

Item No. 17.	Classification: Open	Date: 14 July 2020	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval Major Building Works	
Ward(s) or groups affected:		All	
Cabinet Members:		Councillor Kieron Williams, Housing Management and Modernisation	

FOREWORD – COUNCILLOR KIERON WILLIAMS, CABINET MEMBER FOR HOUSING MANAGEMENT AND MODERNISATION

Southwark is proud to be the largest council landlord in London, with a higher proportion of truly affordable council homes in our borough than any other local authority in the county. Maintaining our homes to a good standard is one of our key priorities. Central to that commitment is our major works programme. Over the last decade we have lifted the standard of our homes up, from just 54% meeting the decent homes standard in 2010 to 98% today. We have invested in new kitchens and bathrooms for our tenants, improved the energy efficiency of our homes and upgraded the fire safety of our blocks. Having brought our homes up to a better standard we now have a programme of further works to each block every 8-10 years to make sure standards do not drop and so we can continue to improve them into the future, including by reducing the carbon emissions they produce.

This report sets out our plans to make sure we have the right mix of providers doing this work for us. It explains our intention to bring some key elements of this work in house, to procure some major contractors to help deliver the large volume of work we need to do and to also bring in more small to medium size business to do those works that are at a scale they can best deliver. By using this mix of providers we will ensure we are getting good value for our tenants and homeowners, who's rents and service charges pay for all of our works to our homes. We will be able to give residents a bigger say in the providers that are right to do the works to their homes. We will also be able to make sure we achieve wider social benefits for our borough including jobs and apprenticeships for our residents. To achieve the best value for all Southwark residents we will also bring major works on our wider council buildings into these contracts, saving money on procurement and contract management.

RECOMMENDATIONS

That cabinet approves:

1. The procurement strategy outlined in this report for four (4) major building work contracts as further detailed in paragraph 17 for an estimated value of £446m for an initial period of 5 years commencing in February 2022 with an option to extend for up to a further 5 years in increments at the council's discretion making a total estimated contract value of £835m.
2. The publication of a Prior Information Notice (PIN) to inform the market of the council's intention to procure.

That cabinet notes:

3. That this procurement is one of a number of ways the council intends to deliver major works in the future, with other routes being explored including a small and medium enterprises framework, a separate procurement covering street properties and management of more works in-house, which allows a blend of routes in place to help further increase value for money and resident choice.
4. That the procurement strategy in this report will result in bidders being required to bid as back up to each other on their tendered rates to ensure an efficient service delivery.

BACKGROUND INFORMATION

5. Major building works typically comprise the following work streams:
 - new build council homes
 - roof top homes
 - internal and external refurbishment works to existing buildings
 - fire safety improvements as part of major refurbishment
 - mechanical installations and upgrades (including heating, hot water, lifts and door entry systems)
 - electrical installations and upgrades; and
 - external works to estate paths, roads, hard landscaping, fences, walls and outbuildings.
6. This includes the delivery of the council's commitment to invest in its council estates and homes to ensure they are warm, dry, safe and have modern kitchens and bathrooms with affordable, sustainable heating that is reliable so the council's estates are great places to live.
7. The council's housing and modernisation department has three main teams delivering major building works. These are:
 - Asset management – responsible for council owned residential housing assets and roof top homes where part of a refurbishment project
 - New homes development – responsible for new build council homes
 - Corporate Facilities Management (CFM) – responsible for operational non-residential buildings.
8. This procurement will exclude new build sites but will contribute to construction of new rooftop homes where part of a wider block refurbishment. This will prevent potential bidders being deterred due to a lack of experience in new builds.
9. Currently, the council housing major building works is delivered through three (3) partnering contracts as detailed in paragraph 10 below and also through a major works constructor framework (Framework) consisting of four Lots detailed in paragraph 11 below. The Framework was due to expire on 15 February 2020 however, to ensure arrangements were in place to deliver major building works whilst new contracts are procured, cabinet approved a 12-month extension for Lots 1, 2 and 3 via a GW3 report on 17 December 2019 giving a new expiry date of 15 February 2021. Given that Lot 4 was never used, it was decided not to extend this Lot and any electrical works required will be procured under Lots 1 and 2. On 16 June 2020, cabinet approved a GW3 report to extend the partnering contracts to June 2022 giving a new expiry date of 13 June

2022, which will also provide arrangements to deliver major building works. The GW3 report is subject to scrutiny call in which is due to expire on 25 June 2020.

10. Currently, the council has a single facilities management service contract with Interserve (Facilities Management) Ltd (Interserve) which includes the ability to deliver major building works to public and educational buildings. The contract with Kier Facilities Services Ltd expired on 13 June 2020. Interserve's contract has been extended and is due to expire on 31 March 2021. In addition, CFM procure works via the council's approved list of contractors.
11. The three partnering contracts and the Framework currently serve the following different geographical areas within the borough:

Partnering Contracts/Framework	
Contractor	Geographical areas
Framework operators	<u>Area 1</u> Borough and Bankside and Walworth
Framework operators	<u>Area 2</u> Bermondsey and Rotherhithe
Engie Regeneration (Apollo) Ltd (formerly Apollo Property Services Ltd/Keepmoat Regeneration (Apollo) Ltd)	<u>Area 3</u> Camberwell and Peckham
A&E Elkins Ltd	<u>Area 4</u> Nunhead, Peckham Rye and Dulwich
Saltash Enterprises Ltd	<u>Area 5</u> Borough-wide, street properties, temporary accommodation and major voids

12. Currently, the Framework lists below the 3 Lots extended together with the works that each Lot provides, the appointed providers and estimated annual spend:

