU threshold, they must also be tendered in accordance those Regulations.
53. Paragraphs 20 & 21 of this report confirm that a restricted stage tendering procedure is proposed which will comply with EU regulations and CSO tendering requirements.

54. This contract is classified as a strategic procurement and therefore CSO 4.4.2a) requires the cabinet or cabinet committee to approve the proposed procurement process, after taking advice from the corporate contracts review board (CCRB).

#### **Finance Director**

55. This gateway report recommends that the cabinet approves the procurement strategy for the lift maintenance and repairs contracts for a period of 5 years from 1st October 2013, with the potential for 2 twelve month extensions subject to performance and notes the rationale behind the geographical division of contract areas.
56. The finance director notes the financial implications contained within the report and the total estimated contract value of £8,129,373.00. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

#### **Head of Procurement**

57. This report is seeking approval to procure two separate repairs and maintenance contracts for the lifts across the borough's housing stock. The report explains the two contracts will be based on a geographical split and provides justification for having two separate contracts. With two contractors in place this will provide the necessary back up arrangements in the event that these are required.
58. The procurement process will follow a full EU restricted procurement route which is reflected in the procurement timetable. Paragraph 33 confirms that a weighted evaluation model 70/30 in favour of price will be used which is in line with the councils current recommended approach.
59. The procurement timeline is achievable provided the necessary resources are lined up to carry out the required activities e.g. evaluation. It is important that there is appropriate governance arrangements in place for this project as this will help ensure the project delivers on time and continuity of service is maintained.

#### **Head of Home Ownership Unit**

60. These contracts will be qualifying long term agreements within the terms of the Commonhold and Leasehold Reform Act 2002. Consultation with leaseholders is required under schedule 2 of the regulations and must be completed before tenders are invited through OJEU. This first stage of consultation has not yet been undertaken.
61. If there is a requirement that the two contracts should be awarded to different providers, it will be necessary to have in place a defined procedure, that is fair and reasonable, for the allocation of contracts where one provider offers the most advantageous tender for both areas.
62. Further consultation will be required following receipt of the tenders before the Council enters into the agreements. It will be necessary at this second stage of consultation to provide to leaseholders a contract cost, service charge or unit rate.

63. Costs will be service charged through the annual charge and any changes to the way in which work is ordered and paid for should be discussed with the Service Charge Accountant to ensure that all costs can be attributed on a block by block basis.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
None		

## APPENDICES

No:	Title:
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management		
<b>Lead Officer</b>	Gerri Scott, Strategic Director of Housing Services		
<b>Report Author</b>	David Lewis, Head of Engineering and Compliance		
<b>Version</b>	Final		
<b>Dated</b>	4 April 2012		
<b>Key Decision?</b>	Yes	<b>If yes, date appeared on forward plan</b>	March 2012
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>			
	<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
	Strategic Director of Communities, Law & Governance	Yes	Yes
	Finance Director	Yes	Yes
	Head of Procurement	Yes	Yes
	<b>Contract Review Boards</b>		
	Departmental Contracts Review Board	Yes	Yes
	Corporate Contracts Review Board	Yes	Yes
	<b>Cabinet Member</b>	Yes	Yes
	<b>Date final report sent to Constitutional Team</b>		4 April 2012