

TITLE OF REPORT :Capital Works to Hackney Council Housing

BUSINESS CASE

Key Decision No: NH Q86

CPC MEETING DATE (2020/21)

6 July 2020

CLASSIFICATION:

Open

WARD(S) AFFECTED

All Wards

CABINET MEMBER

Cllr McKenzie

Housing Services

KEY DECISION

Yes

REASON

Spending or Savings

GROUP DIRECTOR

Ajman Ali, Acting Group Director Neighbourhoods & Housing

1. CABINET MEMBER'S INTRODUCTION

- 1.1 The Council is passionate about its housing stock, and committed to the aims and principles of social housing. It is both a privilege and a duty to repair and maintain the Council's homes and estates, where more than 30,000 tenants and leaseholders live and are their beating heart.
- 1.2 Last year we published a long term vision for our homes, in a new Housing Asset Management Strategy, and began work to procure new contracts to deliver that work, which would deliver on the ambitions of that document as well as the Council's wider objectives in making Hackney fairer, safer and more sustainable.
- 1.3 This procurement work has been unavoidably affected by the global coronavirus pandemic. While the ambitions remain, the Council has had to urgently respond to the risk of not having suitable contracts in place to maintain our homes to the required standard. This report outlines a business case to procure a specific range of projects over external frameworks, as an interim delivery arrangement until the new long term contracts can be put in place.
- 1.4 This will ensure that the Council can continue to maintain homes so they are safe, secure and decent.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 The Council is facing an unprecedented challenge from the current Covid-19 outbreak; while frontline staff work to support residents directly affected by the lockdown, others are working to ensure that we continue to fulfill our core responsibilities. An important responsibility is the maintenance of our housing stock; ensuring that residents remain safe and secure and our homes are decent.
- 2.2 In May, a decision was sought to extend the Council's existing main capital delivery framework by one year, and up to a value of £225m. This decision was made in the context of the exceptional circumstances brought about by the Covid-19 outbreak as it initiated significant disruption not only to current programmes but also planned procurement work on replacement contracts.
- 2.3 The planned procurement work is to put in place long term contracts of up to 10 years. Securing prices for such works requires market conditions to be relatively stable. The current market, and that for the immediately foreseeable future, will be quite uncertain. As indicated in the May CPC report, an extension to Contract 1 alone may not be sufficient to ensure the delivery of a suitable level of capital investment until new contracts can be put in place.
- 2.4 This report recommends a decision on the procurement of a set of essential projects to be delivered to tenanted homes only, which will provide another important route for capital delivery over the next two years.

3. RECOMMENDATION(S)

The Cabinet Procurement Committee is recommended to:

- 3.1 Approve the procurement of a group of planned capital works to Hackney Council housing which are non-rechargeable to leaseholders, via a pre-existing external framework. They include specific internal, external and fire safety projects, as set out below, and have a total estimated value of £40m. This is to allow capital delivery to continue, pending the award of a new suite of long term contracts, which has been delayed due to the Covid-19 pandemic.

Project	Works Type	Scope of Project
Planned Internal Works	Kitchen and bathroom renewals, heating and electrical system upgrades and renewals	Qualifying properties in Lincoln Court and year 1 and 2 of the capital programme. Est 600-900 properties
Front Entrance Door Programme	Replacement front entrance doors to current fire safety standards	Qualifying non-Section 20 properties in blocks 6 stories and higher. Est 8,000-10,000 properties
Regents Estate External Works	Planned external works including window renewal	113 tenanted homes in the Regent's Estate
HRU Replacement Works	Replacement of heat recovery units	Tenanted homes in Finsbury Park Estate, Goldcrest Mews and Dunnock Mews
Seaton Point EWI	Replacement of External Wall Insulation (EWI), windows, concierge roof repairs and communal area works.	1-84 Seaton Point

- 3.2 Provide delegated authority to the Group Director of Neighbourhoods and Housing, in consultation with the Group Director of Finance and Corporate Resources, to approve direct awards of contracts at Regent's Estate, Lincoln Court and Seaton Point under this procurement, and note that these awards will be reported as an information item at subsequent meetings of this Committee. All other projects will return to CPC for approval of contract award following a mini-tender process.

4. RELATED DECISIONS

- 4.1 May 2020: CPC approval of a one year extension, effective from 31 August 2020, to the existing contracts under the 'Contract 1' framework for Decent Homes, Planned and Responsive Maintenance Works to Hackney Council housing. These include contracts with three service providers; two of which have Project Partnering Contract (PPC) forms of contract, and one of which has both a PPC and Term Partnering Contract (TPC) form of contract.

<http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=113&MId=4804>

- 5.1 June 2019: The Procurement Strategy report approval of a suite of capital contracts for planned works to Hackney the Council's housing stock. The contracts cover planned internal, external, fire safety, mechanical and electrical works to Hackney Council homes. This procurement exercise is, in part, a replacement to Contract 1 which is the subject of this current business case.

<http://mginternet.hackney.gov.uk/mglIssueHistoryHome.aspx?Id=37259&optionId=0>

- 4.2 25 March 2019: Cabinet approval of the Housing Asset Management Strategy 2019-2027. This provides an overarching framework for investment decision-making across the Council's homes and estates. It sets out the ambitions that Hackney has for the quality of its homes and the priorities that will be established to ensure that the limited available resources are directed at the greatest need.