Major Works Constructor Framework			
Lot	Description	Providers on Framework	Est. Annual Spend
1	Main building works (low value schemes up to £3.5m)	<ul style="list-style-type: none"> • A&E Elkins Ltd • Architectural Decorators Ltd • Niblock (Builders) Ltd • Saltash Enterprises Ltd • Standage & Co. Ltd • Thomas Sinden Ltd 	£50m
2	Main building works (high value schemes over £3.5m)	<ul style="list-style-type: none"> • Axis Europe Plc • Durkan Ltd • Engie Regeneration Ltd • Mears Ltd 	£70m

Major Works Constructor Framework			
Lot	Description	Providers on Framework	Est. Annual Spend
		<ul style="list-style-type: none"> • Mulalley & Co. Ltd 	
3	District mains, boilers and internal works	<ul style="list-style-type: none"> • BSW Heating Ltd • K&T Heating Services Ltd • MSP Housing Ltd • Staple-Tech Ltd • Vital Energi Utilities Ltd 	£40m

13. The council intends to consider a number of major work procurement options to ensure the best value for each works package, so residents have a greater say, and choice on delivery for their estate as detailed in paragraph 77 to 81.
14. These proposed major building works contracts, recommended in paragraph 1, are just one option. The other options, which include external frameworks for small to medium size enterprise, a separate procurement to cover street front homes and in-house management of construction works, are detailed in paragraphs 17, 22 and 44.
15. Asset management and CFM's estimated annual budgets for major building works are detailed in the table below:

Team	Approximate Annual Spend
Asset Management	£100m
CFM	£5m
Total Annual Spend:	£105m

16. The council's housing and modernisation department has an estimated annual spend of £105m on major building works, producing a total estimated contract value of £1,050m over a 10-year period.
17. The various major work delivery options are detailed as an estimate in the table below and it should be noted that values are subject to change and dependent on resources available to fund the programme.

Various Major Works Delivery Options											
Year	1	2	3	4	5	6	7	8	9	10	Total
	(£m)	(£m)	(£m)	(£m)	(£m)	(£m)	(£m)	(£m)	(£m)	(£m)	(£m)
Major Building Works Contracts (this procurement)	100	90	86	85	85	80	78	77	77	77	835
External Frameworks	5	15	15	15	15	20	20	20	20	20	165
Managing construction works in-house	0	0	4	5	5	5	7	8	8	8	50
Estimated Annual spend £105m	105	105	105	105	105	105	105	105	105	105	1,050

18. The council intends to seek approval for a separate Gateway 1 report to access an external framework to carry out a trial on a number of major works projects up to the value of £5m. Subject to performance, and if successful, the council will then prepare a further procurement strategy to deliver major building works through a number of frameworks so as to maximise the choice for residents.
19. The existing partnering contracts, as detailed in paragraph 10, will cover the interim arrangement whilst the four major building works contracts are procured.
20. For this procurement, it is proposed that four contracts based on geographical areas will be sufficient to deliver the estimated annual spend. The estimated contract values and duration for the proposed contracts is as follows:

Long Term Alliance Contracts				
Contracts	Contract Area	Estimated Initial 5 Year Term Value (£m)	Estimated 5 Year Extension Value (£m)	Total estimated 10 Year Contract Value (£m)
Area 1	Borough and Bankside and Walworth	115	100	215.0
Area 2	Bermondsey and Rotherhithe	110	96.5	206.5
Area 3	Camberwell and Peckham	112	96.5	208.5
Area 4	Nunhead, Peckham and Dulwich	109	96	205.0

Long Term Alliance Contracts				
Contracts	Contract Area	Estimated Initial 5 Year Term Value	Estimated 5 Year Extension Value	Total estimated 10 Year Contract Value
		(£m)	(£m)	(£m)
Totals		446	389	835.0

21. The proposed contract duration of 5 years with an option to extend for up to a further 5 years provides the following advantages:
- i. The council's fairer future commitments from the contractors (such as local employment and apprenticeships) can be realised due to long term contract and consistency of work load, including the opportunity for contractors to develop long term supply chains and to invest in a number of social value initiatives to improve local communities.
 - ii. Collaborative approach to delivering the council's housing objectives over the next 5 to 10 years, particularly at a strategic level, with contractors collaborating on a number of initiatives to drive improved value, efficiency and quality of finished work.
 - iii. Contractors are able to invest in the delivery of a contract and manage their resources more efficiently; particularly through having early visibility of the council's housing major works programme and the ability to forward plan workload.
 - iv. Allows time for the council to develop, and potentially grow, its own team to manage major building works and procure a small medium enterprises (SME's) framework for its works supply chain.
 - v. Other benefits can be obtained such as combined purchasing power for supply chains and a closer working relationship with the council's in-house repairs service Southwark Building Services (SBS).
22. A separate procurement strategy for delivering major building works to council housing street front homes will be prepared in late 2020 and will consider the use of an in-house construction management team and supply chain. The existing partnering contracts will deliver any urgent structural issues to street properties in the interim period by way of competitive tender for each project.
23. The council confirmed that its Regeneration team would explore its own procurement route for major building works to reflect the type of work on commercial and corporate buildings.

Summary of the business case/justification for the procurement

24. The council has a number of key deliverables to be actioned over the next 10 years. One of its key commitments is to deliver "Southwark Housing Strategy to 2043" with the aim of delivering 11,000 new council homes by 2043. This aim is to be delivered as part of the New Homes Steering Group.

25. “Southwark Housing Strategy to 2043” is a complex programme encompassing the following commitments, in addition to the 11,000 new council homes, which will be delivered solely by Housing:
- Refurbishment of existing housing stock including the commitment to ensuring decency with renewal of kitchens, bathrooms and heating whilst ensuring blocks are safe;
 - Roof top homes and extensions to existing housing stock; and
 - Refurbishment and upgrades of operational non-residential buildings.
26. The “Southwark Housing Strategy” is planned to be reviewed in 2020 to incorporate other business objectives such as working towards carbon zero and to incorporate recommendations from the Grenfell Report. The Strategy will set out priorities and affordability for these business objectives and it is essential that the new contracts have mechanisms in place to provide flexibility to meet any future requirements.
27. The proposed procurement of four new major building works contracts, accessing external frameworks and development of an in-house construction management team provides the council with the flexibility it needs to deliver major building works and gives real choice to its residents whilst providing benchmarking across the options.

