



CABINET

Subject Heading:

Approval to Tender and Award of Contracts for Compliance Services and Works

Cabinet Member:

Councillor Paul McGeary – Cabinet Member for Housing and Property

SLT Lead:

Neil Stubbings – Strategic Director of Place

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Policy context:

The statutory requirement to maintain our homes to a decent standard

This work supports the Housing Asset Management Strategy 2021-26 and is identified within the HRA Business Plan approved by Cabinet in February 2024

Financial summary:

These contracts provide a framework that will enable the Council to comply with its statutory requirements.

The potential total procurement value is approximately £94.05M over 16 years commencing in August 2025, split over six separate contracts, £85.5M to be met from the Housing Revenue Account ('HRA') and

£8.55M from General Fund for potential works to Corporate buildings.

Is this a Key Decision?

Key on the grounds that this report involves

(a) Expenditure or saving (including anticipated income) of £500,000 or more

When should this matter be reviewed?

The contract durations are up to ten years if performing well plus an option to extend for up to six years. Continuation of the contracts each year is subject to annual review.

Reviewing OSC:

Place

People - Things that matter for residents	X
Place - A great place to live, work and enjoy	X
Resources - A well run Council that delivers for People and Place.	

SUMMARY

1. As part of the Council's responsibility as a landlord, the Council has a duty to undertake repairs, maintenance and compliance checks on its HRA housing stock. This report presents to Cabinet details of the proposed tender process to re-procure a number of these services and seeks approval to procure and delegated approval for the subsequent award of contracts.
2. The current HRA annual revenue budget for works within the scope of these contracts is approximately £1.5m per annum with a further £2m per annum in Capital budgets. The primary purpose of these contracts is to allow the necessary statutory compliance works to be carried out, whilst ensuring the Councils Decent Homes standards are met.
3. Monies have been identified within the HRA 30-year business plan and contract spend will be aligned with business priorities and approved budgets on an annual basis

RECOMMENDATIONS

For the reasons set out in the report and its appendix, Cabinet is recommended to;

1. Approve the procurement of a suite of six contracts each for a term of 10 years with the option to extend for 6 years with a maximum aggregate value of £94,050,000, for the provision of safety inspections and building compliance checks and works, primarily for Council housing but with Corporate buildings within scope each as set out in this report.
2. Approve a waiver of the Council's default evaluation criteria of 70% Price: 30% Quality and instead award the contracts on the MEAT basis of a 50% Quality, 40% Price, and 10% Social Value weighting for the reasons set out in Section 2 of this report, Procurement Proposals.
3. Approve a waiver of the requirement to use the Council's Fusion procurement portal and instead use the Mercell portal managed by Lumensol Limited, the Council's appointed consultant, for reason set out in Section 2 of this report, Procurement Proposals.
4. Delegate approval of the award of the contracts to the Strategic Director of Place, acting in consultation with the Lead Member for Housing, the Strategic Director of Resources and the Deputy Director of Legal & Governance subject to the value of the contracts not exceeding the values set out in this report.

5. Delegate order of contract works/ services packages throughout the term of each contract to the Strategic Director of Place, acting in consultation with the Lead Member for Housing subject to budget availability for the relevant package.

REPORT DETAIL

1. Background

- 1.1. The Council HRA currently owns approximately 9,300 homes for rent and 2,500 leasehold homes with approximately 5,000 houses and bungalows and 7,000 flats in 1,500 blocks.
- 1.2. The Council has a legal duty to ensure, and importantly to evidence, the safety of those homes and residents, and with recent regulatory changes such as the Building Safety Act (2022) and the introduction of the Social Housing Regulator the importance of suitable compliance contracts has never been more acute.
- 1.3. Works and Services to ensure that the Council's owned homes continue to comply with statutory regulations are currently provided under a number of ad hoc short term arrangements and it is desired to put the delivery on a longer term contractual footing.
- 1.4. It is considered desirable to procure longer term contracts to facilitate a partnership between the Council and the contractors at a time when contractors are becoming increasingly selective in the contracts for which they tender and the relative certainty of work will encourage more competitive pricing.
- 1.5. The ability to create a long-term relationship between the Council, the contractors and other Council contractors should also lead to a greatly enhanced service for residents. Without the need to educate new contractors in the ethos, culture and procedures of the Council on a regular basis, more time can be devoted to creating a joined up service whereby contractors share best practice, are aware of each other's contract requirements and can coordinate works to create efficiencies and reduce disruption to residents.
- 1.6. The procurement will encompass six contracts, tendered as mutually exclusive contracts, as follows, with estimated contract values over the full possible contract term:

Contract	Maximum value over 16 Years
Asbestos Surveying Includes planned surveys of common areas and individual homes for the management of the asbestos register, Refurbishment and Demolition surveys in advance of any works and reactive surveys and testing in the event of suspected asbestos contamination	£22m
Asbestos Removal Includes the removal of asbestos to facilitate responsive and planned works, and removal where surveys identify a deterioration of asbestos condition	£24.75m
Fire Risk Assessments	£7.7m

The carrying out of assessments of the fire safety of blocks and common parts at the frequency determined by risk assessment	
Fire Safety Works	£30.8m
Carrying out of smaller repairs and refurbishment and installation of fire safety elements identified through the Fire Risk Assessments or other inspection	
Water Hygiene Services	£4.4m
Regular testing and maintenance of stored water tanks and equipment to prevent legionella	
Lift Maintenance	£4.4m
Regular inspection, servicing and repair of HRA passenger lifts with out of hours response and emergency response to trappings.	

2. Procurement proposals

- 2.1. The proposed contracts will have a potential total value of £94.05M and individually fall above the financial threshold for procurements which have to be conducted in accordance with the Public Contracts Regulations 2015. The procurement process will also be in accordance with the Council's Contracts Procedure Rules.
- 2.2. Bids will be evaluated on price and quality on the basis of a 50% Quality, 40% Price, and 10% Social Value weighting.
- 2.3. It should be noted that the above price / quality split was discussed and agreed with strategic business partners including colleagues from Corporate Procurement and was agreed at Gateway Review Group meeting GRG1 in June 2023. This was also discussed and agreed by a panel of Cabinet Members at the presentation of the Strategic Procurement Proposals 2024-2040 on 15th December 2023.
- 2.4. The procurement route will be via Open tenders with each contract open to all suppliers but no supplier will be permitted to win more than 1 contract due in part to the specialist nature of the works, and in part to avoid a contractor creating work for themselves.
- 2.5. The contract opportunity will be advertised, with all interested parties submitting supplier's questionnaires. The Council has appointed consultant Lumensol Limited to assist with its tendering arrangements, which will be carried out through the Merzell procurement portal operated by Lumensol.
- 2.6. The reason for this is that third party consultants are unable to access the Council's own Fusion portal.
- 2.7. Quality and Social Value submissions will be evaluated by Council officers and Price submissions will be evaluated by Lumensol, with officers from Corporate Procurement having oversight of the complete process.

- 2.8. The contracts are expected to commence in August 2025 and the core contracts will be for a duration of ten years, with a provision to extend the contract for a further period of six years to end in July 2041.
- 2.9. The contracts will contain no-fault break clauses, applicable after year one, which will allow either party to terminate the contract with six months' notice on the part of the contractor, or three months' notice on the part of the Council. It is considered 6 months will be sufficient notice for an interim short term arrangement to be put in place pending reprocurement of any contract.
- 2.10. The contracts will take the form of a Measured Term agreement whereby the contractor is not guaranteed all or any work of this type during the contract term.
- 2.11. The proposed project timetable is as follows:

Finalise procurement and draft contract documents	August 2024
Request for Contractors Proposals	October 2024
Gateway 2 process	December 2024
Approvals process	January 2025
Leaseholder consultation	January and February 2025
Notify bidders of outcome of tender	March 2025
Finalise contract documents	April 2025
Mobilisation period	April 2025 to August 2025
Start of works	August 2025

3. Procurement and project risks

- 3.1. Minimum standards for sub-contractors will be introduced by the Council in order to improve the quality of the supply chain and the key service and quality requirements will be emphasised in the invitation to tender documents and be closely monitored throughout the duration of the contract.
- 3.2. In addition to works to HRA properties, a number of options are included in the contracts for works to Private Sector Leasing (PSL) properties and Houses in Multiple Occupation (HMO's) which are funded through the General Fund, and buildings within the Corporate estate are also within scope.
- 3.3. Council officers in Property Services, utilising independent cost consultants, will carry out regular checks against the market to ensure that the contract rates continue to deliver value for money.

