

MUNICIPAL YEAR 2016/2017 REPORT NO. 54

Cabinet: 16th August 2016

REPORT OF: Director - Regeneration & Environment & Director of Finance, Resources & Customer Services.

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Agenda – Part 1	Item: 7
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Subject: Remediation Framework Part 1 Wards: All Key Decision No: KD 4351
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Cabinet Members consulted: Cllr Alan Sitkin and Cllr Dino Lemonides
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1. EXECUTIVE SUMMARY

- 1.1 This report is a review of tender returns received for the appointment of contractors onto a remediation framework for Enfield Council and other public sector authorities listed in Schedule 4 of Appendix 1 – which is the framework contract document prepared by our legal team Trowers.
- 1.2 A procurement process was carried out following OJEU rules and regulations. The procurement was intended to include, as the first appointment under the framework, remediation of the Willoughby Lane and Meridian Way sites which form part of the proposed Meridian Water development.
- 1.3 The quality and cost components of the five returned tenders have been assessed in accordance with the evaluation criteria stipulated in the ITT. Based on the assessment and a review meeting with Enfield Council on 22 April 2016 a decision was made to recommend the appointment of all five contractors returning tenders to the framework.
- 1.4 A Part 2 report sets out additional detail around the selection process and the fees associated with the work.
- 1.5 Since the return of the tenders the scope of the proposed remediation work has been subject to change due to revisions in the proposed development strategy and Meridian Way is to be excluded from the first phase of work and this will be the subject of a separate procurement outside the framework. The Willoughby Lane remediation will be a mini competition under the framework.

2. RECOMMENDATIONS

- 2.1 It is recommended that all five contractors be appointed to the framework.
- 2.2 It is recommended that any organisation that would like to access the framework be directed to the Enfield procurement and commissioning hub who will administer the framework on behalf of LBE.
- 2.3 It is recommended that the five contractors appointed to the framework be asked to resubmit a tender for the works at Willoughby Lane under the new brief and delegates the finalisation of the call-off contract (and all ancillary documentation) to the Cabinet Member, Economic Development and Business Regeneration and Cabinet Member for Finance and Efficiency in conjunction with the Director - Regeneration & Environment and the Director of Finance, Resources and Customer Services

3. BACKGROUND

- 3.1 Enfield is an outer north London borough, the sixth largest in London, comprising a mixture of urban and suburban neighbourhoods with distinct character areas, contrasting land uses and socio-economic conditions, and with varying levels of transport accessibility.
- 3.2 Enfield's current population of 320,607 and is forecast to grow to 334,700 by 2021. A revised target of 798 new homes per year in the period 2015 to 2025 has been agreed by the Greater London Authority. These homes will be accommodated on a range of sites across the borough but the opportunities to achieve housing delivery at a significant scale and pace are in limited supply.
- 3.3 Meridian Water is a pivotal regeneration scheme, which has the potential to accommodate over 8,000 new homes and 3,000 new jobs by 2030. The Meridian Water Masterplan was adopted in 2013 as Planning and Urban Design Guidance - Material Consideration, and provides a framework for the delivery of this new community adopted by the council in July 2013 (Key Decision: 3699).
- 3.4 The council has concluded on the procurement of a master developer for Meridian Water, and is looking to enter into a legal agreement with Barratts of London the preferred bidder. The remediation framework established via this procurement process will provide remediation services that will enable land to be used for development purposes and the building of houses.
- 3.5 The procurement process has been developed by Regeneration and Environment in consultation with the following:
- Amec Foster Wheeler as technical advisors;
 - Initially Enfield shared procurement service (with Waltham Forest) and latterly with Ernst & Young as procurement advisors; and
 - Trowers & Hamlin LLP as legal advisors
- 3.6 The establishment of the remediation framework has therefore been subject to due and proper process with specialist advice. The potential use of the framework by other London authorities is secondary to the main priority of establishing a remediation framework for use by LBE.
- 3.7 The procurement commenced with an initial prequalification exercise (PQQ). The PQQ process was used to establish Contractor standing and competence in accordance with the criteria in Table A

