

**Report of Property and Contracts Chief Officer**

**Report to Director of Environment and Housing**

**Date:** 17/11/2015

**SUBJECT:** Request to extend the existing LCC framework for “The Manufacture, Supply and Installation of new Passenger Lifts, Stair Lifts and Through Floor Lifts” from 1 December 2015 to 31 October 2016. (LCC 22103)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- 1.1. The existing contract in place is a framework arrangement for the manufacture, supply and installation of passenger and specialist lifts managed by the Lifts Section, which is part of Leeds City Council’s Internal Service Provider.
- 1.2. The Lifts Section currently provides, in addition to this framework, a fully comprehensive lift service to all Leeds City Council directorates through Service Level Agreements (SLAs) which include the servicing, maintenance, repair and replacement of all the lift stock used within LCC buildings and residential properties.
- 1.3. The existing framework was awarded in October 2012 and went live on 1 November 2012 on a 3 year contract basis expiring on 31 October 2015. The framework has the facility to be extended for one additional year. On 21 October 2015, the Director of Environment and Housing approved a 1 month framework extension (to Lots 1, 4 and 6) to allow due diligence to the Council’s governance and procurement requirements
- 1.4. This report seeks approval to extend Lots1, 4 & 6 (as detailed under 2.4 of the report) by a further 11 months within the overall framework until 31 October 2016.

**Recommendations**

1. The Director of Environment and Housing is requested, in accordance with Contract Procedure Rule (“CPR”) 21, to:

- 1.1. Approve an 11 month contract extension of the framework agreement (LCC 22103) for the manufacture, supply and installation of Passenger and specialist lifts starting from 1 December 2015 to 31 October 2016 2015 for the following Lots:
- Lot 1. The manufacture, supply and installation of passenger and goods lifts and associated finishes
  - Lot 4. The manufacture, supply and installation of residential stair-lifts
  - Lot 6. The manufacture, supply and installation of through floor lifts; and
- 1.2 Approve the increase in the framework annual value for Year 4 from £2,100k to £2,970k.

## 1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to extend Lots 1, 4 & 6 of the existing LCC Lifts framework, currently managed by Housing Leeds and the Lifts Section within the ISP for a further 11 months until 31 October 2016.

## 2 Background information

- 2.1 Prior to the current lifts framework being put in place, the Lifts Section and their LCC Clients had identified that a lifts' replacement programme needed to be put in place to deal with the replacement and renewal of passenger and specialist lifts. As a result of this it was agreed to develop a contract for the supply of these products and services to resource any eventuality concerning lift installations and replacements that would be required over the years.
- 2.2 The tender process was undertaken in the format of a 'restricted' tendering procedure (PQQ then tender stage) and was advertised in the EU journal in accordance with the relevant EU legislation and also on the Council's Electronic Tendering Supplier Contract Management System (SCMS).
- 2.3 The contract was developed to comprise of a number of specific 'Lots' to cover the full requirements for the installation of any lift as required by Leeds City Council.
- 2.4 The 'Lots' consist of the following:-
- Lot 1. The manufacture, supply and installation of passenger and goods lifts and associated finishes
  - Lot 2. The manufacture and supply only of passenger and goods lifts and mechanisms.
  - Lot 3. The installation only of passenger and goods lifts
  - Lot 4. The manufacture, supply and installation of residential stair-lifts
  - Lot 5. The manufacture and supply only of residential stair – lifts
  - Lot 6. The manufacture, supply and installation of through floor lifts
- 2.5 The framework contract was set up to run for three years, with a possible extension for a further year. The annual value of the framework was estimated to be £2.1m per annum. The LCC lifts framework was subsequently approved and commenced on 1 November 2012.
- 2.6 The tender documents for the procurement exercise for Lots 1 to 3 were designed to create a framework contract with a maximum of three suppliers for each of the lots. Details of the actual awarded contractors to each of these lots are listed below (item 2.8). All works relating to these lots are subject to a mini-tender between the successful contractors with the most competitive tenderer awarded the work.
- 2.7 The tender documents for lots 4 to 6 were designed with a view to appoint one contractor to provide the service for each of these Lots. The successful contractors were chosen from the most competitive tenders in terms of price and quality.
- 2.8 The successful appointed contractors to these lots were as follows:

Lot 1. The Manufacture, Supply and Installation of Passenger and Goods Lifts and Associated Finishes

- EA Foulds Ltd.
- Kone PLC

Lot 2. The Manufacture and Supply only of Passenger and Goods Lifts and Mechanisms.