Market considerations

28. The council appointed Cameron Consulting (UK) Ltd on 8 January 2019, following a competitive quotation exercise, to carry out soft market testing and a review of existing contracts with the incumbent contractors, council officers and the council’s consultants. This report covers the procurement strategy for the works contract only.
29. As the construction market is competitive with a large number of companies interested in major building works, approval was sought from the Strategic Director of Housing and Modernisation on 8 March 2019 to carry out this soft market testing exercise. The purpose was to engage with the market to establish best practices, capacity, capability and potential solutions to assist with understanding the best procurement route(s). The council published a Prior Information Notice (PIN) via the council’s e-portal system on 26 March 2019, which directed firms to respond to an online survey with a return date of 10 May 2019.
30. Surveys were completed by 21 firms and the council held two “meet the buyer” events with 10 companies.
31. The market research concluded the following:
- i. The market prefers the certainty of term contracts to deliver value for money and collaboration and sees these contracts as better able to commit to meeting social value objectives.
 - ii. Frameworks are better suited to responding to more complex works and/or to allow small medium enterprises (SMEs) opportunities, and allowing un-programmed and responsive works. However, at the point of tender for inclusion in a Framework, the market is less willing to commit to social value requirements due to the uncertainty.
 - iii. It should be noted that this market research was prior to the Covid–19 pandemic and this report deals with this in paragraphs 40 to 43.

32. Council officers identified that long-term relationship contracts can reduce individual project procurement timescales and can respond to changing priorities to enable works to commence on site expediently. Officers highlighted the importance of including detail on the various specifications that cover each work stream, as far as is practicable, to drive best value and ensure individual projects can commence without the need for further price testing. Advantages of the existing long-term contracts were the ability to secure long-term social value outcomes, as detailed in paragraph 96 and 97, and the flexibility to respond quickly to emergencies such as the Ledbury Estate.
33. Initial engagement with the market has shown that access to SMEs can be challenging as they lack the resources or skills to compete with the market key players. Procurement can be structured to provide better opportunities to develop the SME supply and open the market up to competition.
34. The council also contacted external frameworks providers to see if there is the ability to deliver a dedicated SME supply chain that could be utilised by any future in-house construction management team. Two framework providers, South East Consortium (SEC) and LHC Group (LHC), would be interested to work on a collaborative approach to ensure the councils Fairer Future Procurement Framework principles are included but also provide wider access to other council's in the London area to ensure the procurement of a framework is viable.
35. Market sector events attended by officers show there is an expectation for a high degree of interest for these new contracts from a wide range of organisations. The potential value, varied scope of projects and density of assets presents an attractive opportunity to the market.
36. In order to maximise engagement from SMEs, the council intends to hold PAS91 pre-qualification questionnaire (PQQ) bidders event shortly after publishing the OJEU notice. This will allow the market to meet asset management and highlight the objectives of this procurement.
37. It is important that the council has maximum flexibility when deciding the right delivery model. The procurement routes noted in paragraphs 1 and 14 intend to address this and allow the right delivery model for each project to ensure value for money and fairer futures.
38. Phase 1 of the Grenfell Report has been published and future major building works contracts need to incorporate any new legislative requirements that are expected to come into force in the summer of 2020.
39. Brexit may have an impact on the construction industry especially around skills shortages, import and export of materials and potential changes to regulations and standards. The establishment of long term contracts will assist in mitigating potential impacts through providing long term visibility of work.

COVID-19 IMPACT

40. Covid-19 has had an impact on the construction industry. At this time it is difficult to predict the full extent but the council has identified this as a major risk as detailed in the table contained in paragraph 46.

41. To meet the challenges of Covid-19 the construction industry is adopting new ways of working including;
 - a. arrangements for travelling to and from site and incorporating these in detailed risk assessments
 - b. operating social distancing on sites and working in occupied properties and communal areas
 - c. longer contract periods due to reduced numbers of personnel on site to ensure social distancing is maintained and
 - d. ensuring payments are prompt and distributed through the supply chain.
42. These challenges will have an impact on how bidders tender for works and it is likely to impact on the price, which will need to be monitored to ensure the Southwark Housing Strategy is sustainable.
43. As part of this procurement process financial checks and due diligence will be undertaken as detailed in paragraph 46.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

44. The nature and value of these works means that the full tendering requirements of the Public Contract Regulations 2015 and Public Sector Directive 2014/24/EU would apply. The following procurement options have been considered:
 - A. Do nothing – this is not an option as it would make it extremely difficult for housing to meet its commitments to deliver kitchens, bathrooms, heating and fire improvements. In addition, it would make it extremely difficult for housing to deliver on its additional commitments in the “Southwark Housing Strategy to 2043” strategic report.
 - B. In-Source – consideration was given to the following:
 - i Southwark Building Services (SBS)
SBS is the council’s in house repairs and voids service for all council homes. On 7 April 2020 the council agreed an improvement plan for the service. The delivery of that plan will be the main focus of the service over the next three years. As such the service is unlikely to have the capacity to deliver supplementary works during this time. Therefore, at this time it is not a viable option.
 - ii Managing Construction Works In House
The council intends to explore how it can deliver major building work projects by using an in-house construction team to manage a dedicated SME supply chain that provides opportunities to local businesses. The in-house construction team will provide surveying, site management and quality control services to the SME supply chain.

