

Item No.: 5.	Classification: Open	Date: 26 March 2010	Meeting Name: Executive
Report title	Gateway 2 – Contracts Award Approval Housing Major Works Contracts		
Ward(s) or groups affected	All		
From	Strategic Director of Environment and Housing		

RECOMMENDATIONS

The Executive is asked to:

1. Approve the award of contracts for major works for a period of five years with the option to extend for a further five years, subject to appropriate reviews of value for money and performance, as follows:-

Contract area 1, Borough and Bankside, to **Breyer Group PLC**, for an estimated annual value of £16m per annum.

Contract area 2, Bermondsey and Rotherhithe, to **Wates Construction Limited**, for an estimated annual value of £25m per annum.

Contract area 3, Camberwell and Peckham, to **Apollo Property Services Group Limited**, for an estimated annual value of £20m per annum.

Contract area 4, Nunhead, Peckham Rye and Dulwich, to **A&E Elkins Limited**, for an estimated annual value of £8m per annum.

Contract area 5, Borough-wide street properties, temporary accommodation and major voids, to **Saltash Enterprises Limited**, for an estimated annual value of £6m per annum.

2. Approve the reserve contractor arrangements set out in paragraph 42 below.
3. To delegate the works packages approval process to the Strategic Director of Environment and Housing as set out in paragraph 47 below.
4. Note the savings that will be delivered through these new long-term partnering contracts as set out in paragraph 28.

BACKGROUND

5. This is a Key Decision which has been included on the forward plan for March 2010.
 - The tendered costs of the contracts vary according to size and value as set out in below
 - Contracts are initially for five years with the option to extend, all, part or none of the contracts, for a further five years
 - Contract prices are capped until March 2012 and then index linked by RPI.

6. Timetable for procurement process followed

Timetable for procurement process

Activity	Date completed
Gateway 1: Approval given for procurement strategy	20 October 2008
Completion of tender documentation	1 December 2008
Notice of Intention Issued (Section 20 Consultation)	1 December 2008
Advertise the contract	8 December 2008
Close of Notice of Intention observation period	27 January 2009
Closing date for expressions of interest	6 February 2009
Invitation to tenders	6 July 2009
Closing date for return of tenders	1 September 2009
Completion of evaluation of tenders	18 December 2009
Notice of Proposal Issued	28 January 2010
DCRB Review Gateway 2: Contract award report	11 February 2010
CCRB Review Gateway 2: Contract award report	4 March 2010
Close of Notice of Proposal	1 March 2010
Gateway 2: Contract award for approval	23 March 2010
Alcatel Standstill Period	6 April 2010
Place award notice in Official Journal of European Union (OJEU) (if applicable)	9 April 2010
Start date of contract	12 April 2010
Contract completion – Initial term	31 March 2015

Description of Contract Outcomes

7. The contracts are partnering contracts using Term Partnering Contract 2005 (amended 2008) to deliver internal and external refurbishment of the Council's housing stock.

8. It is envisaged that the proposed work to be delivered through the contracts will be (but not limited to) the following:

- Repairs and/or renewal of roof coverings, rainwater installations and lightning protection
- Replacement of windows and external doors
- Replacement of front entrance doors (FEDs) to dwellings
- Concrete repairs and coatings
- Brickwork repairs and repointing
- Repairs/renewal of paving to public and private balconies
- Redecoration of external surfaces
- Redecoration and/or refurbishment of common stairways, access ways and link bridges
- Replacement of electric risers and lateral mains
- Incoming service intakes, dry risers

- Refurbishment/remodelling of kitchens
- Refurbishment of bathrooms and WCs
- Upgrading electrical installations, comprising partial or complete replacement and installation of smoke alarms as appropriate
- Upgrading and/or installation of individual gas fired low pressure heating and hot water installations as appropriate
- Replacement and/or refurbishment of mechanical ventilation installations
- Ad hoc adaptations as required by occupational therapists.
- Works to external areas and upgrading of environmental works.
- Works in connection with the Client's "Hidden Homes" policy.

KEY ISSUES FOR CONSIDERATION

Policy Implications

9. The proposed partnering contracts aim to improve the current arrangements of individually tendered scheme-by-scheme contracts. The current approach has proved highly inflexible with each individual scheme having to be programmed 18 to 24 months in advance. The long delays in bringing schemes to fruition, and the protracted process involved in specifying and managing schemes makes delivery highly inefficient and build a high level of inflexibility into the delivery of the capital programme.
10. In addition to the historical individual specification of schemes previously, a wide range of design options were used which increased the cost of individual schemes (certainly in management terms), and create longer-term maintenance problems for the Council, because of the problems in sourcing a wide variety of components. There is also no joining up of arrangements between contracts, even with the same contractor, to speed delivery, reduce costs or introduce added value benefits, such as community chests or apprenticeships.
11. Resident satisfaction with the current arrangements schemes is relatively low within the Borough, often dropping to below the 90% industry average. The three main causes of dissatisfaction, identified through residents' feedback on schemes are:
 - Scaffolding erected for the term of block refurbishment contracts but not utilised for much of the works. Scaffolding is unsightly, and causes community safety problems
 - Length of time on site – contracts for block refurbishment tend to range from 12 to 18 months, a significant period of disruption and inconvenience
 - The quality of the work is not consistently of a high standard and this is often linked to dissatisfaction with the cost of the works for leaseholders.
12. The new approach was agreed by the Executive in October 2008 and the desired strategic outcomes of the new procurement strategy are to:
 - Introduce a longer term contract for procurement of major works programmes.
 - Maximise investment outcomes by achieving best value in contracting arrangements.
 - Maximise the positive impact of stock investment for residents and address the ongoing concerns expressed by residents about the quality and cost of major works.
 - Increase residents' satisfaction with major works projects.
 - Provide an effective vehicle for delivering an effective asset management strategy.
 - Reduce the number of major works contractors operating on estates to a minimum of four and a maximum of eight.
 - Introduce better controls of the supply chain and minimise the number of components used across the housing stock.