Table A PQQ Assessment

No.	Section	Scoring Mechanism/Weighting
1.	Company Information	
1.1	Organisational Details	For information only
1.2	Consortia and Sub-Contracting	For Information only
1.3	Licensing and Registration	Pass/Fail
2.	Legal Formation	
2.1	Grounds for Mandatory Rejection	Pass/Fail
2.2	Grounds for Discretionary	Pass/Fail

	Rejection	
3.	Financial Details	
3.1	Financial Assessment	Pass/Fail
4.	Policy and Procedures	10% Overall weighting allocated
4.1	Insurance	Pass/Fail
4.2	Equal Opportunities	Pass/Fail
4.3	Environmental Management	Pass/Fail
4.4	Health and Safety	Pass/Fail
4.5	Community Benefit	
4.5.1	Training and Apprenticeships	40% Sub-weighting
4.5.2	Local Supply Chain Opportunities	40% Sub-weighting
4.5.3	Sustainability, Corporate & Social Responsibility	20% Sub-weighting
5.	Technical Ability and Capability	90% Overall weighting allocated
5.1	Relevant Experience and Contract Examples	30% Sub-weighting
5.2	Specialist Remediation Services	10% Sub-weighting
5.3	Project Management	10% Sub-weighting
5.4	Commercial Management	10% Sub-weighting
5.5	Programme Management	10% Sub-weighting
5.6	Supply Chain Management	5% Sub-weighting
5.7	Stakeholder Management	5% Sub-weighting
5.8	Quality Assurance	5% Sub-weighting
5.9	Environmental Systems	5% Sub-weighting
5.10	Financial Deductions	5% Sub-weighting
5.11	Termination of Contract	5% Sub-weighting

Fourteen contractors submitted PQQ returns from which the best six compliant and top scoring contractors were selected to tender the framework. The five contractors returning tenders have all been recommended for appointment to the framework based on the evaluation in Part 1.

4. TENDER PROCESS AND SCORING

- 4.1** London Borough of Enfield (LBE) initiated a procurement comprising a framework for the remediation of various sites within Enfield. The first appointment under the framework was going to be the remediation of the Willoughby Lane and Meridian Way sites.
- 4.2** The procurement was advertised through OJEU reference 2015/S 182-328669. The Enfield works package number is 9ZPH-UXSFY1.
- 4.3** Amec Foster Wheeler Environment & Infrastructure UK Ltd (Amec) have been advising LBE on the technical elements of the procurement. Trowers & Hamlin have been providing legal support on the conditions of contract for the framework and the Willoughby Lane appointment.

- 4.4** Following an earlier pre-qualification (PQQ) exercise six contractors were selected for invitation to tender (ITT). The ITT (Appendix 1) documents were made available on the London tenders portal on 23 November 2015 with an initial date for tender return of 8 January 2016 which was subsequently extended to 29 January 2016.
- 4.5** Amec was given access to the tender returns on 3 February 2016 for the purposes of undertaking the evaluation stated in this report.
- 4.6** Of the six contractors invited to tender one, Erith Group, advised on 13 January 2016 that they would not be returning a tender due to the contract risk profile and future commitments secured for the year.
- 4.7** The five contractors named below returned tenders on the London tenders portal by the deadline of 29 January 2016. A factual evaluation of these tenders is given in part 2 of this report.
- VHE
 - HBR Blackwell
 - Hydrock
 - John F Hunt and
 - BAM Nuttall
- 4.8** Since the tenders were returned the scope of the proposed remediation work for Willoughby Lane and Meridian Way has been subject to change due to the revisions in the proposed development strategy and Meridian Way is to be excluded from the first phase of work and will be the subject of a further report.
- 4.9** The evaluation of the tenders undertaken here has been used to provide a recommendation for Contractors to be appointed to the framework.
- 4.10** As the works information has changed significantly it is proposed that the contractors recommended to be appointed to the framework are requested to retender the revised works for remediation at Willoughby Lane.
- 4.11** The selection of six contractors to tender the framework followed an earlier PQQ exercise and those shortlisted to tender are all contractors with considerable remediation experience in urban areas including former gasworks site such as that at Willoughby Lane. The use of a framework is to enable LBE to use a mini competition or direct appointment for remediation of other sites within Meridian Water or elsewhere in the Borough having established:
- agreed conditions of contract for such work; and
 - rates and percentages from Contractors which will apply to aspects of the work (these are indexed over the period of the framework) .

