

<b>Item No.</b> 15.	<b>Classification:</b> Open	<b>Date:</b> 26 June 2013	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 - Procurement Strategy Approval Lift Maintenance 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.

## **RECOMMENDATION**

1. That the cabinet approves the revised procurement strategy outlined in this report for the Lift Maintenance Contracts – Contract A – north of the borough at an estimated annual cost of £1,721,000 and Contract B – south of the borough at an estimated annual cost of £1,398,000 for a period of five (5) years from 8 September 2014, with the potential for two (2) twelve month extensions, subject to performance, making an estimated contract value of £21,833,000

## **BACKGROUND INFORMATION**

2. A Gateway 1 report for the Lift Maintenance Contract was approved by cabinet on 17 April 2012 and is attached at Appendix 1. Since obtaining this approval, ongoing reviews have led to a need for a revised procurement strategy for lifts in general. These revisions and the reasons for them are set out in this report.
3. The works carried out for lifts within the housing department are currently split into two areas:

- Lift planned preventative maintenance (PPM) and repair works.
  - Lift refurbishment works.
4. The lift PPM and repairs work and the low value minor refurbishment works are currently being delivered through a single contract with Liftec Lifts Ltd. It was the re-procurement of this contract that was the subject of the original Gateway 1 report. The majority of the lift refurbishment works are currently procured through individual tender processes on an as required basis. Low value refurbishment works may be carried out through the existing lift maintenance contract.
  5. An ongoing review of the entire lift service has explored the options for amalgamating the delivery of services for both the PPM and repair works and the lift refurbishment works. This review has identified that by combining these two areas improved efficiencies and better value for money can be achieved.
  6. Combining both the areas of the lifts works will enable the coordination of the synergies of work. This will help to improve the performance of the service by reducing the need for responsive repairs and focusing more on planned maintenance works.
  7. By identifying lifts with obsolete parts on the PPM and repair works and lifts that are coming to the end of their working life, Engineering and Compliance will be able to respond and co-ordinate the refurbishment works with major Works, prior to lifts breaking down.
  8. By combining the budgets the value of the contract shall increase substantially. The Major works team have confirmed that the annual budget for lift refurbishment work is £1.5m. Also, in March 2013, the Engineering and Compliance Lift Repairs and Maintenance budget was increased by £400k per annum to incorporate the annual Building Maintenance Index (BMI) rise.
  9. As advised in the original Gateway 1 report, it is still the intention to let two contracts to cover the following geographical areas:
    - Contract A - North - Bermondsey, Borough & Bankside , Rotherhithe and Walworth
    - Contract B - South - Camberwell, Peckham, Peckham Rye and Dulwich

The table below shows how the combined budgets will be allocated to the individual contracts.

<b>Lift Repair and Maintenance and Refurbishment estimated annual cost</b>			
	<b>R &amp; M</b>	<b>Refurbishment</b>	<b>TOTAL</b>
Contract A	£971,000	£750,000	£1,721,000
Contract B	£648,000	£750,000	£1,398,000
<b>TOTAL</b>	<b>£1,619,000</b>	<b>£1,500,000</b>	<b>£3,113,000</b>

10. The substantial increase of the contract value means that the council's advertised procurement needs are now inaccurate. Continuing with the current process without advertising the revised procurement needs would present a substantial risk of challenge under EU legislation to the council. The council has two (2) options – the first of which is to amend the published notice to update the

procurement requirements and the second of which is to discontinue the existing process and re-advertise under a new procurement for the revised procurement needs. Whichever option is pursued the procurement timescale is likely to be the same. However, it is felt that the second option of discontinuing the current process and starting a new process presents a lower procurement risk to the council and will be less convoluted.

11. As the original process has started and the deadline of the pre-qualification questionnaire (PQQ) has passed, the council is aware of the level of response to the original advert. This was lower than anticipated. By starting a new process and advertising more attractive contracts, it is possible that an improved response will be obtained, providing a better level of competition and hopefully better value for the council.