A business case to deliver this will need be prepared setting out the structure of the team, costs, timescales for implementing and the procurement of its supply chain. It is envisaged that this will commence on small projects first and be an option for dealing with street properties and small independent blocks.
 - C. External Procurement

i. Long term alliance contracts

The council can procure its own long-term contracts. An alliance contract is a standard form which sets out;

- a) agreed objectives and how performance targets will be measured;
- b) provides a framework for collaborative working and to allow changes to meet future demands;
- c) sets out timescales and procedures for working collaboratively with the supply chain to drive improved value;
- d) allows for specific inclusion of the council's Fairer Future Procurement Framework (FFPF) requirements; and
- e) contains a detailed suite of quantifiable schedule of rates covering the various work streams for the contractors to price.

Once the initial procurement is, completed timescales to commence on site can be shortened because contractors are already "on board". Furthermore, the council can benefit from "Early Contractor Involvement" in contributing to the development and design of a project, including the involvement of their supply chain. Alliance contracts are able to provide flexibility in providing client/contractor solutions to changes in delivery over the term. There needs to be a commitment to ensuring the relationship develops and both parties comply with its obligations otherwise this can be a disadvantage. Contractors are able to commit to social value commitments when there is a long-term relationship and consistency of work over a number of years. Therefore, it is proposed to recommend this option and the council will also explore other options as detailed in 14.

ii. Use existing external frameworks

There are a number of existing external frameworks available to use (i.e. South East Consortium and LHC) which have been competitively tendered in line with EU Regulations. The advantage of using an external framework is a reduction in initial procurement timescales and flexibility with delivery of major building works schemes as there are a number of frameworks available to the council. External frameworks can also act as a benchmark for similar component costs such as kitchens, bathrooms and roofs. The disadvantages are that they are often procured on generic terms and fees are required for access/ and or running mini competitions. This provides an alternative viable option when choosing the best delivery model for the project and as noted in paragraph 14 will be subject to a separate Gateway 1 procurement strategy.

iii. Council major building works framework

The council could procure its own framework and run EU procurement where it has a number of providers against a number of lots covering the various major building work streams. This model is similar to the major works constructor framework detailed in paragraph 9. The nature of a framework involves competitive exercises for each project and it would be difficult to get contractors to commit to "fairer future" commitments as there can be no guarantee of work. Therefore, it is not proposed to recommend this option.

iv. Undertake multiple procurements for individual projects

There are a number of procurement routes which can be followed such as open procedure, restricted procedure or competitive procedure with negotiation. The council could therefore either decide to procure each project separately. Although this is likely to promote a varied supply base and provide SME's greater opportunity to access the lower value tenders, running multiple

procurements would require a lot of additional resource and time and extend the timelines for each project's delivery. Individual procurement of projects is a costly process, involving a higher level of procurement resource on each individual procurement activity. Therefore, this option is not recommended.

D. Shared Services

The council explored the option to share its services but the large value of these proposed contracts, combining works with other organisations and varying service demands would add difficulties in contract management and therefore considered not a viable option.

Proposed procurement route

- 45. The preferred option (Option Ci) is to undertake an EU restricted procedure via the council's e-procurement system, Pro-Contract 3. In response to the Pro-Contract 3 advert and OJEU notice, companies interested in tendering will be required to formally express an interest online in order to receive a PQQ, to view the rest of the tender documents and to submit a completed PQQ by the PQQ deadline set.
- 46. The procurement documents will set out the minimum number of organisations that will be selected for the combined tender list for the four contracts, subsequent to the PQQ process. This will meet the EU restricted procurement process.

Identified risks for the procurement

- 47. The table below identifies a number of risks with this procurement, the likelihood of occurrence and the controls in place to mitigate the risks:

R/N	Risk Identified	Risk Rating	Mitigation	Post mitigation Risk Rating
R1	Challenges to procurement outcome	Low	Ensure robust procurement in line with EU procurement regulations. Working with project team to ensure that the procurement process is robust and compliant.	Low
R2	The procurement process is delayed	High	Effective procurement project management. The areas have been divided and assigned to various teams to ensure adequate resources are available to evaluate tenders. In addition, a Project Board has been established which shall meet regularly to monitor the delivery of this project.	Medium
R3	The contractors fail to deliver works.	Medium	The council shall test the quality submissions of each contractor in the PQQ and ITT. The contracts will back each other up therefore providing alternative arrangements should one or more fail to deliver the works. As detailed in paragraph 15, the council	Low

R/N	Risk Identified	Risk Rating	Mitigation	Post mitigation Risk Rating
			<p>will also seek approval to access external frameworks.</p> <p>In addition, the contracts will include an “early warning mechanism” which will ensure that any early signs of potential failure will be identified and allow the council to plan accordingly.</p>	
R4	Risk of challenge by leaseholders.	Medium	<p>Consultation with leaseholders will be arranged with officers prior to an OJEU notice being published. Ongoing leasehold notifications will be prepared and issued for each project.</p>	Low
R5	Contractors become insolvent, go into administration or liquidation.	Medium	<p>Appropriate financial checks will be undertaken throughout the procurement process. Ongoing financial checks to be undertaken throughout the contract duration to ensure that the successful contractors remain “healthy” and have the required capacity and capability to deliver the council’s major housing works programme.</p> <p>The use of framework(s) outside of these contracts will consist of a number of contractors who can provide cover if this situation were to occur.</p>	Medium
R6	Covid-19 pandemic	Medium	<p>Review contractor’s financial standing during procurement stage. Monitor updates on government guidance and if impact on procurement open/ bidder’s day alternate web seminars to be arranged. Publication of a Prior Information Notice (PIN) to notify the market that the contracts will be advertised to allow the market to plan resources for tendering. Review of working practices for construction sites operating social distancing measures.</p>	Medium

48. A performance bond will not be required for these contracts. The contract documents will include for retention of monies to be held until satisfactory completion of the works. A parent company guarantee will be required if the successful contractors have a parent company/ultimate company.