This gives the Authority flexibility in appointment of proven remediation contractors in a timely and efficient way.

4.12 Evaluation Criteria - The ITT evaluation was based on two main criteria which are Price (70% of the overall available score) and Quality (30% of the overall available score).

4.13 Price - (This related to 70% of the overall rated score)- Tenderers were required to complete the activity schedule ITTv2 relating to remediation of Willoughby Lane and Meridian Way available electronically as an excel workbook and upload under the appropriate section of the online form within the tender as part of their Tender Response.

4.14 The evaluation of price is broken down into the following sub-criteria:

Table 1

Part A	Total of the Prices and rate adjustments	55%
Part B	Analysis of rates and percentages	15%

4.15 The mechanism for establishing price scores is that the lowest price Tenderer is awarded the maximum percentage score available; all other Tenderers are awarded using the following formula:
(Lowest Bidder Price / Bidders Price) x Percentage Score Available).

4.16 Quality - (This related to 30% of the overall rated score) - Tenderers were required to use the 'Method Statement Template' within the ITT document to respond to all questions stated below. Written responses were assessed using the scoring mechanism in Table 2

Table 2 Quality Scoring Criteria

Score	Score Comment	Score Rationale
5	Excellent Response	The ITT response convincingly and comprehensively demonstrates that the Tenderer understands the requirements of the works and the Authority's aims and priorities and sets out detailed and convincing proposals for the successful delivery of projects which are fully supported by evidence.
4	Good Response	The ITT response convincingly demonstrates that the Tenderer understands the requirements of the works and the Authority's aims and priorities and sets out convincing proposals for the successful delivery of projects with some evidential support.
3	Acceptable Response	The ITT response demonstrates that the Tenderer is likely to understand the requirements of the works and the Authority's aims and priorities and sets out some convincing proposals for the successful delivery of projects.
2	Unsatisfactory Response	The ITT response fails to demonstrate that the Tenderer understands the requirements of the works and/or the Authority's aims and priorities or fails to set out convincing proposals for the successful delivery of projects..
1	Unacceptable Response	The ITT response fails to demonstrate that Tenderer understands the requirements of the works or the Authority's aims and priorities and fails to set out convincing proposals for project delivery.
0	Non-compliant Response	The ITT response does not comply with these instruction or the ITT or does not address the required submissions. Any Tenderer whose submission is determined to be non-compliant in any respect may be excluded from further consideration.

4.17 Quality and Technical Assessment

The evaluation of the quality questions summarised in Table 2 was undertaken by Amec with the exception of question 2, community benefit which was marked by

Enfield Council. The overall Quality score accounts for 30% of the overall available score.

No pass/fail score was specified in the ITT.

Table 3

No	Quality Question	Quality Weighting % (of overall 30%)
1	Environmental Management	20%
2	Community Benefit	10%
3	Project Management Structure	10%
4	Programme Management	20%
5	Cost Management	15%
6	Subcontractor and Supply Chain	5%
7	Technical Approach and Innovation	20%

4.18 Financial Assessment

The costs provided by Contractors for the evaluation of total price are comprised of the following components

- Project management – These costs include surveys, utility protection, site accommodation, site security, monitoring works etc.
- Remediation works
- Option prices – not considered in the calculation of overall price but a consideration in the overall evaluation; and
- Rates for adjustment of quantities –, not considered in the calculation of overall price but used in sensitivity analysis.

4.19 Tender Clarifications

Following an initial review of the tender returns some queries, both technical and financial were identified. It was agreed that a schedule of tender clarifications be prepared and issued to each of the five Contractors. The clarifications were issued on the portal on 8 March 2016 and returns were scheduled one week later.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 Do nothing – This was not an option because remediation will need to take place as LBE are building on brown field sites which is one of the ways that our housing targets will be met.

5.2 Direct award – make a direct award for the Willoughby Lane works to the Tenderer with the highest score. This option was deemed unsuitable as the works specification has changed considerably.

