

CABINET MEMBER DELEGATED DECISION 25 NOVEMBER 2020

Report title: Waiver to Regularise Contract with Stannah Lifts Services Limited

Wards: All

Portfolio: Deputy Leader (Housing and Homelessness): Councillor Jennifer Brathwaite

Report Authorised by: Bayo Dosunmu: Strategic Director for Resident Services

Contact for enquiries: Andrew Jacques, Assistant Director: Repairs & Maintenance, 0207 926 3749, ajacques@lambeth.gov.uk

Report summary

The council entered into a contractual arrangement with Stannah Lifts Services Limited on 16 April 2018 lasting up to 10 October 2020 (period of 2.5 years) for the provision of adaptations and modifications to disabling environments in order to restore or enable independent living, privacy, confidence and dignity for individuals and their families. Stannah was appointed following a competitive process with Procurement for Housing (pFH) framework. The award of the contract to Stannah was permitted under the Public Contracts Regulations.

Finance summary

The contract value for Stannah Lifts Services Ltd was based on a review of previous year's spend data as well as a projection of the level of adaptations and modifications that may be required to resident's homes. At that time the aggregated estimated contract value was £150,000 per year and over the contract's term of two and a half years this would equate to £375,000.

Stannah have to date however installed stairlifts and associated improvement works for the most vulnerable residents to the value of £571,700; a further £41,870 is committed for upcoming works, making the overall spend £613,570. This overspend of the initial contract sum is significant, as the contract is cost/volume and demand-led, which means that if there is more need for installations it would increase values. Installations needed to be prioritised to enable disabled residents and their families to live independently in their homes.

Recommendations

1. To approve the call off contract with Stannah Lifts for stairlift installation which was procured via the Procurement for Housing Framework agreement and to note the overall spend with Stannah from 16 April 2018 to 25 November 2020 for £612,212.27.

1. CONTEXT

- 1.1 The council's Homes Improvement Agency (HIA) conducted a tender process in mid-2016 for a two-Lot contract for bathroom and adaptations (Lot 1) and for General Adaptations (Lot 2). Whilst Lot 1 was successfully let, the quality of bids and their required responses for Lot 2 was unsatisfactory and did not result in a contract award for Lot 2. The Homes Improvement Agency team (HIA) then conducted an options review and recommended that the Procurement for Housing Framework (Lot 8) at that time was most suitable with regards to competitive pricing and range of products and services available, in the interests of improving residents' mobility within their own homes. The council (Lambeth Living) was also a member of the framework.
- 1.2 The pfH framework at the time was endorsed by Foundations – the national body for home improvements in England - and the HIA regarded its management and competitive style as first-rate. Stannah Lifts Services Limited were highest ranked on both cost and quality on the framework hence the council used the direct call-off procedure to appoint them to deliver the service. The contract award was permitted under public procurement rules and contract standing orders, since it was the outcome of a competitive process from an established framework. However, this report acknowledges and explains that some internal procedures were breached. The award recommendation was not reviewed by the council's procurement board and was not approved under the scheme of delegation. Therefore, it did not comply with the council's contract execution formalities.
- 1.3 This report's purpose is to remedy the procedural deficiencies and seek formal approval for the contract. This underpins the council's commitment to provide adapted quality homes, ensuring equality for all by making special provisions for vulnerable, elderly and disabled residents specifically.
- 1.4 Through this contract, HIA has been able to deliver positive outcomes for the individual end-user as set out in 'Our Borough Plan 2019-2021' which includes:
 - Reducing inequality
 - Reforming the way that we commission and deliver services with our partners to provide and promote care and independence
 - Create strong and sustainable neighbourhoods

The duties and responsibilities of the council to provide modifications to disabled and vulnerable people to enable them to move in and out of their homes, utilise the living space within their homes is enshrined in legislation, Government objectives and council policies including:

- NHS & Community Care Act 1990
- Carers (Recognition & Service) Act 1995
- Chronically Sick & Disabled Persons Act 1970
- Equality Act 2010

2. PROPOSAL AND REASONS

- 2.1 The Stannah contract was enacted following a competitive process via the Procurement for Housing framework, thereby making it *permissible* under public procurement regulations but because some internal procedures were not duly followed, it is necessary to rectify the procedural deficiencies. The council's procurement board did not review the tender process the contract

award was not formally approved in accordance with the scheme of delegation. This breach constitutes a deficiency in contract execution formalities and needs regularisation.