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

12. The combining of both Lift Maintenance and Lift Refurbishment budgets increases the proportion of programmed works and provides potential contractors with more long term planned works.

### **Market considerations**

13. A higher level of interest is expected from the market due to the revised contract value and the inclusion of programmed refurbishment works.

### **KEY ISSUES FOR CONSIDERATION**

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

14. There have been no changes to the information that was provided in the Gateway 1 report approved by cabinet on 17 April 2012.

#### **Proposed procurement route**

15. Given the changes to the procurement strategy, the recommendation is that the existing process is discontinued and a new process is started. The council has reserved the right to do this in the PQQ and case-law supports that right.
16. The process going forward will be:
  - To issue a notice to discontinue the existing process.
  - Applicants that have already submitted a PQQ will be informed that the existing process has been discontinued and that a new process has been started for the council's revised procurement needs.
  - A new Contract Notice will be published in OJEU setting out the revised requirements of the council and inviting expressions of interest from applicants that wish to participate in the new process.
17. Given the revised procurement needs and the consequential need to restart the procurement process, the overall timescale for the completion of the procurement will increase. As a result of this, it will be necessary to extend the existing contract for a period of twelve (12) months to enable the procurement to

take place. A Gateway 3 report will be drafted to request the extension of the existing contract. The existing contract has the facility to be extended for a further twelve (12) months. The extended period makes provision for the forthcoming 2014 council elections and the purdah period during April and May 2014, and the potential need for tenderers to make multiple site visits prior to submission of final tenders.

### Identified risks for the procurement

18. The risks detailed below are additions to the risks identified in the initial Gateway 1 report 17 April 2012 contained in the appendix.

R/N	Risk Identification	Likelihood	Risk Control
R7	Following contract award contractor ceases trading.	Low	Procurement strategy to award two (2) contracts to two (2) separate contractors provides back-up facility
R8	Risk that contractor requests refurbishments over repairs in order to secure more higher value refurbishment work.	Medium	Joint inspections by council officers and review of council asset monitoring databases

### Key /Non Key decisions

19. This is a key decision.

### Policy Implications

20. There have been no changes to the information that was provided in the Gateway 1 report approved by cabinet on 17 April 2012.

### Procurement Project Plan (Key Decisions)

<b>Activity</b>	<b>Completed by:</b>
Forward Plan	April 2012
DCRB Review Gateway 1 CCRB Review Gateway 1	20 May 2013 23 May 2013
Notification of forthcoming decision –despatch of Cabinet agenda papers	28 May 2013
Approval of Gateway 1: Procurement strategy report	26 June 2013
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	09 July 2013
Issue Notice of Intention	27 June 2012
Completion of tender documentation	12 June 2013
Issue new contract notice	24 Aug 2013
Closing date for expressions of interest	26 Sept 2013
Completion of short-listing of applicants	16 Oct 2013
Invitation to tender	30 Oct 2013
Closing date for return of tenders	19 Feb 2014
Forward Plan	13 March 2014
Completion of any interviews	19 March 2014
Completion of evaluation of tenders	29 March 2014
Issue Notice of Proposal	02 April 2014
Completed Notice of Proposal period	21 May 2014
DCRB Review Gateway 2 CCRB Review Gateway 2	03 June 2014 13 June 2014
Notification of forthcoming decision – despatch of Cabinet agenda papers	18 June 2014
Approval of Gateway 2: Contract Award Report	27 June 2014
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	11 July 2014
Alcatel Standstill Period (if applicable)	14 July 2014
Contract award	15 July 2014
Place award notice in Official Journal of European (OJEU)	17 July 2014
TUPE Consultation period	18 Oct 2014
Contract start	02 Jan 2015
Contract completion date	01 Jan 2020
Contract completion date – (if extension(s) exercised)	01 Jan 2022

21. The extended tender and mobilisation plan has taken into account the council elections scheduled for May 2014 and the six (6) week purdah period.

### **TUPE/Pensions implications**

22. There are TUPE implications for the Lift repair and maintenance works as identified in the Gateway 1 report approved by cabinet on 17 April 2012. There are no TUPE implications on the Lift refurbishment works.