- Improve the perceptions of leaseholders as to the quality and value for money of major works
- Reduce the level and cost of internal resources committed to tendering.

Tender Process

13. The procurement strategy was outlined in the Gateway 1 report and approved by the Executive in October 2008. The subsequent packaging strategy for delivery of the works was agreed in an IDM the Deputy Leader and Executive Member for Housing in January 2009. The strategy proposed five contract areas with no contract area being awarded to more than one contractor (although the Council reserved the right for multiple awards to a single contractor in the event that a contract area could not be otherwise awarded). The five agreed areas are shown below:
 - Contract Area 1 - Borough, Bankside and Walworth (including Browning EMB) – estimated annual value of £16m
 - Contract Area 2 - Bermondsey and Rotherhithe – estimated annual value of £25m.
 - Contract Area 3 – Peckham and Camberwell – estimated annual value of £20m
 - Contract Area 4 – Dulwich, Nunhead and Peckham Rye – estimated annual value of £8m
 - Contract Area 5 – Borough wide street properties (including temporary accommodation and major voids) – estimated annual value of £6m.
14. The tender process has followed the requirements of the EU Procurement Regulations (Restricted Procedure). The evaluation of tenders was based on the Most Economically Advantageous Tender, with 50% of marks based on quality and 50% on price.
15. The contracts were advertised in the Official Journal of the European Union (OJEU) on 8th December 2008.
16. A total of 116 contractors from across Europe requested a copy of the Council's Pre-Qualification Questionnaire (PQQ) in response to the OJEU.
17. In order to qualify for the Invitation to Tender Stage (Stage Two), all contractors had to demonstrate that they were financially viable and technically capable of delivering the contracts.
18. The Council received a total of 46 completed PQQs (40% return) by the closing date of Friday 6th February 2009. A wide range of contractors returned PQQs from large multi-nationals through to local painting contractors.
19. PQQ's were evaluated by an evaluation panel consisting of officers from Investment and Asset Management, Home Ownership, Environment and Housing Procurement along with a resident representative from the Homeowners Council. The PQQ was the first stage test to ensure organisations were capable of delivering the contract. The evaluation process involved a robust and thorough assessment of technical capability. Four areas were tested and organisations needed to pass all four to be invited to stage two, the Invitation to Tender (ITT). The four areas used for PQQ assessment were:
 - Financial – Experian checks (credit rating test) and Turnover Tests (an assessment of turnover to ensure organisations were of the appropriate size to deal with the value of the contract for which an expression of interest had been made).
 - Equality and Diversity – must meet the Council's standards.
 - Health and Safety – must meet the Council's standards.
 - Technical questions about partnering and delivering major works contracts (detailed method statement were required and scored by the Evaluation Panel) – must meet the Threshold.

20. Following this thorough process, a total of 30 contractors were rejected because of failing to meet the technical threshold. Most contractors failed to meet the required standard because they failed to demonstrate the appropriate experience, expertise and track record to deliver partnering contracts.
21. On Friday, 3 July 2009, Invitation to Tenders were sent to 16 contractors. The closing date for returned tenders was Friday 21st August 2009. One contractor withdrew on 8th July, because it did not have the capacity to respond to the ITT in the timescale.
22. A series of tender clarification questions were received. The issues ranged from clauses in the technical specification through to the evaluation model being used. Questions were responded to within 48 hours and circulated to all contractors.
23. The closing for return of tenders was subsequently extended to Tuesday 1st September 2009, following requests from a number of contractors requesting more time to complete the documents. On the 1st September 2009, the remaining 15 contractors returned the ITT.

Tender Evaluation

24. In accordance with the Gateway 1 report, two evaluation panels were established; one to deal exclusively with quality and the other with price. The quality panel consisted of the same combination of officers that undertook the PQQ assessment as set out in paragraph 18 above. The separate evaluation panel for price consisted of Quantity Surveyors from the Investment and Asset Management Team and one external Quantity Surveyors from the approved consultants' framework. For probity, panels were kept separate so that quality and price could be independently reviewed. Both evaluation panels were challenged and facilitated by senior staff in Corporate Procurement and Housing Management.

Price

25. The 50% for price broke down with sub weightings as follows:

	<u>Element</u>	<u>Sub weighting</u>	<u>Maximum Score</u>
(1)	Lowest Price for the Tender in respect of the Pilot Scheme contained within Part 3 of the Tender and the site specific Preliminaries		15
(2)	A - Lowest overall Pricing of Term Composite Items and the Term Preliminaries contained within Part 4 of the Tender (the Price Framework). B - Lowest overall Pricing of Term Composite Items contained within Part 4 using the Structured Model	5 10	15
(3)	Lowest Percentage Profit put forward by Bidders in Part 4 of the Tender.		10
(4)	Lowest Central Office Overheads put forward by Bidders in Part 4 of the Tender.		10
			<u>50</u>

