

Report to Cabinet

18 October 2023

Subject:	Approval of contract extensions and commencement of procurement – Housing repair and maintenance services
Cabinet Member:	Cabinet Member for Housing and Built Environment, Councillor Laura Rollins
Director:	Interim Director of Housing, Dean Epton
Key Decision:	Yes
Contact Officer:	Interim Head of Contract Procurement, Chris Hall Chris_hall@sandwell.gov.uk Mike Jones, Assistant Director for Legal and Assurance Mike_Jones1@sandwell.gov.uk

1 Recommendations

For the reasons set out in this report and its appendices and to ensure the continued delivery of Council services, it is recommended that–

- 1.1 Approval be given to extend the following contracts on the terms set out in Appendix 1 relating to:
- 1.1.1 Domestic Electrical Components.
 - 1.1.2 Electrical repairs and maintenance.
 - 1.1.3 Timber supplies for council-owned housing stock.
 - 1.1.4 Pitched and felt roof repairs to council owned properties.
 - 1.1.5 Hand tools, Ladders and Steps, Power Tools, Fixings, Drills and Consumables.



- 1.2 Approval be given to -
 - 1.2.1 Commence procurement for timber supplies for council owned properties, 3 years (2+1), total contract value up to £1.5m over 3 years
 - 1.2.2 Amend the previous decision of Cabinet (January 2023) relating to the procurement of electrical services (repairs and maintenance) by revising both the approved term and limit from £3.6m over 4 years to £6m over 3 years (2+1) in line with the commentary in Appendix 1A and authority be granted to commence procurement.
 - 1.2.3 Amend the previous decision of Cabinet (January 2023) relating to the procurement of building supplies to council owned properties by increasing the previously approved limit of £1.6m to £1.8m and Contract Award to commence from 1st December 2023.

- 1.3 Delegated authority be given to the Interim Head of Contract Procurement to make minor amendments and changes to the extensions and / or processes described in this report in order to give effect to the decisions at (1.1) and (1.2) above, in consultation with the Interim Director of Housing, Director of Finance and the Director of Law & Governance.

2 Reasons for Recommendations

- 2.1 This report sets out proposals to extend several contracts with external providers for the provision and supply of goods and services to meet the Council’s statutory duties and continue delivery of essential services relating to housing.

- 2.2 This report follows a corporate review of all contracts and procurements to ensure there is compliance in all directorates as part of the improvement journey to delivery best value across the authority.

3 How does this deliver objectives of the Corporate Plan?

	The Best Start in Life for Children and Young People
	People Live Well and Age Well



	Strong Resilient Communities
	Quality Homes in Thriving Neighbourhoods The provision of housing refurbishment, repairs, and maintenance works are key services for the housing department and Council as a whole. The services impact directly on the lives and wellbeing of residents living in over 26,000 Council owned properties. The services will also help to deliver key Council priorities to reduce carbon emissions, meet obligations relating to decent homes standards and ensure continued compliance with a range of essential landlord functions.
	A Strong and Inclusive Economy
	A Connected and Accessible Sandwell

4 Context and Key Issues

- 4.1 Like all local authorities, the Council uses external providers to deliver a wide range of its services and meet its statutory duties to residents and service users. Providers range from global businesses to small and local specialist suppliers.
- 4.2 In each case, the Council must procure services in accordance with its own Contract Standing Orders, which set out the Council's own procurement rules to ensure it acts fairly and obtains best value when spending public money. Contracts which have a contract value in excess of the statutory financial thresholds for works or services/supplies must also be procured in compliance with the Public Contracts Regulations 2015 (PCR2015).