- 3.4. Lumensol Ltd have been engaged through the Council's approved Matrix framework to support the Council in delivering the procurement due to a lack of capacity within the internal procurement team which is an approach agreed by the members of the procurement team.
- 3.5. The procurement process will be fully facilitated by Lumensol but at this time we do not expect Lumensol to be involved post contract. Members of the Corporate Procurement team have been involved at relevant stages to provide governance and oversight of the process.
- 3.6. Competition is expected to be good in a mature market, but the best prices should be obtained by keeping the procurement as open and straightforward as possible.
- 3.7. The contracts will be managed and monitored by staff within Property Services and the contractors will be obliged to meet a set of Key Performance targets.
- 3.8. To ensure consistent quality and performance throughout the contract, Performance Indicators (PIs) will be incorporated into the contract and managed by staff within Housing Services. The PIs will be divided into the following categories:
 - a) Key Performance Indicators (KPIs): These indicators are directly linked to contractual non-performance clauses, providing benchmarks for evaluating compliance and service delivery standards.
 - b) Measures: These indicators will provide additional information to enable effective management of the JCT Measured Term Contract. They do not directly trigger contractual non-performance clauses but contribute to comprehensive contract oversight and performance assessment.
- 3.9. This categorisation of PIs aims to uphold rigorous monitoring while facilitating proactive management and continual improvement throughout the contract duration.
- 3.10. Each PI is defined under the following headings:
 - Purpose – the reason for collection of the PI
 - Calculation Methodology – How to calculate performance in relation to the PI
 - Scorer – who is responsible for calculating the PI
 - Frequency – how often the PI should be formally calculated
 - Target – the performance level that should be aimed for
 - Type – whether the PI is a KPI or a Measure.
- 3.11. The KPIs will be reported monthly. Each KPI has a specific target and frequency for measurement, which will be reviewed monthly. If the Contractor fails to meet the Minimum Acceptable Score in one or more KPIs, as outlined in the KPI Framework for that month, quarter, or year, they must submit a plan to the Council within ten business days of the review meeting. This plan, known as the Action Plan, must outline how they intend to resolve these failures within two months (or sooner if required by the Council) from the date of the review

meeting. Monitoring KPIs in the future will ensure that contractual obligations are fulfilled efficiently and effectively, enhancing overall service delivery and satisfaction.

- 3.12. The contracts will include a price adjustment mechanism, based upon CPI, which will obviate the need for tenderers to over-estimate the risk of cost increases in their tenders.

4. Added Social Value

- 4.1. Contractor's proposals to deliver Social Value within Havering will form 10% of the tender evaluation.

- 4.2. The contracts contain a requirement for the contractors to deliver Social Value, but it is simplified to a requirement of 1% of the contract value each year, with the initiatives delivered to be agreed by a stakeholder group annually.

- 4.3. This gives the opportunity for the social value deliverables to be identified by residents and councillors and to change over time.

- 4.4. The Council will focus proposals on the relevant Social Value themes as set out in the Government's 2020 Social Value model, those being;

- Ongoing Covid 19 recovery
- Tackling economic inequality
- Fighting climate change
- Equal opportunity
- Wellbeing

5. Proposed contract

- 5.1. The contracts are anticipated to commence in August 2025 and the core contracts will be for up to ten years' subject to continued good performance, with a provision to extend the contracts for a further period of six years to end in July 2041.

- 5.2. The contract form for each contract will be the Term Alliance Contract TAC-1 which is a form of partnering contract developed from the TPC2005 contract and which is a form recommended for use by central and local government to achieve supply chain collaboration.

- 5.3. As "measured term" contracts, works orders are raised for projects or programmes (typically one year at a time) but the contractors are not guaranteed all or any work under the contracts, and have no claim to compensation if orders are not forthcoming or do not meet the indicative contract value.

- 5.4. Whilst the contracts are being procured primarily to address the specific requirements of HRA Housing properties, non-Housing properties will be included within scope and the indicative contract values over their lifetime include an allowance for their use on Corporate buildings.