26. For Contract Area 5 borough-wide street properties and major voids, item 2B above was replaced with the lowest price for the major voids priced schedule of rates.
27. The was price variation between the tenders submitted.
28. The price evaluation panel identified a number of items that required resolution. These included differential approaches to pricing the Term Preliminaries and arithmetical errors. The process for seeking clarifications was guided by Legal and Corporate Procurement and these issues were satisfactorily resolved.
29. In terms of price analysis, the proposed rates in the tenders are very competitive and in some instances 5-10% lower when compared against traditionally tendered contracts over the same period using GC Works contracts (the form of contract currently used for most of the Council's major works refurbishment). Notably, items such as kitchens, bathrooms, boilers, and windows are generally lower than the Council has secured in the past. In addition rates for profit and overheads were also lower than previously secured. Profit ranged from 1% - 4% and overheads from 1.5 - 6.5%. The industry standard for profit is between 6-12% and overheads from 8-15%. The suppressed rates perhaps reflect the current economic conditions, and set a very positive baseline at which to start the term arrangement. However, robust control measures are being put in place to make sure that contractors do not seek to increase costs disproportionately after the two year price freeze has expired. Current changes in the Council's contract management arrangements and a clear price framework are the main risk mitigations, and contractors were also asked to demonstrate how low prices would be sustained over time.
30. Some tender prices stood out as being low, though were considered to be achievable within the terms of the contract.

Quality

31. The quality assessment was based on 14 tender questions which covered all aspects of partnering contract mobilisation and delivery. The questions for Contract Areas 1-4 were identical as the proposed work is the same. For Contract Area 5, borough-wide street properties and major voids, there were slightly different questions to take account of the differences in delivery of this type of work. The maximum score available was 50. The score was based on the contractors submission but this was clarified (and its veracity and accuracy verified) by the following methods:
 - At a structured interview
 - By responses to clarification questions (if any)
 - Written feedback from referees
 - Visits to reference sites and evidence of service delivery performance in situ.
32. In terms of quality clarification issues, all tenderers for Contract Area 5 were written to on 4th December 2009 to confirm that their tender had taken account of TUPE. All tenderers responded by 14th December to confirm that their tenders contained provision for TUPE. There were no other quality clarification issues.
33. As mentioned in paragraph 30 above, the verification process involved structured interviews, site visits and references. No issues of contradiction or uncertainty arose from this process.
34. The standard of quality submissions varied significantly. Some contractors showed a clear understanding of partnering, had a history of attaining high levels of resident satisfaction and set out an impressive approach to innovation and improving service delivery.

35. For the five recommended contractors, the Evaluation Panel identified areas of potential concern because the score for a particular question was less than satisfactory. The areas included mobilisation arrangements, supply chain procurement and quality assurance procedures. While there was no minimum threshold, the Council will ensure these areas are addressed during the three month mobilisation period and through on-going contract monitoring arrangements set out in paragraphs 50 to 54 which will mitigate any risk that these issues may present.

Combined Price and Quality Scores

36. Once the evaluation of both price and quality was completed the scores were added together to achieve a combined overall score.

Selection and Allocation Procedure

37. As set out in paragraph 12 above, the Council's agreed procurement strategy set out the Council's intention to not award more than one Contract Area to any single contractor. This is to ensure that the Council has a range of contractors across its total estate in order to maximise the opportunities for identifying savings and a suitable supply chain and also to ensure that the Council's exposure to a contractors economic or performance failure is reduced.
38. Accordingly, the Contract Areas were evaluated in the order set out below. The contractor that emerged as the most economically advantageous tender for the highest ranked Contract Area would be eliminated from subsequent consideration for a further contract area. This was particularly important as a number of contractors applied for more than one Contract Area. Contract Areas were ranked according to size with the largest value ranked the highest.

Rank	Contract Area	Estimated value
No.1	2 – Bermondsey & Rotherhithe	£20m-25m
No.2	3 – Peckham and Camberwell	£15m – £20m
No.3	1 – Borough, Bankside & Walworth	£12m - £16m
No. 4	4 - Dulwich, Nunhead and Peckham Rye	£3m - £8m
No. 5	5 – Major voids and street properties	£3m - £6m

Proposed Contract Awards

39. By evaluating the tenders in accordance with selection and allocation procedure above, Contract Area 2 was evaluated first and Contract Area 5 evaluated last. The proposed contract awards are set out below.

Contractor	Contract Area
Wates Group Ltd	2
Apollo Group	3
Breyer Group Plc	1
A & E Elkins Ltd	4
Saltash Enterprises	5

40. The recommended five contractors are a mix of large national organisations: Wates, Apollo and Breyer and local small medium enterprises: A&E Elkins and Saltash. This is a healthy balance of contractors with a wide range of experience and expertise. This should ensure the very best performance from the partnering contracts. All five recommended contractors have successfully previously completed work for Council, and with the exception of Wates, all are currently delivering major works for the Council. A company profile for all five contractors is attached as Appendix 1.

Reserve Contractor Status

41. There are five Contract Areas and it is the Council's intention that each area be awarded to one contractor. However, there may be circumstances of extremely and persistent poor performance or termination of the contract where the Council may (but will not be obliged to) award work to a reserve contractor for a period of time until either performance improves or alternative delivery arrangements are procured. The circumstances are limited but this is nevertheless an important safety net for the Council, residents and contractors alike.
42. The options considered for reserve status were to either contain delivery within the five contractors within this arrangement or call-off from a list of alternative formally appointed reserve contractors. The latter option is complicated to manage and deliver and could be construed as a framework, which is not the basis by which these contracts have been procured. The advantages of the former option are the contractors will already be working in the area and have some understanding of the stock, its residents and the high expectations of the Council.
43. The reserve contractor arrangements are set out below. The specialist nature of Contract Area 5 means no other contractor from this arrangement will provide reserve status. In the event of contractor poor performance or termination short-term cover arrangements could be provided through the two repairs and maintenance contractors: Southwark Building Services and Morrison FS. In the event that reserve contractor arrangements are to be used the decision will need to be approved by the Strategic Director of Environment and Housing.