- 4.3 The Council has an overriding duty to achieve best value in the procurement of goods, services and works. This, at minimum is achieved by undertaking a fully planned procurement process, which would usually take 12/18 months including but not limited to assessing demand / need for the services, market analysis and soft market testing, financial analysis and the planned design of the most suitable specification and criteria that would respond to Council's needs and ensure value for money.
- 4.4 To deliver best value, a successful procurement should be followed by effective performance management of the contractor once in place, based on a robust contractual framework. In turn, performance management should inform Council decisions on whether or not a contract should be extended, if the contract allows for this.
- 4.5 In addition, this is a challenging time for social housing and particularly for repairs and asset management. Landlords are subject to increased levels of scrutiny through the new Housing Regulator and Ombudsman. The Council also needs to ensure continuity of service provision to meet the emerging requirements of the Fire Safety Act 2021 and Building Safety Act 2022. These challenges are compounded by ongoing uncertainty within the construction market driven by strong cost inflation due to shortages of labour and/or materials.
- 4.6 This report has been submitted to Cabinet because a review of procurement and contractual frameworks has identified that the Council has not implemented a planned procurement process to evaluate options, total contract value or alternative forms of contract and, in some cases, has continued to purchase goods and services following the expiry of existing contracts. The risks this has created are outlined below. The decisions in this report seek to take immediate steps to rectify these failings by providing for:
- 4.6.1 Short term extensions to contracts as outlined in Appendix 1; and
- 4.6.2 The commencement of full procurement processes where required to ensure full compliance and the delivery of best value in our contracts, which will deliver improved services to Sandwell and its residents.



- 4.7 The Council will rectify all urgent contract extensions, awards, variations, and commencement of procurements between now and the end of November. This will include reviewing the procurement pipeline, the current contract register up to April 2024 and how that is managed and to ensure a robust and functional corporate system of procurement is in place, including a 100% accurate corporate contract register, with clear roles and responsibilities and forward planning by April 2024. This will be informed by the current procurement review which is ongoing.
- 4.8 Further strengthening of controls and governance are to be implemented with options appraisals embedded into the procurement process, contract value reporting, work in progress (WIP) calculations to manage committed spend and a full review of risks and issues on a monthly basis to further inform future procurement planning.

5 Alternative Options

- 5.1 The Council must take action to regularise the contractual position of the services currently being operated without formal contract or where existing contracts have expired and goods/services continue to be procured. The following options have been considered

5.1.1 **Option 1: Do Nothing.** This is non-compliant as existing contracts have either expired or agreed procurement limits are about to be exceeded or are already exceeded. Without suitable arrangements, the Council is unable to fulfil its landlord obligations and maintain its housing assets. This option is not available to provide the services over the medium and long term and does not address continued service provision until further procurement activity is undertaken.

5.1.2 **Option 2: Re-procurement of the services and works.** The Council could choose to undertake a procurement exercise without an extension to the contracts. This would mitigate some risks of non-compliance going forward but is not recommended as it will mean the cessation of services to residents and service users and places the Council at risk of not meeting its statutory duties. Furthermore, cessation of services to enable an immediate procurement exercise would likely result in significant delay until new suppliers/service providers were appointed.



5.1.3 Option 3: Extension of existing contracts and commencement of re-procurement activity. The preferred option is to extend existing contractual arrangements for a defined period and within defined financial limits based on realistic projections of expenditure during the extension period. It is further recommended that the Council take the opportunity presented through re-procurement activities to review those elements of goods/service provision where improvements could be made. This may include the approach to commissioning by examining opportunities to aggregate contracts to drive improved value for money or through accessing established, compliant purchasing frameworks.

6 Implications

<p>Resources:</p>	<p>The Council has a statutory duty to ensure it achieves best value, and that includes ensuring procurement of services is undertaken in a way that is effective in delivering desired outcomes, including those relating to social value, whilst ensuring value for money is achieved.</p> <p>The approach recommended for each extension will need to ensure those tests are met. Contracts approaching an optional extension period are an ideal opportunity to examine costs with existing suppliers to see what cost efficiencies can be made.</p>
<p>Legal and Governance:</p>	<p>The Council has power to enter into contracts under its powers of general competence under s.1 of the Localism Act 2011 and none of the limitations to this power apply to this decision. The contracts discharge a range of statutory functions imposed or contractual obligations on the Council and the Council may be at risk of legal action if it stops the delivery of those services.</p>



