

# Authority to procure contractors for citywide major repair works in occupied council housing properties

Date: 23<sup>rd</sup> September 2024

Report of: Head of Asset Management

Report to: Director of Communities, Housing and Environment

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

The current contract for major repair and maintenance works to occupied properties located throughout the City is due to expire on 30<sup>th</sup> September 2025 following a 12-month extension. The proposed framework will have an estimated spend of £5m per annum. It will run for an initial period of two years commencing in October 2025 with the provision of 2 x 12 months extension.

This procurement will ensure that Leeds City Council (the Council) are compliant in their statutory duty to keep council homes in good condition. It will help address high volumes of repairs and support strategic disrepair prevention activity.

This supports our aim for all our residents to live in good quality, healthy and affordable homes and for them to be safe and feel safe, and to deliver an approach that provides best value.

## Recommendations

The Director of Communities, Housing and Environment is requested to

- a) Approve the procurement of a new framework of up to 6 contractors to undertake major repair works in occupied housing properties, through a restricted tendering process, with an estimated annual value of £5m, and a total contract value of £20m.
- b) Approve that the framework would commence from October 2025 for an initial two-year period, with the possibility of extension for a further 2 x 12 months.
- c) Note that the approval of the selection and award criteria will be sought from the Head of Property Management as required under CPR's.

## **What is this report about?**

- 1 This report is to seek approval from the Director of Communities, Housing and Environment in accordance with CPR 3.1.7 to carry out a compliant procurement exercise in competition to establish a framework with up to 6 contractors for the delivery of major repair works to the Council's occupied properties across the City.
- 2 The current contract was originally procured in 2021 and started on the 1<sup>st</sup> October 2021, for an initial three-year period with the option to extend for a further 12 months. Following a report to the Chief Officer, Housing in Summer 2024 a 12-month extension was awarded from 1<sup>st</sup> October 2024 to 30<sup>th</sup> September 2025 at a value of £4.1m.
- 3 The Council has a statutory duty under Section 11 of the Landlord and Tenant Act 1985 to ensure homes are fit for people to live in and as such need a service to repair and maintain homes which have fallen into disrepair.
- 4 The Homes (Fitness for Human Habitation) Act 2018 (the Act) came into force on 20<sup>th</sup> March 2019 and has a direct effect on disrepair. The Act is intended to ensure that all rented accommodation is fit for human habitation and to strengthen tenants' rights against landlords who do not fulfil their legal obligations to keep their properties safe. There is more onus on the landlord to know the condition of its assets rather than relying on tenants to report repairs. The Act applies to all tenancies and has led to an increase in the number of disrepair claims received from 20 March 2020 onwards.
- 5 The new framework will give the council adequate capacity to address the high volume of repairs and support the Council in the delivery of its strategic obligations of preventative maintenance and strategic disrepair prevention activity.
- 6 The form of contract to be used with each contractor is a JCT Measured Term contract. Work would then be batched and allocated on a rotational basis to the framework contractors.]
- 7 The contracts once established will be managed within Property Management by the Disrepair Service Manager.
- 8 It is proposed that the tender evaluation methodology will be a Quality / Price split approach with 60% of the criteria being applied to Quality, and 40% applied to price. This is to ensure that the safeguarding concerns of working in tenanted properties, and the economic risks associated with disrepair claims and compensations are adequately considered.

## **What impact will this proposal have?**

- 9 Approval of this recommendation will ensure that the Council continue to fulfil its legal obligations regarding major repairs to occupied properties citywide. It will also ensure that tenants are continuing to be housed in a safe environment.
- 10 As part of the contract, there will be a requirement to achieve additional social value benefits. Social value success will be measured and monitored by the social value engine. The Contractor will make social value commitments during the tender stage which will be recorded in the social value engine. During the life of the contract, adherence to the contractor's social value commitments will be monitored by the contract manager, to ensure that social value is delivered.

- 11 An equality, diversity, cohesion, and integration (EDCI) screening has been undertaken and is attached as Appendix 1. This has indicated that there are no negative impacts arising from undertaking this procurement exercise.

### How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 12 The works undertaken throughout these contracts will contribute to the Best City Ambition by supporting one of the key priorities, Housing: providing housing of the right quality, type, tenure, and affordability and improving energy performance in homes, reducing fuel poverty.
- 13 Inclusive growth – the process will include evaluation on social value against specific themes, outcomes and measures (TOMs) which will promote health and wellbeing and inclusive growth.
- 14 Zero carbon – As disrepair claims are addressed, older and more energy inefficient materials will be replaced with more up-to date versions. This will not only improve the condition of the housing stock in question, but in many instances improve its energy and thermal efficiency.

### What consultation and engagement has taken place?

Wards affected: City wide

Have ward members been consulted?

Yes

No

- 15 No consultation has been undertaken with ward members. In relation to residents affected by proposed works
- 16 Consultation with the Disrepair Service Lead, Head of Property Management and Procurement and Commercial Services (PACS) has taken place. All have reviewed the proposals and support the planned decisions.