Contract Area	Principal Contractor	Reserve Contractor
2 – Bermondsey & Rotherhithe	Wates Group Ltd	Breyer Group Plc & Apollo Group
3 – Peckham and Camberwell	Apollo Group	Wates Group Ltd
1 – Borough, Bankside & Walworth	Breyer Group Plc	A & E Elkins Ltd
4 - Dulwich, Nunhead and Peckham Rye	A & E Elkins Ltd	Saltash Enterprises
5 – Major voids and street properties	Saltash Enterprises	No Reserve Status

Transfer of Undertakings Protection of Employment (TUPE)

44. TUPE will apply only to Contract Area 5. The Council has confirmed with Saltash Enterprises that they have submitted a TUPE bid and will assume responsibility for pension and other employment terms and conditions on contract award.

Proposed Approval Process

45. One of the key benefits of a long term arrangement is the flexibility it affords to improve the quality of service and product and make changes that improve efficiency and reduction in costs. The Council's decision making made the benefit of partnering less effective in the current partnering contract operating in Peckham.

46. The Peckham partnering contract (known as Housing Planned Maintenance – Phase 2) received Executive Approval in 2004 but each phase of works has to pass through individual inception, Gateway 2, forward plan processes which were designed to risk manage and monitor unconnected, ad-hoc conventionally tendered contracts. This is because the value of the works package exceeded the level delegated to a Chief Officer. The normal protocol attached to these stages causes delays to the start of each successive works phase and therefore an interruption to the flow of work as an instruction to proceed cannot be given until approval is signed off.
47. This in turn hinders the service from negotiating supply deals beyond the phase(s) of works currently approved. Long term supply chain benefits are therefore at risk. A key benefit of partnering should be lower component costs achieved through partnering down the supply chain but this requires both long term commitment and some guarantee as to expected works although it is recognised that robust monitoring procedures must be in place.
48. It is proposed that individual decisions on work package approval within the investment programme are delegated to the Strategic Director of Environment and Housing. This is to achieve the benefits of cost efficiency speed of works and flexibility that such a partnering arrangement are designed to achieve.
49. Throughout the life of the Contract, works or task/s may arise that are outside of the normal scope of works for which the Contract was designed. In this circumstance the procedures for varying a contract as set out in the Council's Procurement Guidelines and Contract Standing Orders would apply.

Plans for the Transition from the Old to the Contract

50. A mobilisation project team has been established with a dedicated mobilisation manager, to ensure that smooth transition takes place.

Plans for the Monitoring Contract

51. A new robust governance structure will be introduced to ensure the new contracts are effective. At a local level each Contract Area will have each own Partnering Team. The Partnering Team will focus on operational delivery and be attended by the Council's investment delivery staff, contractor's operational staff and residents. Sitting above each Partnering Team will be an Operational Core Group, which will meet monthly. Attendance will be drawn from third-tier Council officers, senior contractor staff and residents. The Operational Core Group will keep an overview of delivery and resolve any issues escalated from the Partnering Team. Finally, a Strategic Core Group is to be established. It will meet quarterly and be led by the Head of Housing Management. Directors and Managing Directors from each of the contractors will attend along with residents. The Strategic Core Group will monitor performance across all five Contract Areas and ensure high standards are consistently delivered. This group will amongst other things lead on the re-allocation of work for the best performers, oversee the downward harmonisation of prices and resolve any issues escalated from the Operational Core Group.
52. The Form of Contract has been amended to place more controls with the Council. Amended provisions include the re-allocation of work for the best performance as well as a tough but fair default mechanism for managing under-performance, including persistent failure. New processes for escalating problems and resolving disputes have also been introduced.

53. The restructure of technical services (Client Review) in the housing management service, will increase the capacity to deliver a multi disciplinary client service. This includes a new section devoted to performance of contracts, both from a technical perspective and from a contract monitoring perspective. This will ensure the Council is able to tackle under performance in the quality of the work, the timeliness of contractors and the value of the work undertaken. The new team will be place to help manage the three month mobilisation process before contracts start on site and address any issues of concern identified in the evaluation process.
54. There are a clear suite of key performance indicators that will drive the contractors performance. Examples of the performance indicators include, resident satisfaction, client satisfaction, timely completion of work (target times for internal and external refurbishment), cost predictability (final account costs against order costs) and timescales for the production of final account for the Home Ownership Unit.
55. Downward price harmonisation (pool purchasing to achieve economies of scale) is a stated objective of the new contracts. This is set out in the Partnering Overlay Agreement which binds the five contracts together at a strategic level. At their own cost, contractors are to appoint a price harmonisation manager, six months after contract award to commence the work on harmonisation. It is anticipated that this work will take 18 months to put in place. Components such as kitchens, sanitary-ware, windows and roofs particularly lend themselves to harmonisation and are frequently used. The Council has protected its position on price by capping increases until April 2012. Contractors who fail to participate in harmonisation beyond 2012 will only receive 50 percent of the Retail Price Index (RPI – the index used on these contracts to deal with inflation). This will dissuade contractors from non-participation. This position will be closely monitored to ensure the desired outcomes are achieved.

