

MUNICIPAL YEAR 2014/15

MEETING TITLE AND DATE:

Agenda – Part: 1

KD No: 4044

PORTFOLIO

DECISION OF:

Cllr. Ahmet Oyken

Cabinet Member for Housing
and Regeneration

Subject: Housing Capital Works and “Decent
Homes” - Framework Award.

Wards: All

REPORT OF:

Ian Davis

Director - Regeneration and
Environment

Cabinet Member consulted: Yes

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1. EXECUTIVE SUMMARY

- 1.1 This report provides an overview of the Procurement processes recently undertaken to set up a “Housing Framework” of Major Contractors, to carry out a future programme of Decent Homes and Major Capital Works Contracts for the Council.
- 1.2 It also provides an overview of the Lytchet Way tender exercise, together with an outline of the proposed next steps to deliver this contract.
- 1.3 Approval is now sought to enter into an OJEU compliant ‘Housing Framework’ for Enfield Council, with the selected Contractors.
- 1.4 This is a Key Decision of the Council and is on the Forward Plan Reference KD 4044.

2. RECOMMENDATIONS

- 2.1. That the Cabinet Member for Housing and Regeneration approves the Council concluding an OJEU compliant 'Housing Framework' agreement with the Contractors listed in Appendix 1 of this report.
- 2.2. That the Cabinet Member for Housing and Regeneration notes the creation of a "Strategic Alliance Agreement" with the proposed Framework Contractors, and the funding mechanism, which will help to deliver a single point of contact for training and job opportunities arising out of the planned programme of works between 2015 and 2018.
- 2.3. That the Cabinet Member for Housing and Regeneration delegates authority to the Director, Regeneration and Environment to appoint the appropriate members of staff to support the operation of the "Strategic Alliance Agreement" with the proposed Framework Contractors
- 2.4. It is also recommended that the Cabinet Member for Housing and Regeneration notes the revised timetable for delivery of the proposed works for the Lytchet Way contract, which will now be the subject of a separate report later in the year.

3. BACKGROUND

- 3.1. The Council has been dealing with the "catch-up" repairs to its housing stock since 2008/2009 via its ALMO - Enfield Homes, utilising both capital funding provided from its own resources and also by "borrowing authorities" approved by Central Government, to allow homes to be made "Decent". This programme of works continues after the ALMO is re-integrated back into the Council Housing function and the associated major works programmes are due to be completed during 2016/17.
- 3.2. The Cabinet approved an indicative "5 Year" Decent Homes and Capital Works programme for the period 2012 – 2017, on the 10th October 2012, in accordance with the funding streams and the predicted GLA grant levels, previously approved in the 30 Year Housing Revenue Account (HRA) Business Plan. This Cabinet report also delegated to the Cabinet Member for Housing and Regeneration, the authority to approve the subsequent detailed programmes of works for future year's programmes.
- 3.3. The prioritisation of geographical areas and the programming of the Decent Homes Improvement works are still in accordance with the previously approved 5 year plan and it is based on a matrix of the incidence of decency failures, high repair costs and improving the energy efficiency of the stock. The programme has also been developed to take account of the impact of property disposals, demolitions and Estate Regeneration works, so that these works are complementary and also programmed to allow us to access potential additional external funding being provided under various sustainability initiatives such as the 'Energy Company Obligations', Green Deal, etc.

- 3.4. The programme for 2014/15 included a very large Decent Homes contract on the Lytchet Way Estate, Southbury, which has an estimated works cost significantly in excess of current OJEU thresholds. This scheme would therefore be subject to a fully transparent OJEU compliant tender exercise, with the attendant capitalised consultancy fees that this process would entail. It has therefore been recommended in a previous report to 'deliver' the Lytchet Way tender exercise as a "Housing Framework" rather than as a "single tender" procurement exercise, thereby allowing the Council to reap the benefits of simplified future tender processes via OJEU compliant 'mini-tenders' and 'call-off' contracts in the subsequent 4 year period.
- 3.5. It should be noted that the decision to move to a framework solution for on-going major works contracts is in line with the legal and procurement advice given in the Cabinet report of the 10th October 2012. The option to use a Contractor Framework procured by another Local Authority (or other public sector body) was considered, however none of the available frameworks allowed us to legally comply with our Section 20 Leaseholder Consultation obligations. The procurement strategy for this framework has been developed in conjunction with the Corporate Procurement team and its delivery was approved at the Strategic Procurement Board meeting of the 13th August 2014.