- International Lifts.
- Oakham Lifts Services

Lot 3. The Installation only of Passenger and Goods Lifts

- M&T Lifts.
- Uplifting Design
- T P Madden

Lot 4. The Manufacture, Supply and Installation of Residential Stair-lifts

- Stannah Lifts Service Ltd

Lot 5. The Manufacture and Supply only of Residential Stair-lifts

- Stannah Lifts Service Ltd

Lot 6. The Manufacture, Supply and Installation of Through Floor Lifts (including Step lifts)

- Terry Group

2.9 The Director of Environment and Housing approved a 1 month contract extension on 21 October 2015 (to Lots 1, 4 and 6) to allow due diligence to the Council's governance and procurement requirements.

### **3 Main issues**

3.1 The contract required to be extended is a framework arrangement for the manufacture, supply and installation of the lift stock used within LCC domestic and non- domestic buildings.

3.2 A contract performance review has been completed by Housing Leeds Officers for the Passenger lifts lots (Lots 1-3) and by the ISP for the specialist lifts (Lots 4 - 6). This review has reported the following:

(a) Lot 1 - The Manufacture, Supply and Installation of Passenger and Goods Lifts and Associated Finishes: The contract has been running efficiently and effectively for the last 2 years with reported good contractor performance. The contract has also proved to be invaluable in delivering the Housing Leeds Investment Programme for lifts renewal and replacement. Due to this Housing Leeds Officers wish to take up the contractual option of extending this lot by a further 11 months from 1 December 2015.

(b) Lot 2 and Lot 3 – Lot 2 is to provide the manufacture and supply only of passenger and goods lifts whilst Lot 3 is to provide the installation only of these lifts. Housing Leeds officers managing the framework previously reported that these two lots have been problematic in terms of managing the operational transition and relationship between manufacturer, supplier and

installation contractors. Therefore Lots 2 & 3 have not been utilised in the last 2 years and were subsequently allowed to lapse on 31 October 2015.

(c) Lot 4, 5 & 6 – This work is normally undertaken through the adaptations workstream and is managed through the ISP covering the following areas.

- (i) Lot 4 Manufacture, supply and installation of stair lifts
- (ii) Lot 5 Manufacture and supply only of stair lifts
- (iii) Lot 6 Manufacture, supply and installation of through floor lifts including step lifts.

The adaptations service manager for this workstream has confirmed that the contract has been running effectively and efficiently. The contract manager within the ISP has also reported that there are no performance issues relating to either contractor in lots 4 & 6. However the operational team have confirmed that Lot 5 (Manufacture and Supply of Stair Lifts) has not been utilised due to the service's requirements to obtain longer warranties on equipment and insufficient in-house resources to install these.

3.3 The framework value was originally based on an annual turnover of £2,100k. The total value of the proposed 11 month framework extension for lots 1, 4 & 6 is £2,722.5k. The table below sets out detail of actual and anticipated expenditure during Years 3 & 4 of the framework.

Lot Descriptions		Annual Contract value.	Expenditure against contract years 1 & 2	Proposed commitment for Year 3. (Nov 2014 - Oct 2015)	Proposed commitment for year 4 (Nov 2015 - Oct 2016)	Variation between Annual Contract value and proposed. Year 4
		£000s	£000s		£000s	£000s
Lot 1	Manufacture, Supply and Install Passenger/Goods Lifts	£800	£2,900	£2,070	£2,070	£1,270
Lot 2	Manufacture and Supply of Passenger/Goods lifts	£400		£0	£0	£-400
Lot 3	Installation contract of Passenger/ Goods lifts	£400		£0	£0	£-400
Lot 4	Manufacture, supply and Installation of Stair lifts	£250	£600	£635	£700	£450
Lot 5	Manufacture and Supply of Stair lifts	£190	£0	£0	£0	£-190
Lot 6	Manufacture, supply and Installation of Through Floor lifts	£60	£120	£94	£200	£140
	<b>Total</b>	<b>£2,100</b>	<b>£3,620</b>	<b>£2,799</b>	<b>£2,970</b>	<b>£870</b>
	Framework Contract values	£2,100	£4,200	£2,100	£2,100	
	Variation/ increase in value.	£0	£-580	£699	£870	