### What are the resource implications?

- 17 Funding for this provision will be obtained from the Housing Revenue Account (HRA). The estimated spend arising from this procurement activity is in the region of £5m per annum [
- 18 It is proposed that this service will be procured using the National Housing Federation Schedule of Rates and accompanying specifications to ensure works are priced and costed in a fair and transparent way. The NHF rates are specific to the works being undertaken and are well known within the marketplace.
- 19 It is proposed that the tender evaluation methodology will be based on the quality / price approach of a 60/40 quality / price split, with proportionate minimum threshold of 50% in the quality submissions. This will encourage quality submissions as each bidder will be required to score a minimum of 50% of the overall quality score available. [have they already been agreed?]
- 20 The procurement process will include evaluation on Social Value against specific themes, outcomes and measures (TOMs) which will promote health and wellbeing, inclusive growth and zero carbon. TOMs will be monitored throughout the contract to ensure delivery.
- 21 The contract will be managed by the Housing Property Management team and a contract management plan will be developed in line with the council's Contract Procedure Rules (CPR).

### What are the key risks and how are they being managed?

- 22 A risk register will be developed to support the procurement process requirement and subsequent contract. The risk register will also form part of the scheme's Contract Management Plan.

- 23 Ensuring contractors have the capacity and capability to undertake the works. Key selection criteria around technical abilities will be applied during the shortlisting stages, in addition to post tender due diligence vetting prior to any recommendations for contract award to ensure appointed contractors are suitably technically qualified and financially stable to move forward.
- 24 The risks identified on this procurement and framework contract are:
- 25 Uncompetitive pricing – this will be managed through the competitive tender process, on-going competition and contract management that the successful contractors will be subjected to during the contract period.
- 26 Poor contract management – this will be managed using a contract management plan and ensuring it's use over the life of the contract.
- 27

### **What are the legal implications?**

- 28 The matters set out in this report is a Key Decision and as such is subject to call-in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules. The List of Forthcoming Key Decisions was published on the 7<sup>th</sup> August 2024 and will expire on 5<sup>th</sup> September 2024a.
- 29 Any resulting decisions from this Key Decision are to be determined as publishable Administrative Decisions (irrespective of their value) and for the avoidance of doubt, will include the contract awards to appoint each of the successful contractors onto the framework when it is established.
- 30 It is to be recorded, in accordance with CPR 3.1.6, that the YORhub suite of framework agreements did not provide a suitable solution for the Citywide major repair works for occupied council houses.
- 31 This procurement due to its value, is required to be advertised in the FTS market, to ensure compliance with The Public Contracts Regulations 2015 and the Council's CPR 9 and 10, as the establishment of the required framework will be compliantly procured on a restricted process.
- 32 The major repairs work to be instructed from the newly established Council framework will not include demised leasehold properties as there is no right to submit a claim for internal disrepair and compensation under Section 11 of the Landlord and Tenant Act 1985. However, leaseholders will be able to submit a claim for the cost of any internal damage which would be covered under the buildings insurance policy for leasehold properties.
- 33 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (known as TUPE) may apply to those eligible contractor staff. The appropriate information will be sought and shared with engaged tenderers where appropriate.
- 34 It is to be noted that not to award establish this framework facility would result in high-levels of off-contract spend. There would also be an increased risk of further legal action and subsequent compensation claims from tenants as work may be delayed due to not having the compliant contracting arrangements in place.
- 35 In making a final decision, the decision maker should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 36 Following discussions with Procurement Officers within PACS, the following procurement options have been considered in line with the Council's CPR's:
- 37 **Option 1 – Do nothing** – This is not an option as it will result in a high amount of non-contract spend in a key area of service delivery.
- 38 **Option 2 - Delivery via in house service provider LBS** – As the internal service provider the Head of Leeds Building Services has been consulted as required by CPR 3.1.4 with regards to

the scope of the requirement. On this occasion they have declined the opportunity to take on the work due to the complexity and specialist nature of the requirement and volume of work. There are no other appropriate internal providers or exclusive suppliers which could be utilised.

- 39 **Option 3 – Call off from an existing framework** – A number of housing frameworks have been considered that have existing repairs and maintenance frameworks, however none of these provide the maximum opportunity to test the market fully to deliver specifically disrepair services which are complex and are of a specialist nature that require contractors with specific delivery experience to provide these services.
- 40 **Option 4 – FTS Procurement (Recommended)** – Following an assessment of procurement routes, it is proposed that as an authority we undertake a Restricted FTS compliant procedure route. This will likely generate more interest from small, medium and large organisations around the region thus leading to healthy competition and produce best value for the Council.

### **How will success be measured?**

- 41 Housing Leeds Property Management will regularly meet with the contractor to review their performance.
- 42 Each contractor will be required to meet the performance standards set by the Council and to measure performance they will have a separate set of Key Performance Indicators (KPIs) which must be achieved.
- 43 Success will be measured as part of the contract management process.

### **What is the timetable and who will be responsible for implementation?**

- 44 The new contract will need to be in place for 1<sup>st</sup> October 2025 to ensure continuity of the service.
- 45 The timescales for delivering the procurement activity are currently:
- Advert Publication & Selection Stage – October 2024
  - Tender published – December 2024
  - Tender in – January 2025
  - Tender evaluation – February and March 2025
  - Contract awards – May 2025
  - Contract start – 1 October 2025

### **Appendices**

- Equality, Diversity, Cohesion and Integration Screening.

### **Background papers**

- None.