4. REASONS FOR RECOMMENDATIONS

- 4.1. The OJEU process began formally on the 15th September 2014, with the publication of a notice in the European journal in accordance with the "*Public Contracts Regulations 2006 (as amended)*" and the subsequent dispatch of 'Pre-Qualification Questionnaires' (PQQ) to all interested parties via the London Tenders portal. 26 PQQ responses were received for consideration by the closing date of 15th October 2014.
- 4.2. In advance of this exercise a formal Section 20 'Notice of Intention' was sent out to all Leaseholders, indicating our intention to procure a housing framework for capital works, which would be classified as a 'Qualifying Long Term Agreement'.
- 4.3. In line with the Council's procedures the procurement documentation was prepared as a 'PAS 91' Pre-Qualification Questionnaire. The PQQ responses were initially assessed by 'Constructionline' for compliance in terms of the tenderers submitting factual data (accounts, references, turnover levels, etc.). Of the initial 26 expressions of interest, 11 companies failed this initial compliance evaluation stage, leaving 15 submissions to be further evaluated in relation to their qualitative responses.
- 4.4. 12 Contractors were successful at the PQQ stage and they were subsequently provided with the 'Invitation to Tender' (ITT) documents via the London Tenders portal on the 17 November 2014.
- 4.5. 9 of the 12 Contractors subsequently submitted tenders via the London Tenders portal on the 6 January 2015. The tenders were then evaluated

in accordance with the scoring matrix and guidelines provided in the ITT documentation. A cost analysis of the bids was provided by Philip Pank and Partners, Chartered Quantity Surveyors. The Council was advised throughout the process by Trowers and Hamlins, Solicitors.

- 4.6. As part of the evaluation process all bidders were also asked to attend a series of interviews, at which they were asked to provide further clarification of the responses they had submitted in the qualitative sections of their bid. These interviews were structured to allow detailed examination of the bidders' responses by 'experts' in the areas under consideration. Panels were therefore set up to consider - the "*Technical Aspects of Project Management*", "*Resident Liaison and Consultation*" and "*Employment and Training*". Each of these individual assessment panels was supported during the interview process by one or more members of the overall ITT evaluation panel and also an officer from the Corporate Procurement team.
- 4.7. The ITT documents also included a requirement for all the successful Framework contractors, to enter into a multilateral agreement with both the Council and the other appointed contractors, to guarantee and actively sponsor training and apprenticeship opportunities and to also engage with / promote the use of local labour and suppliers. The document that they will all enter into is termed the "Strategic Alliance Agreement" and all partners will actively work together to share employment information and training opportunities across the entire Decent Homes works programme (except where such matters would impact on business confidentiality).
- 4.8. Each Contractor who successfully tenders for on-going works via the Framework, will be required to pay to the Council the sum of 0.3% of the agreed Contract value, prior to start on site, which will be used by the Council to appoint a Framework Co-ordination team, who will act as the focal point for all the Contractors in their future liaison with the Council, Local Colleges, Trainees, Local SME's and each other. This 0.3% fee which is effectively a 'training levy' should generate funding of approximately £90,000 per annum over the life of the Decent Homes programme.
- 4.9. Following completion of the ITT evaluation process, 7 bidders were selected for final inclusion on the Framework. A list of the seven successful contractors is attached as Appendix 1 of this report.
- 4.10. A further Section 20 Leaseholder consultation process has been carried out to notify all Leaseholders of the names of the successful contractors. This Consultation process ended on the 27 March 2015. All Leaseholder observations have been noted and responded to as required under Section 20 of the Landlord & Tenant Act 1985 (as amended by the Commonhold & Leasehold Reform Act 2002).
- 4.11. Formal '10 day stand-still (Alcatel)' letters have also been issued to all 26 bidders in accordance with the relevant OJEU guidance notes.

