



London Borough of Enfield

Report Title:	Operational KD report for the award of a contract for Water Hygiene Servicing and Maintenance (Housing Compliance)
Report to:	Strategic Director of Housing and Regeneration – Joanne Drew
Date of Report:	3 rd October 2023
Cabinet Member:	Cllr Savva – Cabinet Member for Social Housing
Director:	Strategic Director of Housing and Regeneration: Joanne Drew
Report Author:	Head of M&E Compliance: Ayfer Chol ayfer.chol@enfield.gov.uk
Ward(s) affected:	Borough-wide/All
Key Decision Number	KD5638
Classification:	Part I Public

Purpose of Report

1. To obtain approval to award a contract for Water Hygiene Servicing and Maintenance (Housing Compliance)

Recommendations

- I. To approve the award of the contract for water hygiene servicing and maintenance (housing compliance) for an initial contract term of 3 years to “Contractor B” and for contract price as detailed in the confidential appendix.
- II. To approve the Council entering into the contract for water hygiene servicing and maintenance for an initial term of 3 years with Contractor B and to delegate authority to the Service Director, Council Housing (Homes) to extend the contract term for a further period of 2 years (in one-year increments).
- III. To approve the total budget of £1,26m which includes the contract price, the contingency sum, inflationary allowance, and staff costs as detailed in the confidential appendix.

Background and Options

2. As a landlord the council has statutory compliance responsibilities including both Water Hygiene Servicing and Maintenance requirements. This contract covers the water safety servicing responsibilities detailed below:
 - Water Hygiene Risk Assessments (WRA) / Surveys – covering Potable / Domestic Communal Water systems.
 - Monitoring - To cover the periodic, planned potable domestic / communal Water Hygiene Monitoring, Water Quality Sampling, Periodic Asset / Plant Inspections and Chemical Water Treatment.
3. This contract inspects the water systems, undertakes required maintenance, and confirms compliance, or identifies remedial actions which are referred to the council. These actions are then delivered through the Water Servicing Works contract, to ensure safety is maintained in council housing blocks.
4. The contract delivers services to communal areas of blocks with leaseholders and therefore the section 20 process applies. This report authorises the award of this contract subject to the Section 20 observation period, any relevant observations following leaseholder notices will be referred to the decision maker of this report ahead of contract award.
5. The pre-tender estimate for these services was over the Public Contract Regulation 2015 (PCR) threshold, a mini competition via a PCR compliant framework has been undertaken in line with these regulations.
6. Tenders were issued through the South East Consortium Online e-tendering portal, the council will upload the documentation and record the award via the London Tenders Portal (LTP). The process included an

Expression of Interest followed by an Invitation to Tender for the suppliers who expressed an interest in the opportunity

7. The tenders were evaluated based on a quality/cost split of 30/70 which is deemed acceptable for these works given the highly regulated sector.
8. The form of contract will be JCT Measured Term Contract (MTC), which has been tendered on a schedule of rates to allow flexibility to increase or decrease volumes as stock levels change.

Preferred Option and Reasons for Preferred Option

9. Consideration was given to delivering remedial works through this contract; however, this was discounted due to the conflict of interest arising from the specification and delivery of works.
10. It was considered whether this contract should be split geographically to award 2 contracts in the borough, however this was discounted to ensure the contract size was desirable to the market.
11. In terms of procurement options there were three main routes for consideration:
 - a) Use of a suitable consortia framework agreement, with appointment via direct award or mini tender.
 - b) Unilateral tendering utilising the open process.
 - c) Unilateral tendering utilising the restricted process.
12. Using a framework can save time and money, while still delivering a service specified to local requirements. The scope of services within this contract is similar to those required by other landlords and therefore framework specifications are largely relevant. As the framework has been competitively tendered and available to the whole market on a comparable specification, coupled with a mini competition for this contract opportunity the sections 20 process to receive leaseholder recharges can be utilised. Frameworks must also be compliant with the Public Contract Regulations which was required in this instance due to the forecast value.
13. Tendering a contract allows clients to create bespoke documentation designed to fit its requirements. This approach also opens the opportunity to tender to a wider group of bidders however is more costly and time consuming. This option was not recommended due to the increased time and resources required and the confirmation of similarity with framework specifications which avoids bespoke work where it is available separately.
14. Within the framework rules it was possible to utilise the JCT Measured Term Contract. This is the preferred approach as this allows the council to flex the quantities of each services ordered according to the changes in the number of homes over the 5-year term.

Relevance to Council Plans and Strategies

15. The contract will support the following objectives from the Council Plan:

- a. **More and better homes:** the programme will improve the quality and safety of existing homes and therefore positively impact on the wellbeing and quality of life for our residents.
- b. **Sustain healthy and safe communities:** improving the existing homes where people desire to live will help to create and maintain healthy and confident communities.
- c. **An economy that works for everyone:** ensuring residents can fully participate in activities within their neighbourhood.