- 2.2 This report's purpose is to formally acknowledge this and to remedy the deficiencies by now seeking cabinet member approval of the contract with Stannah and to note spend values. The expenditure is essential to enable independent living of disabling environment.
- 2.3 Options considered include the following:
- a) Do Nothing – would mean that formal resolution of internal failure to follow the contract's formal execution processes was left unremedied. This breach would have a direct negative impact on the likelihood of any future expenditure with this supplier. Ultimately, this might have an adverse impact on the independence and mobility of residents who need the most assistance.
 - b) Attempt to rectify the internal breach of our own contract standing orders (aforementioned) via production of this report. In doing so, it is intended that the Lambeth and Stannah contract which is permissible under procurement law can be updated.
 - c) Re-procurement of a new stairlift installation contract beyond October 2020 via accessing a fresh and fully compliant framework.
- 2.4 The pfH framework, off which Stannah Lifts was contracted, was preferred for the following reasons:
- pfH was a live framework with demonstrable competitive rates and saved time.
 - It sped up the time in which residents received adaptations to their home, as the ad hoc 3- quotes process used for individual jobs was lengthy, repetitive, and caused delays.
 - The Stannah brand of lifts is well established and can be easily maintained by the council's existing maintenance lifts contractors. In short, contractors are more likely to have spare parts and van stock should an urgent repair be needed.
- 2.5 This is not a procurement strategy report. It is a retrospective request instead to seek formal approval for the arrangement with Stannah contract, which was permitted under procurement law and to *note* where there was a procedural deficiency, to further transparency in the council's exercise of its functions.

Contract Management

- 2.6 Day to day management of the Stannah Lifts contract was managed by the Homes Improvement Agency team, a well-established technical client team within housing. The volume of work cannot be predicted too far into the future as this is a responsive service to ensure the safety of residents. The continued priority for the service is that assessed works are undertaken on time in the best interests of residents in need.

3. FINANCE

- 3.1 This spend towards adaptations and installation of stair-lifts for vulnerable residents is paid via the Homes Improvement Agency grant which is received annually for aids and adaptations. To date, £571,700 has been spent on improvement works in the homes for disabled residents.

A further £41,870 is set aside for any upcoming urgent requests through the HIA team, up to the contract end date of October 2020 making the overall committed contract value for the Stannah contract as £613,570.

4. LEGAL AND DEMOCRACY

- 4.1 The authority to approve this decision stated in this report is delegated to the Deputy Leader (Housing and Homelessness).
- 4.2 The council's contract standing orders permits call-offs from frameworks, but these should first be reviewed internally by the council's procurement board and the approved report published. In this instance, the proposed call-off contract award was not submitted to the Procurement Board or published by the council and it is not clear whether the then Director of Housing, who would have had delegated authority to approve it, did so. The contract call-off was also not executed according to council rules but this can be rectified retrospectively.
- 4.3 The Procurement for Housing framework (which has since been replaced by a new framework) was available for Lambeth Living to access and did permit direct awards in certain circumstances. Framework call-off contracts may outlast the life of the framework itself so long as the Contracting authorities may place call-offs which continue beyond the framework period provided that it is a typical call-off and the purpose is not to distort competition.
- 4.4 Lambeth's Home Improvement Agency furthers the council's powers and duties to assist people to live independently in their homes including in particular, the legislation outlined in paragraph 1.4 of this report.
- 4.5 Direct contract call-off awards are permitted from the Procurement for Housing framework where the calling-off authority has established that a supplier can meet its requirements and has the most economically advantageous offer. The deficiency in this instance was with the council's internal processes not with the substantive procurement itself. Where the council has not complied with its internal rules but has entered into contract and raised orders through the contract, it is obliged to pay invoices for goods supplied and services rendered when due, notwithstanding its own non-compliance.
- 4.6 This proposed key decision was entered in the Forward Plan on 27 October 2020 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period - must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 The safety and health of disabled and vulnerable residents has been top priority for the HIA team. The Stannah contract let following a tender, secured good rates under the pFH. Nonetheless, the procedural deficiency relating to the matter of breach of internal contract standing orders was examined as part of this report's circulation and consultation. The main point raised relates to what effective mechanisms are now in place to ensure this does not occur again. There are effective gateway processes that ensures contract purchase agreements and values are allotted by

corporate procurement which limits the possibility of overspending and guarantees that the scheme of delegation process is always followed.

6. RISK MANAGEMENT

6.1 Key risks associated with this request are set out in the table below.

Item	Risk	Likelihood	Impact	Score	Control Measures	Risk Owner
1	Do Nothing and not attempt to rectify contract documentation – would mean that the procedural deficiency is not accounted for and a key lesson missed.	3	8	24	This report is an attempt to correct those key steps which were missed.	Assistant Director, Housing Services/ Head of Commercial Services
2	Client risk of not meeting statutory obligations if the contract with Stannah was delayed.	4	8	32	Contract was let as per a competitive framework to the highest ranked supplier, Stannah.	Home Improvement Agency (HIA)
3	Reputational damage if the council failed to meet its basic duty.	3	4	12	By engaging with Stannah to carry out speedy modifications in otherwise disabling environments, this risk was minimised.	HIA
4	Risk to end-user in terms of not being able to access living, sleeping areas within their home or able to access cooking, bathing and toilet facilities.	3	4	12	Through the Procurement for Housing Framework (pfH) and Stannah Lift Services, homes are adapted to enable independent living and dignity.	HIA

Key

Likelihood	Very Likely	4	Likely	3	Unlikely	2	Very Unlikely	1
Impact	Major	8	Serious	4	Significant	2	Minor	1

7. EQUALITIES IMPACT ASSESSMENT

7.1 An initial EIA was carried out back in April 2015, which informed the procurement process at that time. The more updated EIA for 2020 Housing Services Delivery has reflected on the current resident profile of the borough, recognising that 12.9% of its tenant profile is recorded as disabled and within that, 8.7% recorded as having a physical disability. Levels of tenant satisfaction amongst this group is broadly similar with those of other categories (86.6% range). Stannah's work to improve residents' mobility within their homes, has been a positive contribution and the range of procurement activities in process, will be further enhancement.