- 5.5. The contracts contains elements of work or services for which leaseholders may be charged, so the requirements of Section 20 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002, will apply.
- 5.6. Leaseholders will be consulted prior to tender. A Stage 2 notice will be issued after approval to the award of contracts on an individual contract basis. A 30 day notice period will then need to be observed, which can run concurrently with the mobilisation periods.
- 5.7. The contracts are in the form of Qualifying Long Term Agreements (QLTA) and so prior to any works orders being raised, those leaseholders affected will be consulted again, with estimates of cost.

REASONS AND OPTIONS

6. Reasons for the decision

- 6.1. The Council has a statutory and contractual obligation as a landlord to provide repairs, maintenance and compliance works to its properties, and therefore must have a provision in place to deliver this.

7. Other options considered

- 7.1. Existing frameworks – The Council is seeking to procure partners to deliver services to Havering properties and we would prefer not to procure through a framework which was not set up specifically to provide the services to our requirements, and which has additional framework costs.
- 7.2. Restricted tender or Competitive Dialogue – Both restricted and competitive dialogue processes were considered. The nature of the works and services being procured and the breakdown into contracts means that each contract is focussed on specialists delivering particular services and would be suitable for SME's, and an Open process was considered more appropriate.
- 7.3. Shorter term for contract – Procurement is expensive and resource intensive for public sector employers and contractors. The preference in the market is for longer term contracts as these spread the cost of procurement over a longer term and give more scope for the stakeholders to create a true partnership. A longer term contract shows commitment and gives bidders the incentive to develop staff to deliver the new technologies, within the partnership.
- 7.4. Do Nothing – Maintenance of rented homes in a safe and operational condition is a legal requirement for social housing provision and doing nothing is not an option. The existing services are being delivered through ad hoc contractual arrangements which are not desirable in the longer term.

- 7.5 To combine these contracts with contracts for Corporate buildings and schools – this option was discussed with officers within the Corporate Service, but was rejected due to the timing to facilitate contracts in all areas and the specific requirements within each area. In addition to this, there were Section 20 Leaseholder issues that would need to be dealt with prior to the procurement exercise being carried out, which were not possible to resolve within the required timescales. It was, however, agreed that the new contracts would be written to include the option for them to be used by schools and the Corporate service in future should the need arise once their existing contracts have expired.

IMPLICATIONS AND RISKS

8. Financial implications and risks

- 8.1 As “measured term” contracts, works orders are raised for projects or programmes, but the contractors are not guaranteed all or any work under the contracts, and have no claim to compensation if orders are not forthcoming or do not meet the indicative contract values.
- 8.2 The contracts are being procured primarily to address the specific requirements of the HRA properties, but options are included for works to non-HRA Housing and non-Housing properties, should those services wish to use them.
- 8.3 Funding could be from both the HRA and General Fund revenue and capital budgets. With them being “measured term” contracts, funding specifics will need to be identified during the project/programme design stage.
- 8.4. The overall maximum contract value procured through this contract could be up to £94.05m, although it should be noted that there is no contractual commitment to do so.

This includes up to £59million of works over the 10-year period of the contract and a further £35.05million of works could also be delivered, should the contract be extended for a further 6-year period. A further breakdown is set out in the table below:

	10 Year period	16 Year Period
Revenue HRA (including asbestos surveys and removal, FRA's, testing and inspection of lifts and water systems)	Up to £22m	Up to £13m
Revenue GF	Up to £2m	Up to £1m
Capital HRA (including asbestos surveys and removal for major works and fire safety works)	Up to £31.5m	Up to £19m
Capital GF	Up to £3.5m	Up to £2.05m
Total	Up to £59million	Up to £35.05million

Table 1 – Possible Forecast Expenditure

8.5. Cost Avoidance

The award of these contracts will help the Council to keep the stock in good order; clearly failure to keep the housing stock in serviceable condition could lead to further financial liabilities being incurred.

8.6. Financial Stability

As required by the Council's Contract Procedure Rules a financial check will be undertaken on each of the preferred bidders using Experian and minimum financial threshold criteria.