Key /Non Key decisions

49. This report deals with a key decision.

Policy implications

50. This report relates to the delivery of council targets contained in the “Southwark Housing Strategy to 2043”.
51. The delivery of these contracts fits with the council’s objectives as outlined in the fairer future commitments, specifically:
- Theme 1: A place to call home
 - Theme 2: A place to belong
 - Theme 3: A greener borough
 - Theme 4: A full employment borough
 - Theme 7: A safer community
52. These contracts will also contribute to the current Council Plan 2018 to 2022 and fairer future commitments.

Procurement Project Plan (Key Decisions)

53. The table below sets out the anticipated timescales for this procurement. However, this is subject to the number of expressions of interest received and resources available.

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	02/07/2018
DCRB Review Gateway 1	30/03/2020
CCRB Review Gateway 1	11/06/2020
Brief relevant cabinet member (over £100k)	15/06/2020
Notification of forthcoming decision - Cabinet	02/07/2020
Approval of Gateway 1: Procurement strategy report	14/07/2020
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	24/07/2020
Issue notice of Intention (Applies to Housing Section 20 Leaseholder consultation only)	27/07/2020
Publication of PIN to notify the market	29/07/2020
Completion of tender documentation	21/08/2020
Publication of OJEU Notice	31/08/2020
Publication of Opportunity on Contracts Finder	01/09/2020
PQQ Bidders Event	17/09/2020
Closing date for receipt of expressions of interest	30/10/2020

Activity	Complete by:
Completion of short-listing of applicants	29/01/2021
Invitation to tender	05/02/2021
ITT Bidders Event	17/02/2021
Forward Plan (if Strategic Procurement) Gateway 2	18/02/2021
Closing date for return of tenders	31/03/2021
Completion of evaluation of tenders	31/05/2021
Issue notice of Proposal (Applies to Housing Section 20 Leaseholder consultation only)	04/06/2021
DCRB Review Gateway 2:	23/08/2021
CCRB Review Gateway 2	02/09/2021
Notification of forthcoming decision – despatch of Cabinet agenda papers	04/10/2021
Approval of Gateway 2: Contract Award Report	12/10/2021
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	19/10/2021
Debrief Notice and Standstill Period	28/10/2021
Contract award	01/11/2021
Add to Contract Register	02/11/2021
Place award notice in Official Journal of European (OJEU)	02/11/2021
Place award notice on Contracts Finder	02/11/2021
TUPE Consultation period begin (if applicable)	08/11/2021
Mobilisation complete	06/12/2022
Contract start	07/02/2022
Initial contract completion date	06/02/2027
Contract completion date – (if extension(s) exercised)	06/02/2032

TUPE/Pensions implications

54. This is a complex procurement exercise and, whilst the appointment of a new contractor to any one of the four contracts in this proposed retender may attract TUPE in the form of a service provision change, whether TUPE will apply in relation to an incumbent and new contractor/s (and their sub-contractors) will depend on the particular circumstances prevailing at the time the new contracts commence. There are no TUPE implications for the council as an employer as there are no, nor will there be, council employees undertaking the works being procured under this exercise. Due diligence is being carried out, and staffing information obtained from the current contractors affected by this procurement exercise to ascertain the extent of the TUPE implications. The results of the diligence work will be included in the tender pack and appropriate provision will be made in the contractual documentation. The procurement timetable also takes into account and provides sufficient time for affected parties to comply with their obligations under or arising from TUPE.

Development of the tender documentation

55. Due to the specialism involved in preparing legal documentation, external legal assistance is required to support the council with the development of the tender documentation, preparing strategic alliance agreements and formalising contracts for this procurement. The council has appointed Trowers and Hamlin LLP (Trowers) as external legal advisors via a direct award using Southwark's Solicitor Framework. This appointment was subject to a separate GW2 report.
56. A project team and a project board will be set up for the delivery of this procurement. The project team will be responsible for developing the tender documentation and the project board will provide governance.
57. The council appointed Cameron Consultancy (UK) Ltd (Cameron Consultancy) to provide external procurement advice on 26 September 2019 after carrying out a quotation exercise with 3 companies. Cameron Consultancy will provide the following services for the major building works procurement;
 - iv. Project scoping meetings with internal stakeholders;
 - v. Facilitate and contribute review of specifications and schedules of rates;
 - vi. Facilitate and compile quality and price evaluation criteria;
 - vii. Facilitate and compile social value;
 - viii. Assist and contribute to evaluations;
 - ix. Facilitate and prepare evaluation methodology for project team and board review; and
 - x. Preparation of procurement report.
58. In addition, workshops will be held with internal stakeholders and external legal and procurement advisors to ensure the tender documentation meets the council's requirements. A suite of schedule of rates will be prepared that cover the various items of work such as kitchens, windows, roofs and decorating.

Advertising the contract

59. The contract will be advertised via Pro-Contract 3 by way of an official notice that will be published in OJEU. After publication of the OJEU notices, the council will also publish a contract notice on the Contracts Finder website. The OJEU notice will detail that any company the council has an interest in will also be able to use the contracts. The council will contact all those who have previously expressed an interest and will hold an information day once bidders have been shortlisted for tender stage.
60. The council will also hold a number of bidder events during pre qualification and tender stages.

Evaluation

61. Officers from the asset management team with support from Cameron Consultancy will evaluate the PQQs returned. The selection process will be an evaluation of each bidder's economic and financial standing and their technical knowledge, accreditation, experience and ability and capacity to deliver the full scope of works. Up to 16 bidders, to be agreed by the project board, will be shortlisted and invited to tender. The short-listed companies invited will be able to bid for the four contracts but the evaluation methodology will set out that each contract will be awarded to separate companies and not to a single company. It should be noted that given the value of major building works

across the borough, the appointment of a single contractor would not be appropriate. It is considered that such an arrangement would present a significant risk to the council should a single contractor default or fail to perform. Such a risk would increase the absence of any backup/support arrangement with an alternative contractor. Therefore, no single contractor will be awarded more than one contract.