8. COMMUNITY SAFETY

8.1 Not applicable.

9. ORGANISATIONAL IMPLICATIONS

Environmental

9.1 Providing adaptation and individualised solutions for disabled residents in their homes is mostly a responsive service. Where possible, works are batched together into a programme by the HIA within a small area meaning that the supplier, Stannah, makes fewer car journeys and generate less CO2 pollution.

Health

9.2 The contract aims to maximise positive health and wellbeing for those who are in a disabling environment. For every installation, the individual end-user and their household can enjoy some social benefits and independence, thereby improving their overall quality of life.

Corporate Parenting

9.3 Not applicable.

Staffing and accommodation

9.4 Not applicable.

Responsible Procurement

Good Quality Jobs with Fair Pay and Decent Working Conditions

9.5 Stannah Lifts is a well-established company and have confirmed that employed staff are paid the London Living Wage and engineers work in decent working conditions with freedom to join a trade union. This was confirmed by Stannah via email on 5 May 2020. A key benefit of the Stannah contract is that as a family-based business, it prides itself on employing workers directly and limiting reliance on subcontractors.

Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group

- 9.6 The signed contract with Stannah makes no reference to apprenticeships for local people and priority groups.

Reduce Emissions: Lambeth Council has a commitment to being Zero Carbon by 2030

- 9.7 Stannah is committed to reducing emissions and all their vans and vehicles are fitted with trackers for engineers' safety. The tracker highlights driving habits such as speeding and how engineers can be economical and safer on the roads in order to reduce emissions.

Single Use Plastics

- 9.8 Recycling materials, eliminating packaging, recyclable stair-lift products and with a target of reducing consumption of single use plastics, are embedded in Stannah's company ethos.

Positive Health and Wellbeing

- 9.9 As above in 9.2.

Other Offers (Innovation)

- 9.10 The contract is due to expire on 10 October 2020. The current pandemic situation imposes restrictions on social interaction and volunteering initiatives.

10. TIMETABLE FOR IMPLEMENTATION

- 10.1 The table below details the stages and deadlines for implementing the recommendations:

Activity	Proposed Date
Date published on Forward Plan	27/10/2020
Submission to Procurement Board Administrator	15/10/2020
Procurement Board Date	20/10/2020
Cabinet Member Briefing	27/10/2020
Publication on Decisions online	17/11/2020
Cabinet Member Decision	25/11/2020
Contract Register database update	26/11/2020

AUDIT TRAIL

Consultation

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Jennifer Brathwaite	Deputy Leader (Housing and Homelessness)	14/10/20	27/10/20	
Bayo Dosunmu, Strategic Director	Resident Services	14/10/20	22/10/20	
Andrew Ramsden, Finance	Finance and Investment	05/10/20	09/10/20	3
David Thomas, Legal Services	Legal and Governance	07/09/20 05/10/20	11.09.20 06/10/20	4
Saif Mahamroot, Corporate Procurement	Finance and Investment	05/10/20	06/10/20	throughout
Maria Burton, Democratic Services	Legal and Governance	05/10/20	05/10/20	4
Neil Euesden, Director: Housing Services	Housing Services	05/10/20 14/10/20	22/10/20	
Carol Shields – Quality and Safeguarding Manager	Housing Services	14/10/20	20/10/20	

REPORT HISTORY

Original discussion with Cabinet Member	May 2020
Report deadline	N/A
Date final report sent	N/A
Part II Exempt from Disclosure/confidential accompanying report?	N/A
Key decision report	Yes
Date first appeared on forward plan	27.10.20
Key decision reasons	Expenditure, income or savings in excess of £500,000.
Background information	<p>Policy document – <i>Delivering Housing Adaptations for Disabled People: A Good Practice Guide June 2006</i> DCLG.</p> <p>Procurement for Housing Materials & Associated Managed Services Framework OJEU Ref 2014/S 206-364424.</p> <p>Our Borough Plan 2019-2021.</p>
Appendices	None.

APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board, and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Neil Euesden, Director, Housing Services

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature: _____ **Date:** _____

Post: Councillor Jennifer Brathwaite, Deputy Leader (Housing and Homelessness)

Any declarations of interest (or exemptions granted):

None.

Any conflicts of interest:

None.

Any dispensations:

None.