- 3.4 As indicated above, the projected commitment for Years 3 and 4 (extended period) exceeds the framework contracted values by £699k and £870k respectively.
- 3.5 The total value for the framework over the overall extended period (12 months) is anticipated to be £2,970k which is an increase of 11.7% in terms of annual expenditure as indicated below

framework value	Awarded value (4 Yrs.) £000s	Proposed value (4 Yrs.) £000s	Variation £000s	% increase on the original value.
	£8,400	£9,389	£989	11.77

- 3.6 A procurement plan and strategy is in development by Property and Contracts officers working with PPPU with the intention of putting in place new contracting arrangements for all lift replacement requirements prior to October 2016.
- 3.7 Contract management plans as required by CPR 3.1.16 have now been developed to manage Lots 1, 4 and 6 of this framework by the workstream Managers.
- 3.8 The original framework agreement only allowed for the possibility of one 12 month contract extension. The Director of Environment and Housing approved on 21 October 2015 the variation to the framework agreement terms and conditions to allow for two extension periods (1 x 12 months (from 1 November 2015 to 30 November 2015) and 1 x 11 months (from 1 December 2015 to 31 October 2016)).
- 3.9 The request to approve the second extension of the overall framework by a further 11 months will provide continuity of service for users with the needs for adaptations to remain independent in their homes in terms of the provision of specialist lifts through Lots 4 and 6. The extension of the passenger lifts Lot 1 will mean that LCC would meet its asset management obligations to replace obsolete lifts. There will also be health and safety risks involving service users safely accessing their homes if there is no facility to provide these works
- 3.10 Not extending this contract will mean that there is no provision in place to meet the service users and building maintenance requirements.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 At the time of framework contract award in 2012, it was not considered that the award of the contract would have had a significant impact on any particular ward or community and as such no consultations took place. However this meant that Leaseholders were not consulted on the proposals of the scheme and it was subsequently not possible to recover potential proportional charges to leaseholders for the passenger lifts replacements. Going forward for the next contractual year, it is proposed to minimise any lost recovery income to LCC, from potential recharges to leaseholders, by planning lift replacement works to medium and high rise blocks with the minimum number of leaseholders. It is also proposed that any future procurement of such contracts takes into account full leaseholder consultation to maximise recovery of rechargeable costs.
- 4.1.2 Consultation on the proposals contained within this report has been undertaken with the service managers involved, Capital Finance team, procurement and legal officers

within PPPU, Property and Contracts SMT, the Housing Executive Member and the ISP.

- 4.1.3 No adverse comments have been received and all comments received have been incorporated into this report.

## **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An impact assessment screening has been undertaken on the proposals to extend the current framework contract. This found that there are positive outcomes for disabled customers in terms of allowing continual provision of the service. Not extending the contract will have a detrimental impact on the service and reduce equality of opportunity and access for impacted service users.
- 4.2.2 There may also be health and safety risks involving service users safely accessing their homes should the provision not be extended.

## **4.3 Council policies and the Best Council Plan**

- 4.3.1 The works undertaken by the contract will support the key City priorities of;  
*“Improving Housing Conditions”* and help maintain properties in good repair condition addressing structural repairs required and providing improved thermal insulation to the block
- 4.3.2 The proposals also contribute to the strategic vision of making Leeds the best city for health and wellbeing and the priority of supporting more people to live safely in their homes

## **4.4 Resources and value for money**

- 4.4.1 This framework contract was awarded in October 2012 following a restricted tender process procurement exercise to identify a number of contractors offering best value for money for this specialist works.
- 4.4.2 The contractors to lots 1, 4 and 6 have confirmed that there will be no increase in contract costs for the period of the contract extension and have agreed to waiver inflation considerations for this period. Between October 2012 and September 2015 there has been an approx.14% of inflation, equating to a total saving over year 4 (based on a £2,970k contract spend) of £415.8k.
- 4.4.3 The current contract management is delivered through the existing Property and Contracts resources.