Performance bond/Parent Company Guarantee

56. Performance bonds will be required for these contracts, the cost of which has been included in the tender sums.

Other considerations

Leasehold Implications

57. The partnering contracts have been subject to full statutory consultation with leaseholder under section 20 of the Landlord and Tenant Act 1985 (as amended). This consultation was carried out in two parts as set out paragraphs 57 and 58 below.
58. Schedule 2 Notice of Intention – a pre-tender notice giving details of the Council's proposed procurement strategy, identifying works to be carried out under the agreements, justifying the strategy and giving leaseholders the opportunity to make comments – was served on 20th November 2008. All leaseholders who made observations received a written response and the consultation ended on 27th January 2009.
59. Schedule 2 Notice of Proposal – a post tender consultation giving details of the tender process and proposed contractor for each area – was served on 28th January 2010, with the consultation due to end on 1st March . Dispensation has been sought from the Leasehold Valuation Tribunal for a part of the regulations that the Council does not believe it can comply with. At the time of writing this report the decision is still awaited. The observation period cannot be closed until we receive this, but in the meantime any leaseholder who makes observations will receive a full written response.

60. Once the contracts have been entered then leaseholders will be entitled to a third stage of consultation if rechargeable work are programmed to their block or estate. This will be in the form of a Notice of Intention, giving the scope of work and details of the reasons why it is necessary, the cost of the works and an individual estimated service charge. Leaseholders then have an opportunity to make observations on the specific work due to be carried out and the costs attributable to them.
61. The amended governance processes still include a protection for leaseholders, in that confirmation that statutory consultation has been carried out, including a summary of observations and responses, must be included in the approvals process to let individual packages of work.
62. There are risks associated with partnering contracts and recharges to leaseholders. Any leaseholder can challenge the reasonableness of the resultant service charge for a package of works in the Residential Property Tribunal Service (RPTS). However, if the Council can show a clear audit trail of the decision making process, the tender process and tender appraisal along with bench-marking against current market forces then partnering can be defended as a reasonable approach. There is a risk that the bench-marking will show that a traditional procurement process leads to lower costs, but bench-marking is imperative if the Council is to show that partnering is a best value approach for leaseholders.
63. A good quality of work is also necessary if the Council is to ensure that any applications to the RPTS can be successfully defended.
64. Works will not progress until the Home Ownership Unit confirm in writing that the appropriate notices are served and the observation period is complete.
65. The overarching intention of the procurement is not just to capture the lowest price but the best value for money which must include quality considerations, thus the award of these contracts is proposed on the basis of both price and quality. In some cases the quality aspect of the tender achieved a greater score than the price and visa-versa. This factor, combined with the Council's decision to create an internal market by limiting contractors to one area, means that in some areas the lowest price tender has not been recommended for award. As a result, in the early years of the term, leaseholder service charge costs are not determined by lowest price alone. As mitigation, the evaluation process has assured both a competitive market price against our existing arrangements, coupled with a much greater promise of value for money. Moving to term contracts will reduce area variations, and the price harmonisation mechanism will push prices across the borough toward a lower and more similar level over the course of the contract. The benefits for leaseholders are therefore significant.
66. One of the key benefits of a long term arrangement is the flexibility it affords to improve the quality of service and product and make changes that improve efficiency and reduction in costs. The Council's decision making made the benefit of partnering less effective in the current partnering contract operating in Peckham however, paragraph 47 sets out how this will be addressed for these new contracts.

Community Impact Statement

67. The move to a life-cycle approach to major works procurement will spread the benefits of investment over a wider area, and will enable better targeting of investment at stock with failing components. This is likely to benefit the wider community, and will be consulted on during the development of the Investment Delivery Strategy. The inclusion of local employment clauses will be used to support the Council's local economic development objectives. Experience in other authorities is that long term partnering arrangements are more likely to generate local employment opportunities given the stability and length of the contracts.
68. In addition, as part of the structured interview and tender question, each contractor was asked to confirm the how and at what cost apprenticeships would be delivered within these contracts. Each has confirmed that, subject to uninterrupted workflow and sufficient turnover, they will provide one apprenticeship per £1m spend at no cost to the Council.

Sustainability considerations (Including Economic, Social and Environmental considerations)

69. Following the introduction of the government Ni185 indicator which requires local authorities to measure their progress in reducing CO2 emissions from all buildings and transport they use and report the results to Defra on an annual basis, suppliers will be asked to supplement their management information to include mileage per journey, whether the vehicle used was petrol/diesel. Steps will also be taken to record vehicle registration years so as to allow compliance with Ni194 (air quality).

Market Development Considerations

70. The key market considerations are:
- The successful tenderers are private limited business organisations
 - Three of the contractors, Wates, Apollo and Breyer, have more than 400 staff; Saltash has between 50 and 250 employees and A&E Elkins employ less than 50 staff.
 - Wates, Apollo and Breyer have a national area of activity. A&E Elkins and Saltash have an area of activity in and around Southwark.

Resource Implications

71. There are no additional resource implications for the Council since the Housing Management Division has the technical and human resources to manage the delivery of these new contracts within existing resources.

Staffing Implications

72. There is currently a review of technical services in housing management with the central thrust being improved contract management and delivery of improved major works. Investment staff in the Housing Management Division are being reorganised into teams that are coterminous with the new major works Contract Areas. Each new team has a good spread of technical, project management and resident liaison skills to ensure the new contracts are delivered effectively.
73. As some staff will be working with partnering contracts for the first time, a programme of training and awareness raising has commenced and will continue once the contractors are appointed and work starts on site.

Financial Implications (FIN0555/CN)

74. These are Term Partnering Contracts so expenditure will take place as blocks of work within the Housing Investment Programme (HMIP) are approved. Approvals will take place as funding allows. It is anticipated that funding for the HMIP will remain around the present levels (around £42m for Decent Homes, £39m for other schemes). There are likely to be variations to this funding. It is not possible to accurately predict the size of these changes and such things as sales of voids and income from hidden homes are difficult to forecast. Nevertheless, no matter what size such variations are, the expenditure on this contract will be varied to match the resources available. There are therefore no budgetary implications to this contract.