<http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=111&MID=4332#AI32478>

- 4.4 30 March 2015: Cabinet Procurement Committee Approval to award a four year framework agreement to three Main Constructors for a period of up to four years was taken by the Cabinet Procurement Committee on 30th March 2015. The relevant minutes along with the full report can be downloaded from the attached:

<http://mginternet.hackney.gov.uk/ieDecisionDetails.aspx?Id=332>

5. OPTIONS APPRAISAL AND BUSINESS CASE (REASONS FOR DECISION)

- 5.1.1 The Council's capital delivery programme is essential to ensuring the ongoing maintenance of the housing stock, ensuring it reaches the required standards. Most current capital delivery projects are let via 'Contract 1'; a framework contract let in 2015, and includes three main contractors. Its original end date is August 2020. In June 2019 CPC approved a business case for the procurement of a suite of contracts to replace this. Work on this

procurement is progressing but has been significantly impacted by the coronavirus lockdown. This impact has both diverted staff resources, and caused significant uncertainty in the construction market which will impact the suitable timing of tendering for long term contracts. As yet the full impact remains unknown, however, it has been estimated that tendering will not start on the main framework contracts until Spring 2021, with works on the contract not starting until Summer 2022. The separate planned internal contract is expected to go out to tender and start works earlier, with works starting in early 2022. Refer to table 1 for an estimated programme for the longer term procurement work.

5.1.2 The Property and Asset Management team have reviewed the options to ensure that capital delivery can be maintained during the transition period to these new contracts. To that effect in May 2020, a report was brought to CPC on the extension of 'Contract 1' by one year and to a maximum value of £225m. This was approved and the relevant OJEU notice has now been posted on that contract variation.

5.1.3 Despite the exceptional circumstances of the coronavirus, there is a limit to the maximum value of the contract, and this is unlikely to be sufficient to ensure the required level of capital investment through to Summer 2022. As a result, as indicated in the May 2020 CPC report, further options to procure additional works in the interim have been researched, and this CPC report presents a preferred option to use a pre-existing external framework for a specific group of current planned projects which have no leaseholder recharge element. The details of these projects is set out in Section 5.4.

5.1.4 The impact on the programme for the current procurement work is set out in Table 1 below. This work includes the procurement of 5no. term contracts and a framework contract divided into 2no. lots. This is behind the originally planned programme for the work; that programme was highly ambitious and the team have been affected by unexpected resource limitations. However, significant progress has been made, and prior to the lockdown announcement the team were planning a rolling sequence of tendering exercises starting in July 2020 and continuing through to March 2021.

The phasing of the tendering processes for the different contracts is necessary as each evaluation exercise is officer resource intensive and it is critical that adequate time and resource is given to the evaluation process. Therefore, that same sequencing of issuing contracts for tender will have to remain in any amended programme.

5.1.5 It is difficult at present to estimate the duration of instability in the market; this issue is identified and mitigated within the risk register, however, it is expected that this pandemic will cause at least six months of serious disruption in which time, industry has limited sight of what long term recovery will be like, and during which time it will not be reasonably possible to obtain pricing which will be reliably sustainable for the long term contracts planned.

Estimates are that this period of uncertainty could readily last up to one year, and given the scale of these contracts, this amount of time has been allowed for as possible delay.

5.1.6 The current programme anticipates letting the smaller specialist M&E contracts first, and later the planned external framework contracts. This will continue. This is as the existing planned electrical contract already expired in March 2019 and these works are already subject to interim arrangements and remain a priority. However, strategically it is likely that these contracts, offering more discreet scopes of works, are those for which tendering can resume sooner.

The table below sets out the current programme dates, and an initial estimate of a revised programme, noting this will depend on market conditions. The initial estimate is to forecast a 6 month delay to tendering starting on any contracts and the main framework incurring a 9 month delay. This places the period where the Council will be securing prices between January and July 2021. The impacts on the programme will be subject to ongoing review with an aim to minimise delays to the procurement while ensuring that a successful procurement exercise can be undertaken.

The gap between the tender period and contract award is to allow for leasehold consultation and formal approval of contract award by CPC.

Table 1. Potential Impact on Procurement Programme

	Contract	Current Programme Tender Period and Contract Award (CA) Dates	Revised Programme Tender Period and Contract Award (CA) Dates
i	Lot 1 & 2 Framework for Planned External Works	Tender: Oct '20 - Mar '21 CA: Sep '21	Tender: Jul '21 - Dec '22 CA: Jun '22
ii	Term Contract Planned Internal Works	Tender: Aug '20 - Oct '20 CA: Jan '21	Tender: Feb '21 - Apr '21 CA: Jul '21
iii	Term Contract Communal Electrical Supply	Tender: Sep '20 - Dec '20 CA: May '21	Tender: Apr '21 - Jun '21 CA: Nov '21
iv	Term Contract Fire Safety Systems to Large Blocks	Tender: Jul '20 - Sep '20 CA: Mar '21	Tender: Jan '21 - Mar '21 CA: Sep '21
v	Term Contract	Tender: Jul '20 - Sep '20 CA: Mar '21	Tender: Jan '21 - Mar '21 CA: Sep '21

	Fire Safety Systems to Street Properties		
vi	Term Contract Communal Boilers	Tender: Sep '20 - Dec '20 CA: May '21	Tender: Apr '21 - Jun '21 CA: Nov '21

5.1.7 The council is a member of various external frameworks; these are already established in line with public procurement rules, and allow a faster tendering process than can otherwise be achieved. This enables them to be suitable for use as interim arrangements while the main procurement work goes ahead. However, they are still sufficiently flexible to allow the council to include many of its usual specific conditions to contracts let in this manner. Further details on the procurement process is set out in 5.4 and in Section 7.