	<p>Local authorities have numerous statutory duties as a residential landlord including requirements to undertake consultation under s.20 of the Landlord and Tenant Act 1985 and Service Charges (Consultation Requirements) (England) Regulations 2003 and must design the procurement process accordingly.</p> <p>Procurement of works and services through a competitive process, compliant with the Public Contracts Regulations 2015 (PCR2015) must meet the advertising requirements such as publication of a Contract Notice. PCR2015 applies to all the Council's contracts for services valued above £213,477 and where the object of the procurement is predominantly construction above £5,336,937 (figures inclusive of VAT). An appropriate procedure as set down in PCR2015 needs to be selected. Compliance with PCR2015 will result in a lawful procurement strategy and shall meet the requirements of the Councils' Contract and Financial Regulations.</p>
<p>Risk:</p>	<p>Beyond the headline complexity of this task there are also a range of sector specific challenges which the Council will need to consider as it takes the re-procurement forward with increasing building cost inflation being the primary concern. Contractors' supply chains, capacity, and the ability to attract appropriately experienced and qualified people are all challenging and present issues at a time when Council HRA and General Fund Budgets are also under pressure.</p> <p>The Council will need to ensure that client-side and procurement functions can manage the services and works the Council procures. The Council will need to manage its internal capacity to deliver and ensure that any new mobilised efficiently and that expenditure made under new contracts is undertaken wholly in accordance with contract and financial regulations, and only within authorised limits supported by regular ongoing monitoring.</p>



	Any new contractual arrangements will also need to support the delivery of our Asset Management System and Strategy. This relies on an intelligent data driven approach to decision making and ultimately the delivery of our services.
Equality:	An Equalities Impact Assessment will be carried out as part of the commissioning review. This will be reflected within the final strategy report underpinning future service delivery arrangement and re-procurement of services.
Health and Wellbeing:	<p>Housing standards play a significant role in our residents' health and safety and well-being. There will be requirements within the procurement covering policies and procedures contractors will operate to discharge their health and safety duties, including subcontractors if relevant, and to demonstrate how they will eliminate hazards and control risks, explaining the roles and responsibilities of the person responsible for managing health and safety, including procedures for monitoring.</p> <p>Health and safety, compliance and keeping our residents secure will form key aspects of service delivery. The Council will need to have regard to current and upcoming regulations and legislation including the Fire Safety Act 2021 and the Building Safety Act 2022.</p>
Social Value:	<p>Each contract that is procured includes a Social Value Action Plan. Specific targets related to the contract are agreed to drive economic benefit, improved employment opportunities and align to the Council's Corporate Parenting strategy.</p> <p>Social Value Action Plans are monitored through the contract term to ensure outcomes are achieved.</p>



<p>Climate Change:</p>	<p>There is significant opportunity through the redesign of the requirements for these services to support the delivery of the Council’s ambitious targets for carbon reduction.</p> <p>The Council’s Climate Action Plan sets a target that all its operations are carbon neutral by 2030 and to be a carbon neutral Borough by 2041. Specifically, this includes energy use in communal areas. This will mean that any future contractor will need to ensure that the outcomes of the proposed delivery of contract conforms and contributes to meeting this target.</p> <p>The sustainability principles around energy efficiency will be embedded within the Contract Specification, bringing broader benefits to residents around energy costs and healthy living.</p> <p>There is further opportunity to review how carbon reductions can be achieved through the contractors fleet and staff travel, opportunity for waste reduction, reuse and repair of materials, potential opportunities to support biodiversity enhancement and broader alignment with behavioural change programmes and other energy efficiency measures offered through other schemes.</p>
<p>Corporate Parenting:</p>	<p>Linked into our Social Value Action Plans, Corporate Parenting can play a key role in ensuring disadvantaged young people are given the opportunity for a better start in life and support them through their transition into independent living.</p> <p>An opportunity exists through this re-procurement exercise for Corporate Parenting will be included into future procurement activity, ensuring that outcomes are agreed, monitored, and delivered, improving the lives of people across our Borough.</p>



7. Appendices

Appendix 1 – Table and individual appendices of contracts for extension and re-procurement

8. Background Papers

None.