62. Two evaluation panels, one reviewing price and the other quality, will evaluate the ITT for the contracts. It is proposed to have representatives from leaseholders and tenants to assist in the quality evaluation of the tenders. Where any resident is required to contribute to the evaluation process, full training will be provided to ensure that any member of the evaluation team is suitably competent to undertake the evaluation in an objective manner. Cameron Consultancy and Trowers will provide training.
63. A deviation from the council's usual 70:30 weighting is proposed as this allows a focus on increasing quality and social value, a commitment under the council's Fairer Future Procurement Framework, which was approved by cabinet in June 2019.
64. The ITT evaluation will be undertaken by a tender evaluation panel (TEP) facilitated by the Head of Investment within the asset management team. The selection criteria will be based on MEAT (Most Economically Advantageous Tender) criteria with a split of 45% quality 45% price and 10% social value.
65. This sends a clear message to the market that the council expects high-quality works and not simply the cheapest one. The risk of the council having to pay more for the works is mitigated by the fact that this market is currently extremely competitive. Given the value of these contracts, the market is expected to price tenders very competitively so even with the emphasis on quality, the council still expects to achieve value for money.
66. The asset management team will undertake price evaluation for the contracts with assistance from Cameron Consulting and Trowers. This will be reviewed and signed off by housing finance. The overall strategy for pricing is to ensure that prices received by tenderers are sustainable for both parties. Therefore, it is proposed to use a price model that avoids uneconomical bids. The price model will be made up of typical model projects which are reflective of major building work programmes. The price model will include rates for the various work streams and bespoke schedule of rates (including a schedule for site overhead costs). Furthermore, rates for design fees, profit and central office overheads will be obtained. These will be used for calculating the model projects and will form the basis for how Project Task costs will be developed throughout the contract duration.
67. The council will set a pre target cost for each cost component and have a defined banding of +/- 10%. Tenderers who submit the lowest price within this banding will be able to achieve the maximum weighted score with all other tenders in this banding being scored proportionally. Tenderers who submit a price outside of the target cost banding will only be able to achieve a proportion of the overall weighting.
68. This approach is designed to eliminate any potential tactical tendering where tenderers may be inclined to load certain rates in order to gain an unfair advantage.
69. The council will develop the price evaluation model with Cameron Consulting, Trowers, finance, legal and procurement to ensure that it is compliant and fit for purpose.

70. The quality evaluation (45%) will include a number of method statement questions relating to how the tenderer will deliver works under the contract, including their approach to delivering social value and fairer future commitments. Asset management will develop the quality criteria together with legal, procurement and the leasehold service charge team. Key stakeholders will be engaged in the process to ensure that all council priorities are covered.
71. The social value (10% (£105m)) will be evaluated using the Social Value Portals 2020 version of Themes, Outcomes and Measures (TOM's). Asset management will allocate a maximum 5% to Tenderers who provide the highest monetary value against the TOMS. All other tenderers will be scored proportionally. Quality method statements will be scored out of 5% based on tenderers proposals to implement the TOMS. A 10% weighting score for social value provides the most appropriate when balancing other evaluation scores for quality and price over the length of the proposed long term contracts. Social value themes that will be considered are;
- xi. local people in employment;
 - xii. opportunities for disadvantaged people;
 - xiii. improved skills;
 - xiv. improved employability of young people;
 - xv. reducing inequalities;
 - xvi. social value embedded in the supply chain; and
 - xvii. carbon reduction and safeguarding the natural environment
72. The information submitted in response to these questions should demonstrate the tenderers' ability to fulfil the requirements that were outlined in the procurement documents.
73. The quality scoring methodology will be prepared by the project team and approved by the project board. The council is likely to reserve the right to include minimum threshold criteria for key quality and financial implications.
74. Successful tenderers will be evaluated on their commitment to Social Value on an annual basis. Failure to fulfil these commitments will translate, in the first instance, will to provide other benefits to the same value in the TOM's and where this has not been achieved contractual remedies will be applied.
75. The council may decide to hold some clarification meetings prior to finalising the tenderers' price and quality scores which shall then undergo consensus scoring before being added together to produce a final score.
76. Tenderers with the highest combined price and quality score will then be ranked. The first-placed tenderer will be awarded the highest valued area; the second-placed tenderer will be awarded second highest valued area; the third-placed tenderer will be awarded the third highest valued area and the fourth-placed tenderer will be awarded the fourth highest valued area.

Resident Participation

77. It is recognised that this procurement has a significant impact on residents and therefore a consultation plan will be prepared and delivered to assist with informing residents and incorporating their views and concerns into the contract documents and contract management procedures.

78. The council will also engage tenants and leaseholders in the evaluation of the tender process, as described in paragraph 61, so that it can demonstrate transparency. These future contracts will have an impact on leaseholders and inclusion in the evaluations will have contribute on how Housing can achieve its two business plan commitments which are:
- i. Develop and deliver a cross departmental homeowners improvement plan (communicating with leaseholders and re-setting the relationship) one of eight key priorities.
 - ii. Give homeowners the opportunity to engage with us in how we deliver the services that affect them and support them in reaching the best decisions for them.

Resident Engagement Post Contract Award

79. On award of contract, the successful contractors will arrange a number of introduction presentations and provide information on social value commitments as part of the mobilisation period.
80. For each project the council will implement;
- i. drop in meetings;
 - ii. communicate with residents by letter that including FAQ's and generic questions;
 - iii. resident surveys undertaken by the council requesting condition of their property and areas they would like to see addressed as part of a major works project; and
 - iv. invitation for key stakeholders to attend estate walk-about.
81. This information will be incorporated into the feasibility study, which will include the various delivery options as detailed in the table contained within paragraph 17. Residents will be able to review the relative pros and cons for each, including costs, so they have an overview of the various delivery options.