5.2 BENEFITS REALISATION / LESSONS LEARNED

5.2.1 The main benefits of the works will be in improving fire safety, ensuring hundreds of tenants benefit from new kitchen, bathroom and heating facilities in their homes, and ensuring the significant external works scheme at the Regent's Estate can be completed. Those residents will in particular benefit from new windows.

5.2.2 The contracts will continue to be managed and monitored by Property and Asset Management. They have implemented a range of enhanced contract management and governance procedures in the past two years which focus on five key aspects to contract management: internal governance, payments, processes, project management and clerk of works inspections. These procedures and ongoing developments will be applied to this contract extension. These are as reported to the Audit Committee in April 2019. One additional benefit of these works will be in allowing continuity of capital delivery, and consequently opportunity to continuously develop these procedures.

5.2.3 A board of senior officers, including the Cabinet Member for Housing, called the Capital Monitoring Board, will approve all works, in the form of Sectional Commencement Agreements (SCAs), let under this contract extension in line with the procedures used currently.

5.3 Strategic Context

- 5.3.1 The capital works programme is important to meeting the Mayor's priorities for a fairer, safer and more sustainable borough. Sitting under these priorities is the Mayor's vision that everyone in Hackney has a good quality and stable home, and the commitment to ensuring the Council continues to invest in and make best use of its housing stock to provide the homes, blocks and estates in which people want to live and are proud of.
- 5.3.2 The Council has recently introduced a new Housing Asset Management Strategy 2019-2027. The strategy sets out long-term objectives for investing in our homes and estates, and the ambitions that Hackney has for the quality of its homes and the related priorities to ensure that the limited available resources are directed at the greatest need. This investment includes fire safety and energy-efficiency measures that are essential to providing homes that are safe, decent, and fuel-efficient for our residents. Works let under this business case will be aligned with the objectives of this strategy. The implementation of this strategy is included in the HRA business plan on capital investment, and any further works will be let in the context of that plan.
- 5.3.3 The Landlord and Tenant Act 1987 places a legal duty on the Council for the repair and maintenance of the Council's homes and estates. The extension of the current contracts will enable the council to continue to deliver on this responsibility.
- 5.3.4 Since the lifting of the Housing Revenue Account debt cap in October 2018, the investment in the stock can be managed holistically and the Housing Asset Management Strategy 2019-2027 / Housing Revenue Account Business Plan allocates budgets for each area of investment in the year of assessment, and therefore enabling the continuous investment plans over the 30 years of the Housing Revenue Account Business Plan. This Business Plan illustrates the Housing Asset Management Strategy 2019-2027 investment is financially sustainable over the longer term, but does require on-going revenue savings which will be approved as part of the budget setting each year. However, this must be kept under regular review to take account of both local and national policy / legal changes and adjusted as necessary.

5.4 Preferred Option

- 5.4.1 The preferred option involves the procurement of a group of planned capital works to Hackney Council housing which are non-rechargeable to leaseholders, via a pre-existing external framework. They include specific internal, external and fire safety projects, as set out below, and have a total estimated value of £28m. This is to allow capital delivery to continue, pending the award of a new suite of long term contracts, which has been

delayed due to the Covid-19 pandemic. The detailed list of proposed projects and tendering arrangements is set out in the table 2.

- 5.4.2 Most of the identified projects have already had budget approval as part of the internal annual budget setting process; those that don't are advance programme works which are indicated in the 7-year capital programme (See table 2 for details). These are largely planned internal works, which the council only carry out to tenanted properties, specialist M&E works to heating systems, front entrance doors to properties with no leaseholder recharge, and some external works to the Regent's Estate on houses where there are no leaseholders.
- 5.4.3 Plans to deliver some of these projects via Contract 1 had been advanced to the stage of having pricing from contractors. This was done when the original end date for the contract was August 2020. Given the time extension, but limited value, it is important that works let under Contract 1 are prioritised to those that cannot be delivered by other means. In general, as Contract 1 was let following Section 20 consultation procedures, the priority on Contract 1 will be to let works which are rechargeable to leaseholders, which are mainly external works. This approach will ensure the delivery of external works can be maximised until the new contracts are in place. Contract 1 was procured in compliance with the Public Contracts Regulations 2015 and the EU Directive 2014/24/EU.
- 5.4.4 The proposed procurement route is to use two pre-existing frameworks, which have already been established in accordance with EU rules; the South East Consortium and the London Housing Consortium (LHC). Hackney Council is a member of the South East Consortium (SEC) and is a founding member of the LHC. Both organisations operate a range of frameworks specific to different strands of works (e.g. planned internals, passive fire safety etc), and in each case the works would be tendered via the most appropriate framework for the work types.
- 5.4.5 There are two projects where current projects have already been fully priced and agreed with Contract 1 contractors and where the projects follow on from previous capital works at the estate. These are the Lincoln Court K&Bs, and Regent's Estate External Works. In these cases to ensure continuity for residents, and to avoid duplication of pre-construction costs, it is proposed to let the works by a direct award process off the SEC framework. The current Contract 1 contractors are also on the SEC frameworks. The May 2020 CPC reported on a value for money review of Contract 1, which found that Contract 1 continues to offer value for money compared to the general market.
- 5.4.6 The works at Seaton Point, including the replacement of the External Wall Insulation, are also already fully priced via mini-tender under Contract 1. The current default position is to let this project under Contract 1, however, we are at present awaiting the details of the Government's new Building

