

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 29 July 2015	<b>Meeting Name:</b> Strategic Director of Finance and Corporate Services
<b>Report title:</b>		Gateway 3 Professional Technical Services Contract	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Housing and Community Services	

## RECOMMENDATIONS

1. That the strategic director of finance and corporate services agrees the variation to allow additional spend to the first Professional Technical Services contract with Calfordseaden LLP for the period from November 2015 to October 2017.
2. That the strategic director of finance and corporate services agrees the variation to allow additional spend to the second Professional Technical Services contract with Potter Raper Partnership for the period from November 2015 to October 2017.

## BACKGROUND INFORMATION

3. On 30 September 2013 the deputy leader and cabinet member for housing management approved the award of two Professional Technical Services contracts. The first contract was awarded to Calfordseaden LLP (CS) for a period of four years at an estimated annual value of up to £1,125,000 with the provision for two extensions each of up to three years. The second contract was awarded to Potter Raper Partnership (PRP) for a period of four years at an estimated annual value of up to £125k with the provision for two extensions each of up to three years.
4. The contracts were to provide professional technical services, in particular to the major works team in housing and community services, responsible for the delivery of the majority of the housing capital programme and a vigorous selection process took place on the basis of best value and in fact only CS and PRP met the minimal quality criteria.
5. At the time the Gateway 1 report was approved by cabinet (25 September 2012) and the OJEU notice was published, it was felt that there would be an anticipated need for the use of professional firms of works of between £25,000,000 and £35,000,000 per annum. The figure of £1,250,000 per annum for professional technical services firms was based on anticipated resources at that time (i.e. a Warm, Dry and Safe (WDS) programme of up to £35m per annum and a relatively small revenue required for legal disrepair work), although it was noted that the estimated contract values would vary from year to year and contract area to contract area dependant on programme and funding and thus could increase if additional funding became available. It was always envisaged that the services would exceed the estimated sums provided but it had not been anticipated that the housing capital programme would become so large. Housing capital programmes are now in the region of over £100m per annum.
6. A Gateway 3 report was approved on 30 April 2014 to allow additional spend for both contracts as substantial changes were made to the programme (i.e.

schemes were brought forward and unforeseen additions were made to the programme).

## **KEY ISSUES FOR CONSIDERATION**

### **Key Aspects of Proposed Variation**

7. This proposal is for approval for additional spend in the contracts from November 2015 to October 2017 to enable the full implementation of the housing capital programme. The option to extend the contracts for a further six years will not be utilised and a new procurement process will commence as the work has been front loaded.
8. Whilst the exact programme of housing capital works is not known beyond 2015/16 yet, the total capital programme is very unlikely to decrease and it was agreed in September 2014 that a further Gateway 3 report would be prepared if required once an idea of the future years works were known.

### **Reasons for Variation**

9. Since approval of the Gateway 3 report, significant substantial changes have been made to the housing capital programme, which the council was unaware at the time these services were tendered, would materialise and which are outside of the council's control as these could not have been foreseen at the time. It was always anticipated (and tenderers were aware) that whatever services were needed would be awarded through these two contracts. This has meant that the services expected for the life of these contracts will have been provided by October 2017 to accommodate the substantial changes to the housing capital programme (brought forward earlier than expected), hence the reason for this approval for additional spend. The substantial changes to the housing capital programme are:
  - substantial increases to the WDS programme so far
    - a rise from £40m in 2011/2012 to £60m
    - a rise from £60m in 2012/103 to £80m
    - a rise from £80m in 2014/2015 to £99m
  - estimate increase to the WDS programme to approach £200m in 2015/2016 as additional resources have been included (i.e. extra Decent Homes work as extra backlog funding has been obtained and a commitment given to residents for quality kitchens and bathrooms to be provided in 2015/2016).
10. Due to the substantial increase in the housing capital programme and the need for the services to be provided in a shorter timeframe, to mitigate a risk of challenge, these two contracts will end on 31 October 2017.

### **Future Proposals for this Service**

11. Once the housing programme and asset management strategy has been agreed beyond 2015/2016, a more complete review of technical services requirements will be made. With the increases in the sums in the first four years of the contract, it is felt appropriate to procure new technical services contracts after this.

## Alternative Options Considered

12. At this stage of the contracts, two options were considered but rejected for the following reasons:
- Using an existing framework prepared by others - these cannot be used as leaseholders were not specifically consulted on the framework proposals.
  - A new tender process – as the value is above the EU threshold for services, the new Public Contracts Regulations 2015 (PCR 2015) would need to be followed. This would delay the whole programme for a year and it is not envisaged that any better value for money would be obtained.