Second Stage Appraisal

75. A satisfactory second stage appraisal has been received from corporate finance covering the Experian financial check. A further financial check was undertaken using Mint UK. Mint UK is a source of UK Company information, which has been used to help identify any risks posed to the Council by engaging in contracts with specific companies. In addition to the published financial statements of companies Mint UK also shows information on parent and subsidiaries, peer group comparisons and includes a searchable news article section from various high profile sources. The reports Mint UK produces has allowed for a detailed analysis of these contractors. The use of Mint UK is a new approach for the Council and has been specifically introduced to increase financial assessments in the current climate. All recommended contractors have been placed at low risk financially.

Legal Implications

76. Please see concurrent report of the Strategic Director of Communities, Law & Governance below.

Consultation

77. Before and during the procurement process presentations were made to both Tenants and Home Owners Councils. In addition representatives from both Councils have been involved in the procurement process. Further presentations are scheduled to be made to Tenant & Home Ownership Council in March 2010 and further consultation with TRAs will be part of the mobilisation process.
78. Staffing consultation within the housing management service has begun and will extend once the Executive take the decision to award the contract.
79. Departmental and Corporate Finance, Departmental Procurement and internal and external legal advisers have collectively supported the approach to this Gateway Report and will continue to be consulted in the post award mobilisation.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

80. The Strategic Director of Communities, Law & Governance (“SDCLG”, acting through the Contracts Section) has advised the report author and project board in connection with the procurement of the proposed contracts and notes the content of this report.
81. The procurement of the proposed contracts is subject to the requirements of the current EU Procurement Regulations and the SDCLG confirms that those requirements have been complied with throughout (paragraphs 12 to 22 refer).
82. The procurement process is also compliant with all relevant requirements of the Council’s Contract Standing Orders (“CSOs”) and the report explains how the works packages will be funded. The decisions to approve the recommendations set out in paragraphs 1 to 4 (including the possible delegation of future decisions) are ones which are required to be taken by the Executive, in line with CSOs.
83. Specialist external legal and procurement advice has been provided in connection with the tender evaluation methodology and conditions of contract, and as noted in paragraph 51 the contracts have been drafted in such manner as to provide the Council with more control over the delivery of the works, through a clear default process and the ability to reallocate work packages according to contractor performance. In the light of the current economic climate, the SDCLG and external legal advisers have also considered the possible effect on the proposed contracts of “take-overs” or mergers between appointed contractors (or between the appointed contractors and other construction companies) and therefore the contracts will include a provision which prohibits an appointed contractor from assigning any of its obligations to a third party for any reason without the Council’s prior consent.
84. On the 22nd September 2009 the Office of Fair Trading published the findings of its investigation into infringements of competition law, specifically "cover pricing" - the practice of obtaining from a competitor a price at which to bid, in the anticipation that the cover price received would be too high to win the tender process. This resulted in the imposition by the OFT of fines totalling £129.5 million on 103 construction companies across England for engaging in such anti-competitive behaviour.
85. As several of those companies are noted on various Council Approved Lists and had been invited to tender for the proposed contracts, the OFT's findings and recommendations were reviewed by the SDCLG and external legal advisers. Following consultation with the report author, the SDCLG advised that there was insufficient evidence to justify and support punitive sanctions against any of the contractors named in the OFT report, and further recommended that it would not be appropriate to exclude any of them from the ongoing tender evaluation process. However, as a precautionary measure and in the interests of maintaining a clear audit trail and to ensure good procurement practice the SDCLG issued a revised Certificate of Non-Collusion to all firms and companies that had submitted a tender. This required each firm or company to declare that it had not engaged in anti-competitive behaviour either before or during the tendering period. The report author has confirmed that an unqualified certificate has been provided by each of the organisations recommended for contract award.
86. The decision to award the proposed contracts is a key decision as defined in the Council Constitution and the report confirms that this item has been noted on the Forward Plan. The decision will be subject to call-in before it can be implemented.

Finance Director

87. The Finance Director concurs with recommendations 1 and 2 for the award of the contracts for the five contract areas to the stated bidders and the back up arrangements for reserve contractors. It is recommended that the decision to award the contracts is deferred until the outcome of the Leasehold Valuation Tribunal dispensation hearing is received (see paragraph 58).
88. The procurement process has produced a very competitive selection of bidders for each of the contract areas. There were between five and eleven bids received for each contract area. As stated in the report the bids have included a comparative reduction in material costs, profit margins and overheads. Prices have been capped until March 2012 to provide short term cost certainty. Under the contract management proposals (paragraphs 50 - 54), contractors will be encouraged under the partnering arrangements to participate in supply chain harmonisation. This will ensure material standards will be maintained across the contract areas and may result in economies of scale being shared between the contract areas. Where contractors are not willing to engage in the partnering arrangements the annual cost increases will be capped at 50% of RPI inflation. Thus this procurement demonstrates value for money at the outset and with ongoing contract management as outlined in this report value for money will continue to be achieved for future years.
89. The budgets for these contracts are contained within the remit of the Strategic Director of Environment & Housing. The award of separate contract blocks will be managed with regard to the overall budgets available within the housing management and investment programmes. Recommendation 3 that the award of the blocks of works is delegated to the Strategic Director of Environment & Housing is supported by the Finance Director.
90. The management, monitoring and delivery of this contract will be met from existing resources.
91. Due to the size of the contracts and the current economic conditions additional financial checks have been made for the recommended contractors. An initial financial check was made at PQQ stage in February 2009. Further checks were made on the proposed contractors at the completion of the review of the tenders in December 2009 and again prior to the recommendation in this report in February 2010. All of the recommended contractors have shown acceptable levels of risk from their trading activities and have satisfactory credit checks. However, given the current economic conditions faced by the construction industry, it is recommended that further periodic checks are carried out at least on a six monthly basis.