Financial Implications

16. This report is requesting for approval to award and enter into contract with "Contractor B" for water hygiene servicing and maintenance (Housing Compliance)
17. To approve a total estimated budget of £1.26m which includes contingency at 10%.
18. The full implications of the project can be found in the confidential appendix

Legal Implications

Provided ZS, Senior Contracts Lawyer on 9/10/23

19. The Council has the power to alter, repair or improve its housing stock in accordance with section 9 of the Housing Act 1985. Further, under section 11 of the Landlord & Tenant Act 1985 the Council has repairing obligations in respect of properties which are occupied by its tenants and these obligations include to keep in repair and proper working order the installations in the homes for the supply of water, gas, electricity and sanitation, and the installations for space heating and heating water. Under section 111 Local Government Act 1972 local authorities may do anything, including incurring expenditure or borrowing, which is calculated to facilitate or is conducive or incidental to the discharge of their functions. The recommendations in this report are in accordance with these powers.
20. The Council must comply with both the PCR 2015 and the Council's Contract Procedure Rules (CPRs). Use of a legally compliant framework agreement, where the Council is identified as a contracting authority able to use the Framework, is permitted under Reg 33 of the PCR 2015. Additionally, the CPRs state that Frameworks, where they exist, should be used provided Best Value can be demonstrated and managers are required to retain sufficient evidence to demonstrate compliance.
21. The contract must be in a form approved by Legal Services on behalf of the Director of Law and Governance and must be executed under seal.
22. The Contract Procedure Rules require that where a contract is awarded with a value of £1 million or over (as is the case here), the contractor must be required to provide 'sufficient security' as defined in CPR Rule 7.3 (such as

a performance bond or a parent company guarantee). Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes. If this requirement is waived, then the Executive Director of Resources must approve the financial risk prior to any award, and the reasons for the waiver and what measures are to be taken to manage the risk must be set out in the relevant authority report.

23. The Key Decision process under the Constitution must be followed as the contract value is above the Key Decision threshold of £500,000.

Equalities Implications

24. An Equality Impact Assessment has been undertaken and appended to this report.

25. The works will be delivered boroughwide to various communal areas and will benefit residents regardless of protected characteristics. The improvement in compliance and safety of council housing homes can positively impact groups with protected characteristics as they represented in a higher proportion than the population of the borough generally.

26. Access may be required via properties to access communal loft spaces which will involve the successful contractor communicating with residents in their homes. The successful contractor will be required to ensure all operatives will be fully briefed in line with the council's safeguarding policy. The terms and conditions of the contract will require adherence with the Equalities Act and the successful contractor will be required to share their Equality Diversity and Inclusion policy to assure the council of their recruitment policies.

27. Engagement with residents will be undertaken by the Contractor in accordance with their processes for resident engagement and liaison which were evaluated as part of their tender submission which will be adapted according to the profile of the resident e.g. vulnerability, language spoken.

Environmental and Climate Change Implications

28. The Contractors' social value offer includes local employment, environmental commitments measured against ISO certification and commitments for investment in the local economy.

Public Health Implications

29. The works will improve the living conditions of those residents that receive works. This aligns with the provisions of the Enfield Joint Health and Wellbeing Strategy, which refers to the importance of housing quality as a determinant of health.

30. The contractors will be completing works in-line with the government's Covid Secure and CLC guidelines. They are required to provide a detailed method statement and risk assessment for each activity and the Council,

and its advisors will review and comment on these prior to the commencement of works.

Safeguarding Implications

31. The works will require Contractors to enter resident's homes and therefore the Contract Documents require Disclosure & Barring Services (DBS) and adherence with the Council's Safeguarding Policy.
32. In addition to the above the Contractor is required to provide a dedicated Resident Liaison Officer (RLO) whose role is to ensure that residents needs are reflected in the processes adopted by the Contractors. Evaluation of the Contractors offer in this area are a component of the qualitative evaluation.

Procurement Implications

33. The procurement was undertaken on South East Consortiums portal. As the procurement was undertaken by the South East Consortium, it was not led by Procurement Services. Ultimate accountability for compliance lies with the South East Consortium.
34. As the contract is over £1,000,000 the supplier must be required to provide sufficient security in accordance with Clause 7 (Financial Security) of the Councils Contract Procedure Rules.
35. The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal.
36. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of the executed contract must be undertaken on the London Tenders Portal including future management of the contract.
37. All contracts over £100,000 must have a nominated contract manager in the London Tenders Portal. Contracts over £500,000 must show evidence of contract management of KPI's to ensure VFM throughout the lifetime of the contract.
38. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Report Author: Ayfer Chol
Head of M&E Compliance
Ayfer.Chol@enfield.gov.uk

Appendices: Appendix 1: Restricted Appendix (Confidential)
Appendix 2: Equality Impact Assessment
Appendix 3: Gateway 3 Procurement Assurance Group
(Confidential)

Background Papers

None