- 4.12. The original framework tender documentation also included a detailed schedule of works for pricing for the Lytchet Way Decent Homes scheme, which would have allowed this contract to have been awarded as the first 'call-off' contract under the new framework arrangements. However it has now been decided to defer the award of the Lytchet Way contract for approximately 3 - 4 months, to allow the scope of the works to be changed to include the provision of up to 39 new units on the roofs of the five three storey blocks. These additional units would allow us to replace a number of the Council Homes, which have been lost under the 'Right to Buy' initiative, within the 3 year defined period for the re-use of the capital receipts.
- 4.13. The provision of these additional units is still subject to resident consultation, further technical evaluation and also compliance with the relevant Planning Approval and Building Control requirements.
- 4.14. Following submission of a detailed planning application (scheduled for early May 2015), it is our intention to amend the previous schedule of Decent Homes works for the Lytchet Way contract, to incorporate the works to create a potential 39 further new homes. We intend to re-tender this project to the 7 Framework contractors during May / June 2015, with a view to making a formal contract award in August 2015, after finalisation of all necessary internal and external approvals.

5. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

5.1. Financial Implications

- 5.1.1. The funding for the "Decent Homes" and General Housing Capital works 5-year programme (2012 -2017) is included within the HRA Business Plan which was agreed at Cabinet on the 10th October 2012.
- 5.1.2. The table below provides the indicative capital funding for the five years starting from 2012 and shows the subsequent updates to the Business Plan:

Year	HRA Plan October 2012 £m	HRA Plan February 2014 £m	HRA Plan (latest) 2014 £m
2012/13	36.9	36.9	36.9
2013/14	35.9	35.9	35.9
2014/15	37.0	35.4	35.4
2015/16	38.5	35.9	38.1
2016/17	39.7	33.2	31.0
Total	188.0	177.3	177.3

Note: This excludes re-profiled commitments from 2013/14. The funding described in the table does not include the resources available for "Grants to Vacate" and the "Buyback of Leaseholders facing hardship".

- 5.1.3. The funding for the '2015/16 capital programme' is in line with the recently approved budget for the current year. The funding for the detailed programme of works for 2016/17 is currently indicative only and will be reviewed as part of the routine future budget setting processes.
- 5.1.4. The resource required for the replacement of the RTB 'one for one' properties is included in the 2015/16 HRA Budget Report under the RTB projects capital programme.
- 5.1.5. The basis of evaluation of the pricing element of the tender process is to obtain market related cost information which can be used to form the basis for awarding contracts under a Framework Agreement.
- 5.1.6. The contractors provided schedule of rates and associated preliminaries overheads and profits of relevant internal and external works required under a framework agreement for Major Housing Work.
- 5.1.7. The Council's external consultants, Phillip Pank evaluated the pricing submissions on behalf of the Council and were satisfied that the price range reflects the typical levels for works of this nature. They are of the view that the pricing levels represent good value for money and could form the basis for the mini tendering of the specific projects under the framework.

5.2. **Legal Implications**

- 5.2.1. In 2000, the Government set the target that all social housing had to meet set standards of decency by 2010, the Decent Homes Standard. Pursuant to the Housing Act 2004, Part 1 (as amended), a "Decent Home" is one which is free of the category 1 hazards and was one that met the current statutory minimum for housing, was in a reasonable state of repair, and provided reasonably modern facilities and services and a reasonable degree of thermal comfort. Backlog funding is now available to help meet the Decent Homes Standard.
- 5.2.2. The Council has a general housing power to alter, repair or improve its housing accommodation as set out at section 9 of the Housing Act 1985 and may enter into a contract with the provider(s) of the works pursuant to S.1 of the Local Government (Contracts) Act 1997.
- 5.2.3. The Council must continue to ensure that it complies with the terms of the funding agreement(s) relating to this scheme.
- 5.2.4. The Council is permitted to conclude a framework agreement as described in this report. In concluding the framework, and in relation to subsequent call-offs from the framework the Council must comply with the Public Procurement Regulations 2006 and 2015 as appropriate.
- 5.2.5. The Council must comply with the Contract Procedure Rules.