9. Legal implications and risks

9.1. The Council has statutory requirements to undertake repairs and maintain its HRA housing stock under the Landlord and Tenant Act 1985, Housing Act 2004 and the Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994. The Council has the power to procure the contract under Section 111 of the Local Government Act 1972 which, permits the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

9.2. The Council has a general power of competence under Section 1 of the Localism Act 2011 to do anything an individual may generally do subject to any statutory limitations. The arrangements now sought are in accordance with these powers.

9.3. The Council is a contracting authority for the purpose of the Public Contracts Regulations 2015 (as amended) (PCR). Whilst they are viewed as a suite of contracts, each contract is objectively separable from the others and will be procured on a stand-alone basis. The value of each contract respectively is above the PCR threshold for works or services as applicable. Each is therefore caught by the full PCR regime. The proposed open procedure complies with the PCR.

9.4. Leaseholder consultation is required under Section 20 of the Landlord and Tenant Act 1985 (as amended) and as stipulated by Section 151 of the Commonhold and Leasehold Reform Act 2002. This decision is subject to the consultation concluding to notify leaseholders of the intention to procure these services and subsequently to appoint the preferred bidders.

9.5. The proposed contract terms allow early termination by the contractor after an initial period of one year upon 6 months' notice. As set out in this report, contractor termination within the first five years of the contract triggers a contractor penalty linked to costs of reprocurement. There is a risk that were market conditions to become challenging, a contractor might choose to terminate a contract early on the basis it was not sufficiently viable. This would cause the Council to put interim measures in place and to re-procure in an adverse market situation. Officers set out in this report that it is considered the flexibility offered by the proposed terms together with the price adjustment mechanism set out at paragraph 3.12 will enable the Council to obtain best value and optimum pricing within this procurement. When coming to a decision, decision makers should balance the risk against the benefit of the arrangement.

- 9.6. For the reasons set out above and subject to leaseholder consultation as set out in this report, the Council may commence the procurement process.

10. Human Resources implications and risks

- 10.1. The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.
- 10.2. There may be implications under the Transfer of Undertakings (Protection of Employment) Regulations 2006 and there is an obligation under the existing contracts for the incumbent contractors to provide relevant details of all staff who they believe may be affected. This information will be provided to all tenderers, in line with the principles of the Data Protection Act 1998. The ITT document will specify that potential bidders are obliged to satisfy themselves that they would be able to meet any potential TUPE requirements relating to this tendering exercise.

11. Equalities implications and risks

- 11.1. Under Section 149 of the Equality Act 2010, the Council has a duty when exercising its functions. This includes outsourcing services by awarding a contract to an outside body, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.2. “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged.
- 11.3. The procurement of these contracts will enable the Council to maintain its housing stock to a high standard and improve the quality of the customer services that the tenants receive. Tenants with protected characteristics are over-represented in social housing so these contracts will have a positive impact on their well-being.
- 11.4. An Equalities and Health Impact Assessment is included as **Appendix 1** to this report

12. Health and Wellbeing implications and Risks

- 12.1. Provision of compliant housing is essential to ensure residents are able to safely and comfortably use their homes, being provided with good quality services which support promote good health and wellbeing.
- 12.2. Poor quality housing can have a serious negative impacts on individual’s health and wellbeing and a significant negative impact on communities.

- 12.3. The Council is responsible for improving and protecting health and wellbeing of local residents under the Health and Social Care Act 2012.
 - 12.4. These contracts will support the aims and delivery of the Housing Asset Management Strategy ensuring that the Council provide the right homes for our resident which are affordable, safe and of high quality, provide good communities in which to live and work, whilst meeting the challenges of building safety across the estates.
- 13. Environmental and Climate Change Implications and Risks**
- 13.1. Environmental and Climate Change implications of delivery of the contracts will be assessed through contract award as part of the Quality evaluation process; tenderers will be evaluated upon their proposals to reduce the environmental impact and carbon footprint of how the work is delivered, such as local supply chains, electric vehicles, waste reduction and recycling and so on

BACKGROUND PAPERS

1. HRA Business Plan update, Budget 2024/25 & Capital Programme 2024/25–2028/29.
2. Housing Services Asset Management Strategy 2021-2026.
3. HRA Medium Term Financial Strategy

APPENDICES

Appendix 1 – Equality and Health Impact Assessment