Community impact statement

82. The successful contractors shall offer local employment and training opportunities for the community and will be encouraged to use local suppliers.
83. The works that will transpire from these contracts are intended to provide and enhance the local community and support the council's commitment to providing high quality affordable housing, great neighbourhoods and educational developments.
84. The contracts will involve works to all council's residential properties, communal areas and, to a lesser extent, operational buildings managed by CFM.
85. The contracts will be of a medium to high impact to tenants, leaseholders and other stakeholders as works can involve working within resident properties and surrounding areas.

Social Value considerations

86. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.

Economic considerations

87. As the council explores ways it can continue to deliver value for money, it is essential that it makes even better use of its resources to meet the needs of residents and businesses in the borough. Under the commitment of “a full employment borough” this programme will require contractors to employ at least one apprentice for every £1m spent and engage with local SME’s.
88. Bidders will be evaluated at tender stage on how they intend to attract and support more women and BME residents who are underrepresented in the construction industry into these opportunities.
89. Bidders will be required to provide costs for meeting the FFPF requirements to ensure that this can be managed and valued as part of the contract management process.

Social considerations

90. FFPF will be embedded into the procurement documentation and will be evaluated as part of the overall quality evaluation as detailed in paragraph 71.
91. The successful contractors will be required to demonstrate that they operate an Equal Opportunities Policy, comply with the provisions of the Equalities Legislation, the Employment Relations Act 1999 (Blacklists) Regulations 2010 and the Prevent Duty under section 26 of the Counter-Terrorism and Security Act 2015.
92. The successful contractors are expected to meet the London Living Wage (LLW) requirements. For these contracts, the quality improvements are expected to include a high calibre of multi-skilled operatives that will contribute to the delivery of the 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 contractors 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, bidders will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and gender gap reviews will be monitored as part of the contract review process.
93. The successful contractors shall consider trades union recognition in line with the council’s Fairer Future Procurement Framework.
94. The successful contractors shall be registered and have accredited with TfL Fleet Operator Recognition Scheme (FORS). FORS helps fleet operators to measure and monitor performance, encompassing safety, fuel efficiency, vehicle emissions and improved operations, in order to promote fleet management best practice and reduce social / environmental impacts.

95. The successful contractors will need to demonstrate that they can meet the Mayors Good Working Standard (GWS) foundation level or above and are committed to the End Violence at Work Charter.
96. One of the successes of the existing partnering contracts is the creation of local jobs and apprenticeships with accredited training and qualifications. The table below shows a summary of new jobs created for local people;

Financial Year	A&E Elkins Ltd	Engie Regeneration Ltd	Saltash Enterprises Ltd
2013/14	9	18	7
2014/15	19	34	11
2015/16	30	47	12
2016/17	22	28	5
2017/18	15	26	6
2018/19	9	22	7
2019/20	8	17	9
Total	112	192	57

97. Materials sourced through the existing partnering contracts also attract rebates that are used as a community fund to spend on local projects such as estate basket ball teams and refurbishing tenant and resident halls. The existing partnering contracts have also provided training opportunities and meet the employer events to help local people. These benefits will be included in the new contracts.

Environmental/Sustainability considerations

98. The contract documents will include specifications to ensure that designs incorporate the following:
- i. Low energy use building designs
 - ii. materials from sustainable sources
 - iii. use of high efficiency building services; and
 - iv. use of renewable energies.
99. The use of the council's e-procurement system Pro-Contract 3 will limit the amount of paper used.

Plans for the monitoring and management of the contract

100. Asset management officers will manage the contracts. Key Performance Indicators (KPI) will be used to measure the successful contractor's performance and each contract will have a formal review, which will be recorded for audit purposes.
101. Each council project manager will be responsible for recording a performance report for orders issued under the contracts. This will be used to identify issues and, if required, produce improvement plans. The performance report will include:
- i. customer satisfaction
 - ii. lessons learned
 - iii. detailed financial information for audit purposes and leasehold transparency
 - iv. monitoring and evidence of FFPF compliance; and

- v. compliance and quality control.
102. Where performance issues are identified, Housing reserves the right to use a back up contractor, until it is confident that the works can be delivered. All contracts will act as back up to each other to help mitigate against this risk.
 103. Officers will also produce performance reviews in line with the council's Contract Standing Orders.
 104. The resident participation framework will also play a key role and allow views and feedback of contractor performance.

Staffing/procurement implications

105. Council department teams will resource staffing for these procurements internally and Trowers and Cameron Consultancy as detailed in paragraph 28 and 55. The Head of Investment will be responsible for ensuring that the programme is adequately resourced and coordinated to deliver its objectives and procured efficiently and effectively in accordance with best practice for major building works procurement.
106. On award, the council will identify a key officer to act as the alliance manager and prepare operational process maps to ensure all parties are working towards its obligations and have an audit trail that can be reviewed periodically.

Financial implications

107. There are no financial implications arising directly from the recommendations made in this report. This procurement strategy is designed to support programmes of work for both CFM and the HRA asset management strategy. The proportion of works procured through this route is expected to diminish over time as other delivery methods, such as external frameworks and in-house management of construction works, are developed. Estimates of the value of work placed through this procurement route are indicative at this stage and are subject to the financial constraints of the council. Programmes of proposed works are subject to reprioritisation due to emergencies, unforeseen events and additional investment requirements.
108. The procurement exercise itself will incur costs for the appointment of the procurement consultant as detailed paragraph 28, and 55, which is £12k and £72k respectively. External legal advice, which is estimated to be in the region of £40,000, will make a combined total of £124,000 for external fee costs. It will also require input from council officers, the cost of which will be contained within existing budgets.