5.2.6. The Council must comply with its obligations with regards to obtaining best value under the Local Government (Best Value Principles) Act 1999.

5.2.7. All subsequent legal agreements will be in a form approved by the Assistant Director of Legal Services.

5.3. **Leaseholder Implications**

5.3.1. Leaseholder consultation has been carried out as required under Section 20 of the Landlord & Tenant Act 1985 (as amended by the Commonhold & Leasehold Reform Act 2002). Any subsequent Qualifying Works will also be subject to scheme specific consultation with the relevant Leaseholders.

5.3.2. Consultation will be carried out as appropriate (for future qualifying works) dependant on the existence of a Housing Framework which would satisfy the status of a "Qualifying Long Term Agreement".

5.4. **Procurement Implications**

5.4.1. A proportion of the individual schemes currently identified in the 'Decent Homes' programme are below the threshold set out in the Public Contracts Regulations 2006 (as amended), however, the Council still needs to comply with the Councils Constitution, in particular the Contract Procedure Rules (CPR) and the general principles of European procurement law i.e. equality of treatment, transparency, mutual recognition and proportionality.

5.4.2. The pre-tender estimate for the scheme at Lytchet Way, Southbury, indicates a works cost above the threshold set out in the Regulations, (currently £4,322,012). Works contracts above this threshold require a procurement process (with full advert in the Official Journal of the European Union ("OJEU")) in line with the Regulations.

5.4.3. The intention to create a 'framework' to deal with the procurement of schemes above the current threshold, will allow the Council to fully meet its CPR and legal procurement obligations and also to comply with the grant conditions laid down by the GLA in its 'Decent Homes Backlog Grant Funding' agreement. The framework, once established, will enable the 'call-off' and 'mini-tender' of additional schemes without the need to fully advertise each project.

5.4.4. Procurement Officers have been fully involved with the various stages of the development of this framework and have supported the Decent Homes Project Management team to ensure compliance with the Councils requirements on procurement matters.

5.4.5. The Council will also continue to access other suitable frameworks from time to time, where available, to ensure our continued compliance with the regulations and to ensure that we obtain value for money.

6. KEY RISKS

- 6.1. The key risks, as with any procurement exercise of this nature, are the risk of 'challenge' to the process from Contractors who may be unsuccessful in obtaining a position on the final framework and also from Leaseholders who may feel that the creation of a "Qualifying Long Term Arrangement", does not represent value for money.
- 6.2. These risks have been mitigated by taking appropriate professional, technical and legal advice throughout all stages of the process.
- 6.3. Extensive Leaseholder consultation has also taken place at the required stages again with the support of internal and external legal advice. All Leaseholder observations have been noted, collated and responded to in the appropriate format.
- 6.4. Additional risks may also present themselves with regards to the successful operation of the framework; however procurement surgeries and training sessions have been set up with all the existing Project Management team and with the external Contract Administrators, currently engaged with the works programmes to ensure a successful transition to the new working arrangements.
- 6.5. The framework has also been set up to include both a formal and informal review matrix throughout its life to ensure that it remains relevant to our workload both in terms of speed of delivery and value for money.

7. IMPACT ON COUNCIL PROPERTIES

- 7.1 **Fairness for all:** The 'Decent Homes' programme that can be delivered with this framework will greatly enhance the quality of the housing stock owned by the Council. All properties will be brought up to a nationally recognised minimum set of standards for comfort, heating, energy efficiency and bathroom / kitchen facilities. The external fabric improvement of the Houses and Flats will also have a positive impact on the street scene. The Homes improved via this programme will assist in meeting the Councils objectives by providing economically successful and socially inclusive communities.
- 7.2 **Sustainability:** New windows as part of the Decent Homes package will help to reduce heat losses, achieve noise reduction and together with the new heating systems provide overall energy savings. The improvements will have a positive impact on the Energy performance of the dwellings. Products specified will be sustainable and energy efficient and manufacturers are required to have a stringent Environmental Policy in place.
- 7.3 **Strong Communities:** The Homes improved and repaired as part of the Decent Homes and Capital Works programmes will assist in meeting the Councils objectives by involving the residents in the decision making

process and help them to play an active role in their local neighbourhoods. Works undertaken to improve lighting and improve security / design out crime will also enhance the sustainability of the neighbourhoods that we are investing in.