## Identified risks for the extension

13. The key risks of the proposals and actions to diminish these risks are set out below.

Risk	Likelihood before mitigation	Risk mitigation/management	Likelihood after mitigation
CS or PRP are unable to deal with new workload	Low	CS provided a staffing structure to deal with additional workload. PRP provided details of staffing as part of their original bid. Reports will also be done in line with standing orders every 6 months to DCRB and yearly to CCRB.	Low
CS or PRP are not financially able to deal with the new work.	Low	A financial check has been done on CS and PRP and there are no issues.	Low
Challenge from leaseholders	Low	<ol style="list-style-type: none"> <li>Both firms have decreased their overall percentage slightly so leaseholder bills will be reduced, although the base unit rates have remained unchanged.</li> <li>If the original tender had been bigger the reduced savings would have been very marginal as overhead costs will be very similar for the firms and the costs of providing professional services would not change. A retender would be very unlikely to get lower rates than the current contracts on a best value basis incorporating price and quality.</li> <li>None of the unsuccessful firms passed the minimum quality criteria.</li> </ol>	Low

		d. There has been no challenge to the increases made since the approval of the previous Gateway 3 report.	
Challenge because the council will not be tendering these services.	Medium	Ending the current contracts at the end of year 4 will greatly mitigate any risk of challenge,	Low

**Policy implications**

14. The professional services contracts help deliver on one of the council's Fairer Future promises, that of providing quality kitchens and bathroom for all residents.

**Contract management and monitoring**

15. The performance of CS and PRP and any commitments made in their bids is monitored by the major works team. The major works team ensure that each time CS and PRP are instructed, that they follow the works brief for the scheme, are involved in the consultation process with residents, follow the timetable for the scheme and ensure that the works are carried out to the set quality on site by the successful contractors. Each project manager in the major works team or other departmental officers using the contracts provide a quarterly monitor on the performance of CS and PRP and there are specific KPIs in each contract in the areas of time, cost and quality. KPIs are produced for both CS and PRP on a quarterly basis and these show that both CS and PRP are performing very well in terms of both quality, value for money, health and safety and timeliness with scores in the range of 7-8/10. The market for professional technical services firms is such, that having two quality firms in place is greatly beneficial to the Council in providing quality and cost effective services. Tight control is kept on costs and savings from the first contracts completed with CS and PRP have been in the region of 10-15%.
16. The spend and performance on both contracts is monitored by the head of major works and reported each month to the major works monitoring group led by the strategic director of housing and community services. Although the contracts can cover a range of projects within the council, in practice it has been mainly designed and programme estimates used for the works run by the major works team and it is therefore anticipated priority will be given for this programme for major schemes until the end of the WDS programme, although other departments in the council will be able to use the contracts if capacity is available. There has been an issue elsewhere in the Council with an education scheme that CS are running but these issues have not occurred on a housing scheme despite the size of the programme as CS have an appropriate quality assurance and checking process for housing schemes.

**Community Impact Statement**

17. Having a consistent set of professional service firms working in the borough has improved the quality of service and has also helped CS and PRP to ensure that, in particular with the Major Works Partnering Contractors, that they work comprehensively with the community.

### **Economic considerations**

18. There are no specific economic considerations to this report.

### **Social considerations**

19. CS and PRP have demonstrated that they operate an Equal Opportunity Policy and that they are fully aware of and compliant with the council's own Equal Opportunity Policy.
20. The London Living Wage applies to all relevant staff working directly on the contracts and to any relevant staff employed by any sub-consultant. For these contracts, quality improvements expected a higher calibre of professionals to be employed and it is confirmed that these professionals were employed and it is therefore considered that best value has been achieved by including this requirement. The associated quality improvements and cost implications are monitored as part of the annual review of each contract. Given the technical nature of these contracts - this has been accomplished by CS and PRP.

### **Environmental considerations**

21. There are no specific environmental considerations at this stage.

### **Financial Implications**

22. The increased contract cost of the Professional Technical Services contracts will be charged to the respective project costs programmed in the Warm, Dry and Safe capital allocation budgeted within the Council's Housing Investment Programme. The Housing Investment Capital Programme will be monitored on a regular basis to ensure all costs can be contained within existing approved budgets.

### **Investment Implications**

23. The value of these contracts will be charged directly to the respective projects.

### **Legal Implications**

24. These are covered in the concurrent from the Director of Legal Services below

### **Consultation**

25. There was extensive consultation with leaseholders as part of the statutory process. In addition, a tenants' and a residents' representative were on the final tender evaluation panel as part of the consultation process with Tenants Council and Home Owners Council.