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The decision on the extension of the framework contract for 11 months is considered to be a Key Decision as the value of the extension is more than £250k and is subject to call in.
- 4.5.2 Notice of the decision was published on 19 October 2015 and expired on 19 November 2015
- 4.5.4 There is a potential risk of challenge, from contractors not on the framework, that increasing the scope of framework contract above the original anticipated value of £2.1m per annum is a substantial modification such that the matter should be retendered. The Public Contracts Regulations 2015 (Regulations) sets out conditions

that are considered “substantial” for the purposes of the Regulations such that a retender would be required and two of these are:

- Where the modification introduces conditions which, had they been part of the initial procurement procedure, would have attracted additional participants in the procurement procedure and;
- The modification extends the scope of the contract or framework agreement considerably.

4.5.5 Clearly it is arguable that these conditions apply in this situation as had the framework contract been advertised with this additional work included it may have been more attractive to contractors in the market who didn't bid. Further, as the increase in scope represents 11.7% of the original contract value, some contractors may seek to argue that this is “considerable”. However, the Regulations also indicate that, in relation to a modification the value of which is below the current EU threshold for works (£4.3m), and 15% of the initial contract value, an increase in scope is acceptable in these circumstances, provided the increase in scope does not alter the overall nature of the contract. As such, it is considered that in the circumstances of this particular matter a risk of challenge on this ground is likely to be low.

4.5.6 There is no confidential information contained within this report.

## **4.6 Risk Management**

4.6.1 As this report proposes to extend an existing contract, the service areas have developed risk registers relating to the contracts in place which are managed by the Service Managers

4.6.2 There is a high risk, should the proposal to extend this contract not be approved, that the Council will not be able to fulfil its obligation to deliver the replacement of passenger lifts over the next year if these become inoperable due to obsolete parts or its obligations to new installations of specialist lifts under the adaptations service.

4.6.3 There is a potential risk of challenge from contractors on lots 2 and 3 by not extending these and letting these lapse, although this is considered to be a relatively low risk as these lots have not been utilised for the second and third year of the framework arrangement in place.

## **5 Conclusions**

5.1 The existing framework was subjected to a competitive tendering process prior to award of the contract in October 2012.

5.2 The Lots, 1, 4 and 6 have been actively utilised by the service areas within Housing Leeds to meet the service needs for the replacement of existing passenger and goods lifts and the installation of specialist lifts over the life of this agreement. There is contractual provision to extend this framework for 1 year starting from November 2015. This report seeks approval to further extend the contract by 11 months until 31 October 2016.

5.3 Officers have confirmed that the above framework lots currently provide value for money and that there are no performance concerns to report.

5.4 Extension of the Lot 1 (Passenger Lifts) will mean that LCC would meet its asset management obligations to replace obsolete lifts. Extending Lots 4 & 6 of the framework will also provide continuity of service for users to remain independent in their homes in terms of the provision of specialist lifts. Not extending this Framework (for Lots 1, 4 & 6) will mean that there is no provision in place to meet the service users and building maintenance requirements. There will also be health and safety



risks involving service users safely accessing their homes if there is no facility to provide these works.

## 6 Recommendations

6.1 The Director of Environment and Housing is requested, in accordance with CPR 21, to:

6.1.1 Approve a further 11 month contract extension of the framework agreement (LCC 22103) for Lots 1, 4 and 6 for the manufacture, supply and installation of passenger and specialist lifts for the period 1 December 2015 to 31 October 2016 for the following Lots:

Lot 1. The manufacture, supply and installation of passenger and goods lifts and associated finishes

Lot 4. The manufacture, supply and installation of residential stair-lifts

Lot 6. The manufacture, supply and installation of through floor lifts.

6.1.2 Approve the increase in the framework annual value for Year 4 from £2,100k to £2,970k.

6.1.3 Note that:

- The Award of the 11 month extension will be implemented following the expiry of the call in period.
- The officer responsible for implementation is Adam Crampton.

## 7 Background documents<sup>1</sup>

7.1 N/A

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.