Safety Fund. Full details are expected in July 2020. This may enable the council to recover the leaseholders' proportion of the costs of the works from this fund. Should this be the case, or if leasehold charges are not due for any other reason, the council would propose to let the replacement works via direct award under the SEC framework.

5.4.7 Where direct award off the framework is used, the contractors would be subject to the same terms and conditions as the existing Contract 1. Given the low risk with these contracts it is recommended that the decision to award the contract is permitted under delegated officer approval, and reported to CPC for information.

5.4.8 All other procurements will be let via a mini-tendering process off appropriate frameworks, with contract award going to CPC for approval. The council can select for both cost and quality proposals. The council's specific requirements will be satisfied both in respect of specific works specifications and in service delivery aspects such as resident engagement, supply chain management and social value.

5.4.9 The list of proposed projects is as follows:

Project	Scope of Project	Notes on Project Status	Tender Route
Planned Internal Works: Lincoln Court K&Bs	Kitchen and bathroom renewals, electrical system upgrades and renewals and leaks repairs to c.100 qualifying properties at Lincoln Court.	Works surveyed and priced by Wates who are currently installing new front entrance doors at the block, and are completing the replacement of the EWI.	Direct Award via SEC framework
Planned Internal Works: Qualifying properties in year 1 and 2 of the capital programme.	Kitchen and bathroom renewals, electrical system upgrades and renewal to qualifying properties (scope per property subject to survey). There are c.6,000 properties in years 1 and 2 of the capital programme of which an estimated 500 properties qualify for works.	Year 1 works have budget approval, and initial surveys undertaken. Year 2 works subject to budget approval in January 2021 cabinet report.	Mini-Tender via suitable external framework
Front Entrance Door Programme;	Replacement front entrance doors to current fire safety	All blocks 10 storeys and higher required new doors. Section	Mini-Tender via suitable external

Remainder of 10+ storey blocks	standards to qualifying non-Section 20 properties in blocks 6 stories and higher. Est 2,500	20 for relevant leaseholders completed. First phase underway; later phases in early planning.	framework where no S20 Contract 1 where S20 required
Front Entrance Door Programme; 6-9 storey blocks	Replacement front entrance doors to current fire safety standards to qualifying non-Section 20 properties in blocks 6-9 storeys high. Est 6,000	These works have internal budget approval. Early review of block design and FRAs has started to determine which need to have an FD30s FED	Mini-Tender via suitable external framework or LHC framework where no S20 Contract 1 where S20 required
Regents Estate External Works	Planned external works including window renewal to 113 tenanted homes in the Regent's Estate	Works surveyed and priced by Engie, who are currently undertaking planned external works to the wider estate.	Direct Award via SEC framework
HRU Replacement Works	Replacement of heat recovery units in Finsbury Park Estate, Goldcrest Mews and Dunnock Mews	Technical surveys and option appraisals for new heating systems undertaken; specification developed to be used as basis for pricing.	Mini-Tender via suitable external framework
Seaton Point EWI Replacement	Replacement of external wall insulation, windows, concierge roof repairs, and communal area works at Seaton Point.	Mini-tender for works complete under Contract 1. Use of SEC subject to details of Government Building Safety Fund.	Direct Award via SEC framework

Table 2: List of proposed projects

5.4.9 The Cabinet approved, in October 2018, the fire door replacement programme (FED) which included the decision to waive leasehold recharge in certain circumstances. For properties where leaseholders are expected to contribute to the cost of the replacement via a Section 20 notice, the instruction to replace the door will be issued via Contract 1 to satisfy leasehold consultation requirements. While this will mean that a minority of the FEDs in a block will be replaced by a different contractor, this will not

give rise to any obvious visible difference between doors installed under Contract 1 or the external framework. This as the Council has a very specific door specification with a limited range of design options, which is necessary to ensure strict fire safety standards are achieved. Where leaseholders retain responsibility for their door in their lease (c.50% of leaseholders) they are able to choose their own door, and therefore visual unity in a block cannot be achieved.

Almost all the blocks requiring a new front entrance door have enclosed internal areas (as this gives rise to the need for one), therefore they have limited visual impact on the building.

Not all blocks which are 6-9 stories high will require replacement of the front entrance doors; this will be determined based on the specific building design and the recommendations arising from the fire risk assessment.

5.5 ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

5.5.1 The key considerations for possible approaches were to ensure the continuity of the capital programme, ensure all works can be recharged to leaseholders, to ensure all relevant procurement legislation is adhered to, to continue to secure value for money for works, and to ensure that any options can be implemented within the limited timescales. A series of options were considered and tested against the above criteria.