Investment implications

109. These contracts directly enable the capital works described in the "Southwark housing strategy to 2043".

Legal implications

110. Please see concurrent from the director of law and democracy.

Other implications or issues

111. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (H&M 20/035)

112. The strategic director of finance and governance notes the recommendations made in this report to procure four major building works contracts for an initial period of five years at an estimated cost of £446m with an option to extend for a further five years at an overall estimated cost of £835m . The council intends these contracts to form part of a broader procurement strategy for major building works managed by the Housing and Modernisation department, which is likely to include the use of external frameworks and may extend to managing works in-house. Funding for these works will be met from resources supporting both the Housing Investment Programme and the General Fund capital programme as appropriate. The estimated costs are indicative at this stage, being subject to resource constraints faced by the council, which may be exacerbated by the impact of the COVID19 pandemic.

Head of Procurement

113. This report seeks the approval of cabinet for the procurement strategy for four major building work contracts.

114. These contracts will commence in February 2022 for an initial duration of five years with an option to extend for up to a further 5 years, with the objective to deliver major building works as detailed in paragraph 5.

115. The report summarises the context and rationale for procuring four contracts across four geographical areas of work namely the refurbishment of the councils housing stock to ensure they are warm, dry, safe.

116. As the UK is in the transition stage of leaving the EU (31/12/2020) this approach is considered best able to withstand the changes to the supply chain of both labour and materials than traditional term contracts. With a contract of this size and nature, EU regulations apply and the report confirms that the restricted procedure will be followed which is in line with the regulations and satisfies the council's contract standing orders.

117. Paragraph 44 confirms that 3 alternative procurement options in addition to the recommended approach have been considered and discounted including an option to provide these contracts in- house.

118. Paragraph 53 confirms the timetable that will be followed for this procurement which is achievable provided the appropriate resources are available when necessary. The report confirms that the project will be supported by external and internal resources. The report details the project governance arrangements that will be in place throughout the project.

119. The report confirms that the evaluation of potential contractors will be in two stages. The pre-qualification stage will assess capability, technical capacity and economic standing and a second, tender stage which will be evaluated the basis of most economically advantageous tender. In determining this, it is anticipated that a weighted model with a quality/price / social value ratio of 45:45:10 will be applied.

120. The report also confirms that officers will closely monitor the impact of the Covid 19 pandemic in relation to the financial health of companies bidding for these contracts and ensure that the procurement exercise is conducted in the safest possible way in accordance with government guidance.

Director of Law and Democracy

121. This report seeks the cabinet's approval to the procurement strategy for four major building work contracts as further detailed in paragraph 1. At an estimated value exceeding £15m, this is a strategic procurement under contract standing orders and approval is therefore reserved to the cabinet.
122. The nature and value of these services means that these procurements are subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraph 45, four contracts will be established following the PCR15 restricted procedure and will be advertised through OJEU. Officers in the contracts team in legal services will work with the project team, external procurement and legal advisors to ensure that the contracts are established in accordance with PCR15 and will continue to monitor the Government guidance issued in relation to the Covid-19 pandemic and where necessary, implement alternative methods required i.e. virtual bidder events.
123. Cabinet'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, relation, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to (a). Cabinet is specifically referred to the consultation that needs to take place with residents (noted in paragraphs 77 to 91) and to the community impact statement at paragraphs 82 to 85, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.

Director of Exchequer (For Housing contracts only)

124. These contracts would be qualifying long term agreements under the terms of the Commonhold and Leasehold Reform Act 2002. Consultation will be required under section 20 of the Landlord and Tenant Act 1985 (as amended) and schedule 2 of the regulations appertaining to this. It will be necessary to consult with all leaseholders except those in street properties. Packages of work allocated under the contracts will require consultation under schedule 3 of the regulations with those leaseholders affected by each package of work when that package is identified.
125. The consultation regulations under schedule 2 require that under the Notice the landlord provides an estimate of the relevant service charge contribution under paragraph (4). If this is not reasonably practicable then it is required to provide an estimate of the block cost under paragraph (5). Where this is not reasonably practicable then the current unit cost or hourly or daily rate under paragraph (6). Where this is not practicable then the date by which any of these can be provided under paragraph (7). It is noted that it was determined by the Court of Appeal in response to the council's dispensation application for the partnering contract, that for a contract of this nature only the provision of a tendered schedule of rates was reasonably practicable and this was sufficient to comply with the regulations in respect of paragraph (6), albeit that those rates may not be, and are unlikely to be, comprehensive.
126. Officers note the exclusion of street front homes from the contracts. The exclusion of leaseholders of these properties from the consultation will mean that packages of work under these contracts cannot be let for these properties. The identification of what the

council considers to be a street front home will need to be closely defined, and identifiable from the council's core database records, to ensure that the correct properties are excluded from consultation. Officers note that urgent work to street front homes will be subject to a tendering exercise among the partnering contractors. This will be subject to the requirements of schedule 4 part 2 of the regulations, which will require that leaseholders are given the opportunity to put forward their own nomination to tender for the work.

127. The allocation of contracts between the successful tenderers will need to be managed to ensure that the decision making process, which will inevitably allocate different rates to different areas of properties, has a rationale that is reasonable. The back up arrangements for each lot will need to be identified in order to identify the relevant back up rates for each property.
128. Officers note the use of a 45/45/10 price/quality/social value ratio in the evaluation. Leaseholders will want to be assured that the council is achieving good financial value and that the quality measures are adequately managed and enforced. Any decision on challenge to the reasonableness of the pricing model would also consider this. The price evaluation model mitigates against pricing that is outside of a reasonable range and I note the comments regarding the competitive market conditions currently, however it will be a requirement to ensure that the council's intentions regarding the pricing criteria are contained in the Notice of Intention so that any leaseholder concerns can be addressed prior to the tendering process.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
None		

APPENDICES

No	Title
None	

AUDIT TRAIL

Cabinet Members	Councillor Kieron Williams, Housing Management and Modernisation	
Lead Officer	Dave Hodgson, Director of Asset Management	
Report Author	Gavin Duncumb, Head of Engineering (Acting)	
Version	Final	
Dated	2 July 2020	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (For Housing contracts only)	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		2 July 2020