



London Borough of Enfield

Report Title:	Award of a Commercial Gas Servicing and Maintenance (Housing Compliance)
Report to:	Strategic Director of Housing and Regeneration – Joanne Drew
Date of Report:	27 th December 2023
Cabinet Member:	Cllr Savva – Cabinet Member for Social Housing
Directors:	Strategic Director of Housing and Regeneration: Joanne Drew
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Ward(s) affected:	Borough-wide/All
Key Decision Number	KD5638
Classification:	Part 1 & 2 (Para 3)
Reason for exemption	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Purpose of Report

1. To obtain approval to award a Contract for Commercial Gas Servicing and Maintenance Contract (Housing Compliance)

Recommendations

- I. That approval be given to award and enter into a contact with “Contractor A” for Commercial Gas Servicing and Maintenance Contract (Housing Compliance) for up to 5 years for the contract price detailed in the confidential appendix.
- II. That approval be given for the total budget including the contract price, the contingency sum, inflationary allowance, and staff costs detailed in the confidential appendix

Background and Options

2. As a landlord the council has statutory compliance responsibilities including both communal and domestic servicing requirements. This contract covers the communal gas servicing responsibilities detailed below:
 - Servicing generally
 - Heat Interface Unit (HIU)
 - Water Booster Pumps
 - Commercial gas breakdowns
 - Commercial breakdown maintenance
 - Commercial heating system replacements
3. This contract inspects the elements, confirms compliance, or identifies remedial actions which are either resolved onsite or referred to the council for remedial action. These actions are addressed, and 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 (PCR) threshold, an open procurement process has been undertaken in line with these regulations.
6. Tenders were issued via the London Tenders Portal (LTP) Project Information Ref – DN662047 to the open market. The process includes a minimum requirements questionnaire which ensures bidders are suitably competent and experienced in works element. The tender submissions of the compliant bidders have been evaluated in line with the process. Twelve bidders returned a tender.
7. The tenders were evaluated based on a quality/cost split of 60/40.
8. The form of contract will be JCT Measured Term Contract (MTC), which has been tendered on a schedule of rates to allow for the flexibility of increased or decreased volumes as stock levels change

Preferred Option and Reasons for Preferred Option

9. Consideration was given to delivering domestic gas servicing through this contract, however this was discounted due to the concerns of whether a single contract could deliver the significant additional volume of over 7000 gas safety inspections and the increased impact non-delivery would have to the council.

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 and the volume of work could ensure borough presence.
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. Under this route contractors are assessed for suitability prior to joining the framework and have signed up to pre-agreed terms and conditions. Standard documentation is also provided as well as support from the framework itself. However, the section 20 implications of the framework with the range of servicing requirements in this contract mean that it has not been possible to find a compliant framework.
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. In this instance it was required as the requirement is over the PCR threshold.
14. The options of open and restricted processes are either a two stage (restricted) or an one stage (open) process. Both the open and restricted processes are initially open to the whole market, with the restricted process having two stages where all interested bidders submit a SSQ and are shortlisted before being invited to tender. The open process was chosen as it minimises the timescales of the procurement process.
15. Tendering a contract using the JCT Measured Term Contract 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

16. 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

17. This report is requesting for approval to award and enter into contract with "Contractor A" for Commercial Gas Servicing and Maintenance Contract (Housing Compliance)
18. To approve a total estimated budget of £2.29m which includes contingency at 10%.
19. The full implications of the project can be found in the confidential appendix

Legal Implications

20. Section 11 of the Landlord and Tenant Act 1985 places an obligation on the landlord to maintain the structure and exterior of the property, including installations for the supply of water, gas and electricity, heating systems, drainage and sanitary appliances of the Landlord and Tenant Act 1985 places an obligation on the landlord to maintain the structure and exterior of the property, including installations for the supply of water, gas and electricity, heating systems, drainage and sanitary appliances. The Council also has the obligations to repair and maintaining relevant gas fittings and flues in a dwelling it legally owns and which has been let in a safe condition. This responsibility is imposed specifically under the Gas Safety (Installation and Use) Regulations 1998. The Council is able to contract with a third party to carry out the repairs and servicing that it is obliged to do.
21. The value of the proposed contract is above the relevant EU procurement threshold, therefore a compliant process must be carried out in accordance with the Public Contracts Regulations 2015. The report explains that a compliant Open Procedure has been undertaken by a specialist procurement firm on behalf of the Council.
22. The JCT MTC must be in a form approved by Legal Services on behalf of the Director of Law and Governance. On this occasion, an external legal firm has been engaged to prepare the contract, therefore responsibility for the form of contract rests with them.
23. Due to the value of the contract being over £1 million, under the Council's Contract Procedure Rules the Contractor must be required to provide 'sufficient security' (e.g. a performance bond or 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. Where the Contractor cannot provide such security, but the Council has no acceptable alternative provider or has decided to accept the level of risk, then the Executive Director of Resources must approve the financial risk prior to any award. The relevant Authority Report must set out the reason why it is proposed that the contract should be

awarded despite absence of security and what measures are to be taken to manage this risk.

24. Section 20 of the Landlord and Tenant Act 1985 (as amended by s151 of the Commonhold and Leasehold Reform Act 2002) sets out the precise procedures landlords must follow before requiring leaseholders to pay variable service charges; these are the Service Charges (Consultation Requirements) (England) Regulations 2003 ('the Regulations').
25. If the proposed contract is likely to last more than 12 months, this would be considered a qualifying long-term agreement, in this circumstance the Council will be required to consult where the amount payable by any one contributing leaseholder under the agreement in any accounting period exceeds £100. There are usually 3 stages to the consultation for qualifying long-term agreement: (i) Pre-tender stage where we send a Notice of intention; (ii) Tender stage – Preparation of landlord's proposals and (iii) Award of contract Notification of the award of contract. The first two stages require a 30-day consultation period and the last stage requires the Council to provide a 21-day period for leaseholders to respond. If consultation is not undertaken, the landlord may not be able to recover more than £100 per leaseholder in any accounting period towards the costs under the agreement. Failing to apply with the above statutory consultation requirements could result in the Council being unable to recover the contributions from the leaseholders.

Equalities Implications

26. An Equality Impact Assessment has been undertaken and appended to this report. It has been assessed that this contract will have no significant impact on those with protected characteristics.
27. The works will be delivered boroughwide to various communal areas and will benefit residents irrespective of the protected characteristics of the residents.
28. Access may be required via properties to access communal loft spaces. 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 contractors will be required to share their Equality Diversity and Inclusion policy to assure the council of their recruitment policies.
29. 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

30. The Contractors' social value offer includes local employment and local supply chain spend commitments which are expected to reduce carbon emissions.
31. The contractor will be expected to comply with the minimum requirements of the council sustainable and ethical procurement policy.

Public Health Implications

32. 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.
33. 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

34. 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.
35. 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

36. The procurement was undertaken using the London Tenders Portal (DN538928) using the Find a Tender Service. The procurement was carried out on behalf of the Council by Echelon Consultancy Limited.
37. As the procurement was undertaken by Echelon Consultancy Limited, it was not led by Procurement Services. Ultimate accountability for compliance lies with Echelon Consultancy Limited.
38. 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.
39. The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal.
40. The procurement and 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.

41. 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.

42. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

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

Background Papers
None