Option 1 - Hold procurement of these works until new contracts are in place

5.5.2 Contract 1 was due to end on 31 August 2020; approval has been obtained to extend this to 31 August 2021. The total value of the existing contract 1 framework is capped at £225m and therefore there is a limit to the value of remaining works which can be let.

5.5.3 The procurement of the new framework contracts will be delayed by the Covid-19 lockdown, both due to internal operational limitations, and the need to ensure the market is suitable to procure long term contracts. At present a delay of 9 months is estimated in issuing the contracts to tender. It is estimated that it would take until late in 2022 to achieve spend on these new framework contracts. This is to allow for the full procurement process including the time needed to tender the contracts via a 2-stage procurement process, carry out further leasehold consultation, the Council Governance process to award the contract to the contractors, the mobilisation period, and to carry out pre-construction surveys and leaseholder consultation on initial projects let under these new frameworks. Spend on the proposed new planned internal contract is expected to start in early 2022.

- 5.5.4 There is therefore approximately two years until spend will be realised on the new frameworks. The remaining value of Contract 1 at c.£38m, is not sufficient to maintain the usual annual level of capital investment. It is important to retain this level of investment to avoid backlogs in capital delivery, ensure key fire safety projects are progressed, and to ensure continuity of service. Backlogs in capital delivery may also result in additional demands on repair budgets. The current investment in works delivered via Contract 1 is c.£35m per annum, therefore not allowing for additional interim arrangements to the new contracts would see a considerable shortfall in capital investment over the next two years.
- 5.5.5 The risks to continuity of the capital programme, and most notably, key fire safety works, meant that this option was rejected.

Option 2 – Procure a Stand Alone Contract

- 5.5.6 This option involves carrying out an independent procurement process to let any works required to maintain capital delivery until the new long term contracts are in place. This would include necessary two stage leasehold consultation where works were subject to recharge.
- 5.5.7 In general this option requires more resources than Option 4 to use an external framework, and it would also take a lot longer to procure. This presents a risk of diverting resources from the main procurement work for the new long term contracts and causing further delays.
- 5.5.8 There are also risks associated with securing value for money on contracts given the uncertain nature of the contract, although this is considered a much lower risk on smaller specific projects than when procuring long term qualifying agreement contracts.
- 5.5.9 A review of resource, market knowledge and relevant projects has led to the conclusion that this option is not preferred to the use of external frameworks (see Option 4) here may be future situations where stand alone procurements could be used, such as where the preparation of the tender documentation for the main long term contracts is largely complete, but it is not yet considered that the market is suitable for tendering such work. In that case, a one off procurement project may be entered into, subject to relevant governance approvals.
- 5.5.10 This approach may also be necessary should the council encounter the need for a very particular new strand of capital investment which could not be met by current arrangements, which could not be let via an external framework (e.g. due to leaseholder recharge limitations) and which could reasonably be held until the new frameworks were in place.

5.5.11 Due to the reasons set out above this was rejected as a main course of action at this time, though where conditions arise, the Council may elect to pursue this route in future.

Option 3 – Insourcing the Works to the DLO

5.5.12 The option of in-sourcing the planned works was examined, however, the scale of the work, both in value and in type, and the timescales involved, means that it is neither desirable nor possible to restructure the DLO in time to carry out this work.

5.5.13 In the business case report (NH P78) to CPC in June 2019, a detailed analysis was undertaken of the capacity to grow the DLO's capital works delivery. Key opportunities for work in this area were identified, and the proposed contract divisions for the new contracts to replace Contract 1 have been developed to support this medium and long term DLO growth. The key opportunities were in planned internal works including voids, kitchens, bathrooms and electrical work.

In order to deliver on this, the DLO will require stable sustainable growth to develop resources and the necessary skill sets. A short term move away from the strategy set out in June 2019, would likely undermine the long term DLO growth plan.

Option 4 - Procure Additional Interim works via External Framework

5.5.14 The preferred option involves procuring a group of projects via a pre-existing external framework. This will allow works to be procured in an efficient and timely manner, and without requiring so much resource that this has further impacts on the main procurement work programme.

5.5.15 Works procured from a national framework cannot necessarily include leaseholders, as the Section 20 consultation has not been undertaken by the Council prior to the frameworks being let. The loss of approximately 30% of the cost of any project is too significant, and would impact on the Council's wider ability to effectively maintain homes. However, the programme of capital works includes works which are not rechargeable to leaseholders, which will suit the the use of these frameworks.

5.5.16 Option 2 in the CPC Report NHQ66, indicated that in addition to the extension of Contract 1, there may be some requirement to carry out additional interim procurement via this route. This report stated: *Where necessary the Council may elect to pursue this route [meaning the use of an*

external framework] for the delivery of non-rechargeable works. This would be subject to the relevant decision making process at the time. There is limited work which falls into this category, though and it would be inadequate as a general replacement for maintenance works. As a result this option, as a main course of action, was rejected.