8. EQUALITIES IMPACT IMPLICATIONS

- 8.1. Equality impact assessments will be carried out as part of the procurement packages for the schemes developed using the grant allocation and the capital resources made available by the Council.

9. EMPLOYMENT AND TRAINING IMPLICATIONS

- 9.1. The proposed funding referred to in section 4.8 will allow the Council to take a pro-active approach to managing and co-ordinating the training and employment opportunities associated with this programme of works.
- 9.2. The anticipated £90m / 3 year Decent Homes programme will create a significant opportunity to encourage school leavers, other young unemployed people and also longer term 'older' unemployed people, into seeking training and employment contracts. It will also challenge the Building Contractors to actively engage with local residents when recruiting for staff, as well as providing suitable work packages for local 'small and medium enterprise' businesses in Enfield to work on a sub-contract and / or supplier basis.
- 9.3. We will also actively engage with the local Schools and Colleges to deliver longer term practical relationships with each of the framework contractors (and their nominated employment partners), to ensure tailored training opportunities to maximise the employment opportunities within the local Enfield community.

10. HEALTH AND SAFETY IMPLICATIONS

- 10.1. Health and Safety implications will be monitored as part of the procurement packages for the schemes developed using the grant allocation and the capital resources made available by the Council.

11 PUBLIC HEALTH IMPLICATIONS

- 11.1 The Decent Homes Works programme seeks to modernise council stock by providing structurally sound, thermally efficient and modern facilities. The Repair work to the building fabric, such as new windows, increased insulation, structural repairs and re-roofing will have a significant impact on the thermal efficiency of the dwellings, creating homes which are much more acceptable to live in, both in terms of the "physical environment" and also the health and well-being of the residents.
- 11.2 Typical results on comparable Decent Homes programmes elsewhere in the country have shown:-

- In areas where new double glazed windows were installed burglaries were significantly reduced.
- New double glazed windows are estimated to save each tenant between £95 and £223 a year in fuel bills.
- Improved external wall and roof insulation should help to reduce fuel bills by as much as 40% overall (in conjunction with the Window replacement), bringing the estimated total savings to over £400 per annum on each residents fuel bills.
- New windows and improved heating have had a significant impact on improving residents' health.
- Improved central heating systems are estimated to have reduced respiratory illness for a significant number of children in public sector properties and are believed to help save lives each year by reducing excess cold conditions.
- New windows and heating systems installed will help tenants to save energy amounting to a collective saving of £3.5m each year from heating bills according to the Energy Saving Trust and save 15,500 tonnes of carbon emissions.

Background Papers

None

Contractors submitting a PQQ Response Stage

Axis Europe plc
*BMR Construction Ltd
Borras Construction Limited
Breyer Group PLC
Durkan Limited
*Eco-Therm (UK) Ltd
*Hanover Joinery Ltd
*icalfire safety limited
J Murphy & Sons Limited
Keepmoat Regeneration Limited
Kier Support Services Limited
Lakehouse Contracts Ltd
Lovell Partnerships Ltd
*MDTV
Mears Limited
*MITIE Property Services (UK) Ltd
Mulalley and Company Limited
Osborne
*P & R Installation Company Ltd
*P M Construction Limited
*Polyteck Building Services Limited
*Precision Lift Services Ltd
*TSG Building Services plc
United House Ltd
VINCI Construction UK Limited
Wates Living Space

* The Companies indicated failed to meet one or more of Pass / Fail questions and their PQQ submissions did not therefore progress to the quality evaluation stage.