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

23. The contract documents will be prepared by Engineering and Compliance with the assistance of the Legal and Procurement departments. The new tender documentation will reflect the inclusion of the lift refurbishments.

### **Advertising the contract**

24. As set out in paragraph 15 above, a new Contract Notice will be published in OJEU.

### **Evaluation**

25. Whilst the majority of the council's requirements for response in the PQQ will remain as originally drafted, officers will reconsider changes that might be needed to reflect the additional lift refurbishment works. For those parts of the PQQ which remain unchanged, applicants will be permitted to confirm that their original response remains and will not be required to resubmit this information.
26. Following the period set for the receipt of completed PQQ submissions, all applicants will be evaluated and assessed against the council's published criteria to determine which applicants will be invited to tender.

### **Community impact statement**

27. There have been no changes to the information that was provided in the Gateway 1 report approved by cabinet on 17 April 2012.

### **Economic considerations**

28. There have been no changes to the information that was provided in the Gateway 1 report approved by cabinet on 17 April 2012.

### **Social considerations**

29. 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.
30. Operatives pay is based on the Lift and Escalator Association Standard pay rates which exceed the London Living Wage.
31. The contracts will require the successful contractors to provide apprenticeships and school work placements.

### **Environmental considerations**

32. All lamps, light fittings and equipment being replaced will be disposed of in accordance with the latest Waste Electrical and Electronic Equipment Regulations (WEEE).
33. All recyclable packaging is to be set aside and disposed of via a recycling centre.

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

34. The contracts will be managed by the Engineering and Compliance team who will monitor both value and quality through improved key performance indicators and on- site inspections.

### **Staffing/procurement implications**

35. There have been no changes to the information that was provided in the Gateway 1 report approved by cabinet on 17 April 2012.

### **Financial implications**

36. 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.
37. The Lift housing revenue budget of £1,618,669 per annum is available to cover the repairs and maintenance aspect of the lift contract and £1,500,000 per annum from the housing investment programme is available for lift refurbishments, providing a total of £3,118,669, which is sufficient to cover the Lift contract for the foreseeable future. Any BMI uplift will need to be contained within the allocated budget.

### **Investment implications**

38. The report requires £1.5m per annum from capital resources towards the total estimated annual contract cost of £3,118,669. The current Housing Investment Capital Programme contains an annual allocation of £1.5m for lifts within the Warm, Dry and Programme for this expenditure.
39. However, it should be noted that the current Warm, Dry and Safe programme is only budgeted up to 2015/15 and therefore a capital allocation of £1.5m per annum will need to be incorporated within the Housing Investment Capital Programme beyond this period to meet the ongoing cost.

### **Legal implications**

40. Please see the comments from the Director of Legal Services.

## **Consultation**

41. 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 this is a two stage process. The first stage has already been carried out, with notices of intention having been served on 20th July 2012 with the observation period ending on 22nd August 2012. 16,655 notices were served, and 34 observations received. There were no observations which would have led to a delay in proceeding with the contract.
42. The notices were served prior to the initial OJEU notice being published, so that leaseholders could notify their chosen contractors who could then express an interest in tendering. Home Ownership Services will write to all leaseholders again to inform them that the OJEU notice is to be re-issued, so that this element of the statutory consultation is complied with. However, there will be no need to re-issue the notices of intention as only the volume of work has changed.
43. 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.
44. 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.
45. 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.

## **Other implications or issues**

46. There have been no changes to the information that was provided in the Gateway 1 report approved by cabinet on 17 April 2012.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

47. This report is seeking approval from the Cabinet for the revised procurement strategy of two lift maintenance and repair contracts.
48. The report explains that an ongoing review of the requirement for lifts in general has led to a decision to combine the lift planned preventative and repair works with lift refurbishment works, increasing the value of the required contract. The benefits in doing this are set out in paragraphs 6, 7 and 11 of the report.
49. Although the proposed procurement route remains the same as the original procurement strategy, to mitigate any risk of challenge, it has been recommended that the original process is discontinued and a new process started. The process for this has been set out in paragraph 16 of the report.