5.5.17 The use of these external frameworks would be insufficient as a main course of action, however, supplemented with the extension approved to Contract 1, there would be sufficient scope and capacity to continue with a range of planned capital works until 2022. Where, as indicated in 5.5.4 above a capital investment of c.£70m would be envisaged over a two year period, this option combined with the extension to Contract 1 will ensure contractual capacity for £78m. Given that the current working conditions mean that capital works are estimated to progress at a reduced rate for the remainder of the 20/21 financial year, this is likely to be broadly sufficient. However, as outlined in Option 2, any further delays to the new framework would necessitate the need for further interim arrangement to secure the necessary levels of investment.

5.5.18 The proposed procurement route is to make use of pre-existing frameworks, which have already been established in compliance with the Public Contract Regulations 2015 and the Directive 2014/24/EU. In particular the proposal is to draw on the frameworks established by South East Consortium and the LHC of which Hackney Council is already a member. Refer to Section 7 for details of the proposed procurement process.

5.6 Success Criteria/Key Drivers/Indicators

The success criteria / key drivers / indicators for this contract extension exercise are:

- Ensuring contracts remain in place for construction services to ensure the Council can invest in homes to fulfill its legal obligations as a landlord;
- Ensuring that the council can continue to deliver essential works, and allow the procurement work to be delayed until the market has returned to a sufficient level of stability to allow a long term tendering exercise to be carried out.
- Ensure that works are delivered within the capacity of the Housing Revenue Account (HRA) Business Plan.
- Provision of a cost efficient, quality driven related works across the entire housing stock, which are focussed on the greatest investment need, and meet all relevant technical standards;
- Ensuring compliance with the Council Standing Orders, Regulatory Procedures, and the Council's Corporate Policy;

5.7 Whole Life Costing/Budgets

- 5.7.1 The capital programme for housing covers the investment in HRA stock and assets managed by Housing Services and set out in this document, along with the investment in HRA hostels and housing grants managed by Housing Needs and Private Sector Housing.
- 5.7.2 The works which would be let under this contract have already been budgeted for in the 20/21 Council budget; budgets are set in line with the provisions of the HRA business plan. Variations to the required investment for projects, based on specific works requirements, is subject to internal board approval.

5.8 Policy Context

- 5.8.1 Works let as part of this procurement will be aligned with the objectives of the Housing Asset Management Strategy 2019-2027.

5.9 Consultation/Stakeholders

- 5.9.1 These works are not rechargeable to leaseholders, and therefore the provisions of leaseholder recharge legislation are not applicable.
- 5.9.2 Residents affected by these proposals will be consulted on the works in line with the expectations set out in the Asset Management Strategy. With elements such as Front Entrance Doors, there are very strict standards to achieve, opportunities for consultation are more limited, though efforts have been made to ensure residents have a range of design options to choose from.
- 5.9.3 On kitchen and bathroom works, the scope of the work to any property is determined by the council's qualification criteria for replacement; where these are met, residents have a range of design options to choose from. On all such projects the council appoints an internal Client Liaison Officer.
- 5.9.3 The proposals will be presented to wider stakeholders including members, and tenant and leaseholder representative groups, as part of engagement on the overall medium term plans to deliver the capital programme, i.e. including the extension to Contract 1 and the programme for the new contracts procurement.

5.10 Risk Assessment/Management

5.10.1 The key risks associated with this decision and actions to mitigate these are set out in the table below:

Table 3. Key risks identified

Risk	Likeli- hood	Im- pact	Ove- rall	Action to avoid or mitigate risk
	L - Low; M – Medium; H - High			
Unusual inflation affects contract pricing.	H	M	M	The Council remains under no obligation to issue works under this business case; where exceptionally high inflation occurs, to seriously affect the council's financial position, works can be reprioritised within financial limits.
The business case is rejected	M	M	M	Ensure the business case is comprehensive, non-ambiguous, and adequately supported by external expert advice.
Lack of available contractors to deliver work due to economic recession.	L	H	M	Apart from direct award projects, other works are not expected to be tendered until autumn, with works starting in the new year. This risk will need to be monitored, however, current expectations are that the economic situation will have stabilised somewhat by then, with most usual construction activities resumed. Each framework has several appointed service providers, limiting the risk of having no available contractors.
The procurement work to replace Contract 1 is delayed even further than currently anticipated.	M	H	M	The strategic team leading the procurement will monitor this as an ongoing risk, and will need to respond accordingly. This will significantly depend on how the industry return to BAU materialises.

Failure by contractors to comply with contractual obligations	M	H	H	The mini tender process allows for cost and quality considerations in the award process. The contract includes KPIs to allow performance monitoring. The Council are able to terminate the contracts should the contractors perform below standards.
Overrun budget	M	M	M	Work programmes, budgets and orders given to the contractors are continuously managed and formally monitored.
Lack of contract management resources within Property and Asset Management	M	H	M	This option does place some additional demands on the contract management team, and where additional staff resources are required, a business case will be made in the appropriate manner. Recruitment is difficult in the current circumstance so staff retention will be a priority.

5.11 Market Testing (Lessons Learnt/Benchmarking)

5.11.1 All works let on these contracts can be market tested against rates in place on the current 'Contract 1' to ensure that value for money is being achieved.

5.11.2 A post-project review process has been introduced into the capital delivery team, and this will be used to ensure lessons learnt from previous projects can be carried forward, and applied to these works.

5.11.3 The external frameworks proposed have been established using competitive tendering processes on a cost/quality basis in compliance with the Public Contracts Regulations 2015.