Head of Procurement

92. This report is seeking approval to award five separate contracts to five different contractors for the delivery of major works across the borough.
93. These are partnering contracts and as such have additional requirements for all five contractors to work together with the council to improve service delivery, share best practice across the borough and drive down costs. Although these are partnering contracts, additional controls have been inserted in the contracts to strengthen the Councils position. There will be flexibility to shape and change the way things are delivered throughout the lives of the contracts.

94. Paragraphs 12 - 22 outline the tender process that was followed and confirms that it was in line with the procurement strategy approved in October 2008. In view of the current economic climate, a high level of interest was anticipated and therefore a very robust and detailed short listing stage was adopted. This approach proved very effective by allowing 46 contractors to be reduced to 16 at the short listing stage.
95. The evaluation methodology is summarised in paragraphs 23 - 37. All bid submissions were assessed in detail and verified through site visits and structured interviews. With a number of contractors bidding for more than one contract, a selection and allocation procedure was included in the process. This helped ensure that the awards were based on the best overall deal for the council rather than on a lot by lot basis.
96. The report is proposing the work package approval process be delegated to the Strategic Director of environment and Housing. Paragraph 47 outlines the justification for this delegation.
97. Paragraphs 51 - 55 describe the monitoring arrangements that will be in place to manage the contracts. Also paragraph 72 confirms that there is a programme of training and awareness underway to help staff ease in to the partnering arrangement.
98. This proposed partnering approach aims to improve on the previous arrangements of individually tendered major works schemes. The new contracts coupled with the new client management framework will provide the necessary tools and environment to achieve the desired strategic outcomes.

KEY POINT SUMMARY

- This procurement followed a *strategic* protocol
- This contract is for *works* and is *a replacing a range of existing provisions*
- EU Regulations were followed during the procurement of this contract
- The procurement route followed Restricted procedure

BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 1 - Housing Major Works Procurement and Delivery Strategy – 20 October 2008	160 Tooley Street	David Lewis Investment Manager 020 7525 7836
Major Works Evaluation Methodology – July 2009	160 Tooley Street	David Lewis Investment Manager 020 7525 7836
Price and Quality Evaluation Report – December 2009	160 Tooley Street	David Lewis Investment Manager 020 7525 7836
Various Project Board Reports - October 2008 – February 2010	160 Tooley Street	David Lewis Investment Manager 020 7525 7836

APPENDICES

Appendix number	Title of appendix
Appendix 1	Contractor Company Profiles

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing		
Report Author	Margaret O'Brien, Head of Housing Management		
Version	Final		
Dated	15 th March 2010		
Key Decision?	Yes	If yes, date appeared on forward plan	March 2010
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities Law and Governance	Yes	Yes	
Finance and Resources Director	Yes	Yes	
Head of Procurement	Yes	Yes	
Executive Member	Yes	Yes	
Date final report sent to Constitutional Support Services	15 March 2010		

Contractor Company Profiles

Apollo

Apollo began trading in the construction industry in 1976, becoming one of the largest and most successful service providers for refurbishment in occupied properties and public buildings in London and the Home Counties.

Apollo currently employ 879 (848 full time & 31 part time) and their annual group turnover for 2009 was £301million. Around 90% of their current workload is in the refurbishment of social housing (internal and external), of which 65% is through Partnering contracts.

Apollo has worked in partnership for a number of local authorities carrying out works to their municipal properties and non-housing portfolio of buildings. Under Apollo Public Buildings they have a wealth of experience of working in buildings for public use, most of which have remained functional throughout the duration of the works.

Some of their other main clients include: Brent Housing Partnership; Ascham Homes; Circle Anglia; EastEnd Homes; Homes for Islington; Gravesham, Milton Keynes, Dacorum, Stevenage and the London Borough of Camden.

Previous work that they have carried out for Southwark include the Peckham Partnership; John Harvard Library; Rennie Estate 2, 3 & 4; Balman House; Pelier 1 & 2; Tissington Court; Brydale House; New Place Sq; Rockingham and County St; Hanworth House; PPM / DDA Works - Phase 2; Lordship Lane; Brandon 3 & 4; Barton Close;; Monteagle Way; Robert Keen Close; Falmouth Rd and Great Dover Street; Clifton & Pomeroy; Laing & Livingstone Houses; Haddon Hall Estate; Aird, Binnie and Brunlees; Aylesbury Estate Phase 1; Medway & Strood; Peckham & Nunhead external decorations; Newman House; Beckett & Westerham.

A&E Elkins

A & E Elkins are a small to medium enterprise and currently employ 15 employees. They have an annual turnover of £9.6million for tax year end 2008/2009. Their specialisms include building maintenance and refurbishment, flat roofing (asphalt and specialised felt) slate and tile roofing, building and refurbishment.

Some of their other main clients include: Kilby & Gayford Limited; Genesis Medical Pre-installations Limited; Leathermarket Joint Management Board; Jacobs; Michael Lawrie Magar Limited; Piggott & Whitfield and Area Estates Limited c/o CHP Management Limited.

Southwark has been their main client for the last few years and for whom they have carried out large 'Decent Homes' contracts in the Borough. A & E Elkins are currently working on Weller/Pickwick and Oliver External Refurbishment. They have completed Internal Decent Homes to 1 - 359 Neckinger, also External Refurbishment 188-359 Neckinger. They are close to completing works to Casby & Lupin Internal Decent Homes, 1-32 Grange House Internal/External Refurbishment and Bowley House Door Entry.