### **Other implications or issues**

26. Not applicable.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

27. This report is seeking approval to vary the two existing professional technical services contracts. These contracts were let in September 2013 to deliver professional consultancy services for construction related projects mainly delivered through the major works programme within the Housing and Community's Services department.
28. A GW3 report was approved in April 2014 to allow for additional services to be delivered through the contract. It appears that due to a substantial change in the housing capital programme the volume of work shall continue at the level approved in the previous GW3 report for the next two years of the contract. The report explains this increase, although not foreseen at the time of tendering was always anticipated and whatever services were needed would be awarded through these contracts.
29. With such an increase in contract value there will be risks associated with the recent procurement process and the services to be delivered. Paragraph 13 highlights these risks and their rating both before and after the mitigation action is in place. All risks have been considered to be low in nature.
30. These contracts were originally let with the potential to run for ten years including extension provision. Given the increase in volume that has occurred so early on in the life of the contracts, the report confirms that the contracts will end on completion of the initial 4 year term. This shall be necessary to mitigate further procurement risks and ensure value for money is being achieved.

### **Director of Legal Services**

31. This report seeks the approval of the strategic director of finance and corporate services to variations to allow additional spends to the 2 Professional Technical Services contracts which are being performed by Calfordseaden LLP and Potter Raper Partnership. This report sets out the extent of the required variations and the reasons why the variations are necessary.
32. The nature of these variations is such that they are subject to the new Public Contracts Regulations 2015 (PCR 2015). Regulation 72(1) (a) of the PCR 2015 allows the council to agree additional work through the contracts where the actual contracts provided for that work. This report confirms at paragraphs 9 and 10 that the anticipated spend for these services over a ten year period, will be spent in the first 4 years of the contracts. This is due to the amount of work under the programme being brought forward requiring these additional services to be done quicker. Whilst the additional spend might be considered significant, the level of work was anticipated when the contracts were procured but for the reasons noted in paragraph 9 have occurred earlier. As noted in paragraph 10, it is the council's intention to re-procure these services after completion of the initial term so spend over the lift of the contract will be in line with that originally anticipated.

- 33. As the decision to approve the additional spends fall within contract standing orders (CSO) 4.6.2.a), the decision may be taken by the strategic director of finance and corporate services, after consideration by the corporate contracts review board (CCRB). The report has been considered by CCRB and its comments have been included.
- 34. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraph 22 confirms the financial implications of these variations.

**Strategic Director of Finance and Corporate Services (HCS15/006)**

- 35. The strategic director of finance and corporate services notes the recommendations in this report for variations to the Professional Technical Services contracts. The variations run from November 2015 to October 2017 and therefore impact of financial years from 2015/16, 2016/17 and 2017/18.
- 36. The contract costs will be charged to the respective project costs programmed in the Warm, Dry and Safe capital allocation budgeted within the council's Housing Investment Programme element of the capital programme which was agreed by council assembly in March 2015.
- 37. The financial implications comments highlight the need for expenditure and commitments to be accurately monitored on a regular basis to ensure all costs can be contained within existing approved budgets.

**Head of Specialist Housing Services**

- 38. This is a qualifying long term agreement under the terms of the Commonhold and Leasehold Reform Act 2002, and Section 20 consultation was carried out under schedule 2 of the regulations in July 2013. Consultation did not refer to the contract value since this was an upper limit only per contract and does not relate to a fixed sum tendered. Consultation relied instead on the unit rates, which remain the same or marginally lower. No further consultation with leaseholders is required on this agreement.
- 39. Any costs arising from this contract remain chargeable to leaseholders where they are incurred in support of chargeable major works.

**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  ..... Date..... 6.8.15  
 Designation **Strategic Director of Finance and Corporate Services**

## BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 2 'open' report – Professional Technical Services Contract	Chief Executive's – 160 Tooley Street	Everton Roberts, 0207 525 7221
Gateway 3 'open' report –Professional Technical Services Contract	Chief Executive's – 160 Tooley Street	Everton Roberts, 0207 525 7221

## APPENDICES

No	Title
	Not applicable.

## AUDIT TRAIL

<b>Lead Officer</b>	Gerri Scott, Strategic Director of Housing and Community Services	
<b>Report Author</b>	David Markham, Head of Major Works	
<b>Version</b>	Final	
<b>Dated</b>	29 July 2015	
<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>Cabinet Member</b>	N/a	N/a
<b>Date final report sent to Constitutional/Community Councils/Scrutiny Team</b>		