5.11.4 The proposed procurement strategy will increase flexibility and the Council's response on when to initiate the tendering process for the proposed new long term contracts, which will allow greater capacity to achieve value for money on these works.

5.12 Savings

5.12.1 There are no direct savings to be achieved from the tendering of these contracts, however the tender evaluation will ensure value for money is achieved from the delivery of the capital works, as well as considering the

quality of the works delivered. Any reductions in the contracts, component cost or budget requirement of specific block will be reinvested into other properties in line with the “hierarchy of needs” identified in the Housing Asset Management Strategy 2019-2027.

5.12.2 Use of frameworks can offer indirect savings by offering better value for money as they have reduced transaction costs. The potential to develop ongoing relationships with particular contractors can also assist in enabling greater social value benefits.

6. SUSTAINABILITY ISSUES

6.1 Equality Impact Assessment and Equality Issues

6.1.1 All tendering contractors will be required to demonstrate that they comply with the Equality Act 2010. Contractors also are required to demonstrate the following:

- that they operate an active equal opportunities policy that achieves targets that encourages an ethnically diverse workforce;
- consideration for local employment, including disadvantaged people (people that face additional barriers in the labour market i.e. long term unemployed, etc.), supporting young people to access and get started in the world of work;
- the London Living Wage (LLW) will be paid to employees, as a minimum;

6.1.2 Maximising the accessibility of homes, buildings and estates to those with limited mobility, including elderly residents, parents with small children, as well as residents with particular needs is a key consideration of all major planned maintenance work schemes, in line with the Housing Asset Management Strategy 2019-2027. This includes a range of works at the level of the property, block and estate, from designing and installing kitchens, bathrooms, front doors that are DDA (Disability Discrimination Act) compliant, to access ramps and canopies at block main entrance, to dropped kerbs for estates paths etc.

6.2 Environmental Issues

6.2.1 There is an obligation on all contractors to comply at all times with the Environmental Protection Act 1990 and other relevant legislation, as well as the Environmental policies of the Council. For example, ensuring that all vehicles minimise emissions.

6.2.2 The specifications used for these works will incorporate the council's usual terms for sustainability of construction materials and efficiency ratings for relevant components e.g. mechanical and electrical equipment, windows and external doors.

6.2.3 The contractors will be obliged to follow operational sustainability procedures as part of the contract terms, including on waste management and efficient vehicles.

6.3 Economic Issues

6.3.1 Contractors will be required to give consideration to engaging local suppliers in their supply chain in so far as possible, and consideration for directing resources towards the local economy.

6.3.2 Contractors will be asked to demonstrate minimum specific levels of hiring apprentices; these will be set in accordance with the size of each project and the type of work.

7. PROPOSED PROCUREMENT ARRANGEMENTS

7.1 Procurement Route and EU Implications

- 7.1.1 The preferred procurement route is to use two existing, national frameworks, the South East Consortium (SEC) and the LHC which have been established following a full tender process in compliance with the Public Contract Regulations 2015 and Directive 2014/24/EU.

Typically there are two options available to selecting a contractor, either by a direct award or by “call-off” or mini-tender where within limitations the Council has the opportunity to assess project specific cost and quality criteria to ensure alignment with the Council’s requirements. The underlying contract (the project specific contract) can then be let using the Council’s preferred contract form. , is aligned with the council’s wider expectations.

- 7.1.3 Both the LHC and SEC manage several frameworks suited to particular works types. For example, FD30s front entrance doors are most appropriately let on a Passive Fire Safety framework.

7.2 Resources, Project Management and Key Milestones

- 7.2.1 The procurement process to use these frameworks will be led by the Property and Asset Management team, with support from legal, procurement and finance. The award of any works via these external frameworks will be subject to the approval of Capital Monitoring Board.
- 7.2.2 The work to develop works orders (SCAs) to let under the frameworks and to manage the works on site, will be done in line with contract provisions and current internal management and resident engagement procedures by staff in the Property and Asset Management team.
- 7.2.3 The programme below is indicative for an initial project or projects; the large size of this suite of works, means there are likely to be several successive mini-tender projects. The programme is written anticipating ongoing limitations in contractors and supply chain resources as they begin to recover from lockdown; there may be opportunity to complete mini-tender activity earlier than this.

Table 4. Indicative Key milestones

Key Milestones	Month
CPC Meeting and Approval	July 2020

Negotiation with contractors on direct award projects	July 2020/August 2020
Internal approval of instruction to contractors on direct award projects via delegated authority	September 2020
Works start on direct award projects	October 2020
Development of documentation for mini-tender projects	From July/August 2020
Start of mini-tendering (note: projects will be sequenced)	From September/October 2020
CPC approval of contract award	From November / December 2020
Works start on mini-tender projects	From January 2021

7.3 Contract Documents: Anticipated contract type

7.3.1 The contracts used will be PPC forms of contract. This ensures consistency in overall contract administration arrangements with other capital contracts used by the team. PPC contracts are a design and build form of contract, and are the most common contract type used for long term building maintenance contracts.