50. Restarting the process shall have an impact on the original timescales making it necessary to revise the project timetable to allow for the additional time required. Paragraph 16 of the report advises that the existing contract has the capability to be extended to ensure that this period is covered. The procurement project plan sets out the revised timelines.

#### **Director of Legal Services**

51. This report seeks cabinet approval to the revised procurement strategy for the Lift Maintenance Contracts – Contract A – north of the borough at an estimated annual cost of £1,721,000 and Contract B – south of the borough at an estimated annual cost of £1,398,000 for a period of 5 years from 8 September 2014, with the potential of 2 twelve month extensions, subject to performance, making an estimated contract value of £21,833,000 as outlined in this revised report.
52. As the revised procurement strategy proposed remains a strategic procurement, then this decision is reserved to cabinet (C.S.O. 4.4.2 (a)).
53. Paragraph 10 confirms that the substantial increase of the contract value means that the current advertised procurement needs are inaccurate and there is a need to discontinue the existing process as to continue with the current process without advertising the revised procurement needs would present a risk of challenge under EU legislation. This risk will be eliminated by discontinuing the existing process and re-advertising the revised procurement needs under a new procurement.

#### **Strategic Director of Finance and Corporate Services FC13/036)**

54. This report seeks cabinet approval to the revised procurement strategy for lift maintenance contracts. Financial implications are outlined in paragraphs 40 and 41 of this report which show £3.1m of resource is available in the 2013/14 budget. The strategic director of finance and corporate services notes that capital programme funding is currently available until 2014/15. The on going cost of this contract will need to be addressed in the next capital programme refresh.
55. Prior to contract award a full financial appraisal will be completed, including TUPE implications and ensuring the council's commitment to London Living Wage is met. Staffing and any other costs connected with this contract will be contained within existing departmental budgets.

#### **Head of Specialist Housing Services**

56. Repairs and maintenance to communal services, including lifts, is rechargeable to leaseholders under the terms of their leases. This recharge will form part of the annual service charges issued to leaseholders each year.
57. Full statutory consultation with leaseholders has been carried out in accordance with the landlord and tenant act 1985 (as amended), to ensure that the all costs can be recovered. Further statutory consultation will be carried out if there are any repair or refurbishment works required which would breach the consultation limit for qualifying works.
58. The head of specialist housing services is responsible for temporary and sheltered accommodation. Where repairs and/or planned maintenance are

required to lifts in sheltered housing units or temporary accommodation hostels then the contract managers will need to liaise with the Supported Housing Manager and Temporary Accommodation Services Manager.

59. It is essential that the contractor shows an understanding of the needs of vulnerable groups, particularly elderly tenants living in sheltered housing. Some of these schemes are attached to housing estates.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 1 & 2 – Lift Maintenance and Repairs Contract - 20 June 2012. Chief officer delegated decision. The document is available to view on this web page: <a href="http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&amp;Mid=4548&amp;Ver=4">http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&amp;Mid=4548&amp;Ver=4</a>	Southwark Council, 3rd Floor, 160 Tooley Street, SE1 2QH	Gavin Duncumb 020 7525 0685
Gateway 3 – Lift Maintenance and Repairs Contract - 2 July 2012. Chief officer delegated decision. The document is available to view on this web page: <a href="http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&amp;Mid=4548&amp;Ver=4">http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&amp;Mid=4548&amp;Ver=4</a>	Southwark Council, 3rd Floor, 160 Tooley Street, SE1 2QH	Gavin Duncumb 020 7525 0685

## APPENDICES

No	Title
Appendix 1	Gateway 1 “open” report - Lift Maintenance Contract - 17 April 2012

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	
<b>Lead Officer</b>	Gerri Scott, Director of Housing and Community Services	
<b>Report Author</b>	David Lewis, Head of Maintenance and Compliance	
<b>Version</b>	Final	
<b>Dated</b>	14 June 2013	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		14 June 2013