A & E Elkins have been consistently working toward government approved quality registration schemes and are accredited to the following schemes: CHAS; ISO 9001:2001; Construction line; Exor; Trust Mark; Safe Contractor Scheme; National Federation of Roofing Contractors; Mastic Asphalt Council. They are currently working towards ISO 14001 and Investors in People.

Breyer

The Breyer Group currently employs 457 staff and their annual turnover for May 2008/May 2009 is £100,133,778. For the past ten years 80% of their workload has involved either external or internal refurbishment and new build, or a combination of all three on some of their regeneration projects. The majority of their work has been carried out in live environments within existing communities; most with residents still in occupation during the works and in 2008 the value of this work totaled £80million.

Their core areas of operation are acting as Main Contractor to deliver sheltered housing and new build, Decent Homes refurbishment, external refurbishment, cyclical decorations and void refurbishment to local authorities, Arms Length Management Organisations (ALMO's).

Breyer Group is organised into two distinct Divisions, 'Construction' and 'Specialist Roofing'. The Construction Division undertakes refurbishment and new build projects in the housing sector, including Decent Homes programmes, planned and responsive maintenance works, new build homes in the private and public sector, refurbishment and new build projects in the Education, Healthcare, Public and Commercial sectors.

Their specialist Roofing Division is highly experienced in planned and responsive works for both refurbishment and new build projects on flat roofs, pitched roofs, flat to pitched conversions; and innovative green and brown roofing solutions on Public, Commercial, Healthcare and Residential buildings.

Breyer Group has over fifty year's experience of working in the public sector. Their top clients are Ascham Homes, Ealing Homes and Hammersmith and Fulham Homes which provide 20% of their annual turnover. Other main clients for whom they provide comparable works include: Riverside Housing; Lambeth Living; London Borough of Islington; London Borough of Hackney; Circle Anglia; Kent County Council; A2 Dominion; City of Westminster; Leeds City Council; London Borough of Barking and Dagenham; Newham Homes and Ealing Homes.

Breyer Group is independently audited by Construction line and CHAS. Breyer Group is a registered member of the British Safety Council and considers Health and Safety as a high priority within all company activities and procedures. They have won 'International Safety Awards' for their Construction projects, including both refurbishment and new build. They have recently attained accreditation for their health and safety Management System under ISO OHSAS 18001:2007.

Some of the previous works that they have carried out for Southwark include external refurbishment including extensive concrete repairs, full external redecoration and window replacement to the Brandon Estate. They were also appointed as principle contractor to carry out works to occupied housing on the Rouel Road Estate in 2007; Decent Homes works to 76 units on the Swan Road Estate in addition, carried out Decent Homes work and external refurbishment work to the Taplow Estate.

Saltash

Saltash is a medium sized, local contractor, providing a large, directly employed workforce and operating in-house scaffolding, joinery and aids and adaptations divisions. They currently employ 169 staff and operate a partnered supply chain. Their turnover for the last financial year was £19,331,363.

The principal service areas provided by Saltash include: major works refurbishment programmes; planned maintenance programmes; void refurbishment; responsive repairs and maintenance; specialist aids and adaptations and new build projects.

Saltash have worked extensively in the provision of similar such frameworks for social housing providers and have recently successfully completed such frameworks for clients such as London

Borough of Merton; London Borough of Croydon, Lewisham, Wandsworth, Tower Hamlets, Lambeth and Sutton; London and Quadrant Housing Trust and Hyde Housing Association.

Saltash also carry out similar frameworks in the Education Sector for clients such as London Borough of Bexley, Kent County Council and London Borough of Sutton and also for Government Bodies such as the Parliamentary Estate and the Department of Trade and Industry.

Each of these frameworks has involved major works and planned maintenance/cyclical improvement works with residents in occupation, primarily in Inner London Boroughs. The Saltash culture embraces working collaboratively with their clients and 75% of their work now extends to long term partnering arrangements with their clients.

Over the years, Saltash have been committed to developing 'partnering initiatives' with its clients, in favour of traditional service based relationships. Time after time, this approach has proven to be invaluable for all parties concerned, when fulfilling their respective key objectives. Saltash has thrived on this and subsequently won coveted awards in recognition of this.

Wates

Wates are an experienced employer with over 2,200 employees and £1 billion annual turnover. They have a strong balance sheet with a cash balance of over £170million and an annual turnover of £1009 million.

Whilst Wates undertakes construction activities with relevant skill-sets, their annual turnover taken directly from Social Housing Projects is around £300million. Their relevant experience, completing 26,000 Decent Homes in 2008 alone, means that they can bring extensive added value, skills and commitment to the Southwark Major Housing Works Programme.

Recent success includes assisting CityWest Homes, Northwards Housing Association and Sandwell Homes to achieve 3 stars and Birmingham City Council to become one of only three local authorities in the UK with an overall 2 stars.

Previous projects for Southwark include the conversion and refurbishment of Goldwell House, the pilot for the larger regeneration of the East Dulwich Estate and the past conversion of an existing building at Grove Park into a short stay hostel.

Southwark community projects that the Wates family have supported, principally via their independent charitable contributions through the Wates Foundation Trust and Wates Giving, almost total £200,000 in the last 3 years. They include Kickstart Youth, the Southwark Homeless Information Project, Ivorian Advice & Support Group, Charterhouse in Southwark, the Day Centre for Asylum Seekers, the Cathedral Education Centre and the Southwark Educational Alliance Africa.