7.4 Contract Management

7.4.1 The contracts will continue to be managed and monitored by Property and Asset Management. They have implemented a range of enhanced contract management and governance procedures in the past two years which focus on five key aspects to contract management: internal governance, payments, processes, project management and clerk of works inspections. These procedures and ongoing developments will be applied to this contract extension. These are as reported to Audit Committee in April 2019. In line with the proposal in 7.3.1 to continue using a PPC form of contract for these works, these enhanced contract management procedures will remain relevant and can continue to be applied.

7.4.2 The Housing Capital Monitoring Board, chaired by the Group Director Neighbourhoods and Housing and supported by the Director, Neighbourhoods and Housing Finance, will approve all works let via these external frameworks in line with the procedures used currently.

7.4.3 On all projects Hackney Council will continue to use clerks of works to inspect and sign off that the quality of the works is in line with the specifications. There are three specialisms; building clerks, mechanical clerks and electrical clerks. The team operates a schedule of required inspections to all external and internal works.

7.4.4 In so far as possible, the proposed contracts will carry the same contract terms as are currently used on capital works. As these will be one-off projects, rather than long term contracts, the terms for non-performance will be revised accordingly. Poor performance can result in not being selected again from the framework. There are no penalty clauses, in line with contract law. There are no identified liquidated or ascertained damages.

7.5 Key Performance Indicators

7.5.1 KPIs need to be adapted to the specific nature of the works, and reflective of the contract type. Across all kitchen and bathroom, FED and mechanical projects, the performance will be assessed per property, and a suite of KPIs will be tracked against all contractors used, covering the following:

- Performance against programme for works at a property
- Finance performance indicator for cost certainty
- Health and Safety
- Environmental Sustainability of Operations (e.g. Vehicles, Waste Management)
- Customer Satisfaction
- Defects Handling

The specific KPI definitions and targets will be developed specifically for each of the contracts proposed in the preferred option under this strategy (Section 5.4). Consideration will be given to the work type and volume. Defined failures to meet KPI requirements will constitute a ground for early termination of contracts.

7.5.2 Contracts for external works will be assessed against the standard range of external works KPIs used on the current Contract 1; this is to allow the results to be compared.

7.5.3 Depending on the volume of work, contractors will be assessed at mini-tender stage for social value initiatives; and these commitments will be reported against.

8. COMMENTS OF THE GROUP DIRECTOR FINANCE AND CORPORATE RESOURCES

- 8.1 The report recommends the procurement of a number of housing maintenance contracts for the Council's tenanted housing stock pending the re-tender of the main housing maintenance contracts in 2022. The recommendation will ensure that the delivery of capital investment in the Council's housing stock relating to planned maintenance, as set out in the Housing Asset Management Strategy 2019-2027 and approved by Cabinet in April 2019, is maintained.
- 8.2 The contracts will be funded from the Housing capital budgets approved by Council in January this year which are in line with the HRA Business Plan approved in April 2019.

9 COMMENTS OF THE ACTING DIRECTOR, LEGAL & GOVERNANCE SERVICES

- 9.1 This Business Case Report seeks approval for the procurement of a linked group of contracts, estimated total value £40m, to deliver planned capital works to Hackney Council housing (which said works are non-rechargeable to leaseholders) via two pre-existing External Framework Agreements, namely *South East Consortium* and *LHC*.
- 9.2. A Risk Assessment using the Council's Risk Assessment Tool (RAT) has been carried out and the result is *High Risk*. Accordingly, this Business Case is presented to Cabinet Procurement Committee pursuant to Contract Standing Order 2.5.3.
- 9.3 Contract Standing Order 5.1.4 provides that Officers may use External Framework Agreements as instructed or agreed by the Group Director, Finance and Corporate Resources, or designated deputy.
- 9.4 The linked group of contracts has an estimated total value of £40m, which is above the current EU Procurement Threshold of £4,733,252 for Works. Utilisation of these two EU-compliant External Framework Agreements will ensure that procurement of these contracts is in compliance with The Public Contracts Regulations 2015 (per Regulation 33 - Framework Agreements).
- 9.5 Legal Services will assist in the review and preparation of relevant contracts and associated documentation.

COMMENTS OF THE PROCUREMENT CATEGORY LEAD

- 10.1 This Business Case sets out contractual arrangements to maintain the delivery of the housing capital investment programme, pending the procurement

of a suite of 6 contracts starting towards the latter part of this year or early next, subject to sector conditions.

10.2 To maintain delivery a precautionary 1 year extension of Contract 1, the current delivery vehicle, was approved by CPC in May 2020 however it is unlikely to be sufficient given the OJEU financial limits.

10.3 The estimated total value of the proposed contracts is £40m which is above the EU Threshold of £4,733,252 and is therefore subject to the Public Contracts Regulations 2015 (PCR2015).

10.4 To address the risk of a potential gap in contractual arrangements and for efficiency and timeliness, the preferred solution, is to procure from suitable existing national frameworks as provided for in the Council's Contract Standing Order 5.1.4. Frameworks are overarching arrangements with groups of pre-qualified suppliers that permitted organisations may use to "call off" for contracts which are established in compliance with the PCR2015 and the EU Directive 2014/14/24/EU.

10.5 The preferred frameworks are the South East Consortium (SEC) and the London Housing Consortium (LHC). Section 7 of this document sets out the proposed procurement process.

APPENDICES

None

BACKGROUND PAPERS

None

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