5.3 Collaborate with another department or local authority in respect of procurement.

This project is a discreet piece of work led by the Neighbourhood Regeneration team which is procuring a service that could be of use across other departments and local authorities. Cross departmental procurement is appropriate and has been used on this occasion. The Neighbourhood Regeneration team has collaborated with Property Services, Procurement and our consultants in devising the procurement approach

6 REASONS FOR RECOMMENDATIONS

- 6.1** The recommendation to appoint all five contractors to the framework will enhance the speed of delivery of the Meridian Water Programme and will ensure that there is a selection of contractors with the capability to undertake remediation works on a variety of sites which may run concurrently. In addition all contractors selected have a wealth of experience and a track record within the industry.
- 6.2** All contractors scored well in the quality section of the competitive tendering exercise and all fully met the requirements set out in the tender brief.
- 6.3** A decision was taken at the meeting held on the 22nd of April 2016 between staff from Enfield Council, Ernst and Young (procurement advisors to the Council), Trowers & Hamlin and Amec; to recommend the appoint of all five contractors to the framework, these being:
- VHE
 - HBR Blackwell
 - Hydrock
 - John F Hunt, and
 - BAM Nuttall

7 COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

7.1 Financial Implications

- 7.1.1** The costs associated with the setting up of this framework mainly comprise professional fees charged by the experts providing advice and support to the Council officers in this regard. These are contained within the overall Meridian Water contract budget which was approved by Cabinet on the 10th February 2016 (KD4229).
- 7.1.2** This budget also made a provision for the remediation costs of the initial parcels of land acquired by the Council. Under recommendation 2.3 of this report the framework contractors will be required resubmit a tender for these works and, assuming these fall within the budget envelope, authority to call off the contract is sought from the Director of Environment and Regeneration. Any future remediation work awarded through the framework for Enfield will need to be contained within this budget and any increase, which could not be contained from within existing resources, would be subject to an additional authorisation request.

7.2 Legal Implications

- 7.2.1** The Council has power under section 1(1) of the Localism Act 2011 to do anything that individuals may do provided that it is not prohibited by legislation and subject to Public Law principles. Creating stronger, more sustainable communities and addressing housing needs, are key priorities for the Council, and are progressed pursuant to this power.
- 7.2.2** On the basis that the procurement process to first of all compile, and then populate the Remediation Framework with the prospective suppliers (as noted in the Report), has been carried out in accordance with the applicable procurement law as advised, there

should be negligible, if any, risk to the Council in awarding a place on the Remediation Framework to the suppliers as proposed.

- 7.2.3** The further competition under the Remediation Framework, when initiated, should be in accordance with the processes laid down under the Remediation Framework, while the resultant agreement must be drafted in accordance with the call-off contract which is used as part of the of the Remediation Framework call – off process.

7.3 Property Implications

- 7.3.1** Strategic Property Services supports the initiative to procure a remediation framework in accordance with OJEU rules and regulations to include, over time, all sites acquired at Meridian Water.

- 7.3.2** Whilst there are no direct property implications arising from the appointment of the five contractors to the framework, at the appropriate time, when individual commissions are made on specific sites it will be important to ensure that the specification for the works is well considered and preferably based on outputs. Advice from suitably qualified consultants should be sought for this purpose. This approach will assist in mitigating the risk of a potential devaluation of sites sold to the Master Developer and maximising site value returns.

8 KEY RISKS

- 8.1 Procurement** – Poor administration of Procurement rules may lead to fines / reputational damage to the Council.

Mitigation – The framework will be administered by the Enfield procurement hub who will ensure that procurement rules are followed, in addition when individual commissions are made on specific sites Amec who are the Councils qualified consultants will be available to provide advice and support.

- 8.2 Legal Challenge** – there is always a potential for a procurement challenge even in a retender as a result of the costs involved in tendering. Any Legal challenge to this procurement may lead to delays to the project works and fines / reputational damage to the Council.

Mitigation – The OJEU process was supported by legal in the form of Trowers and Hamlin and officers ensured that all the protocols were followed so even if challenged by an unsuccessful organisation there is sufficient evidence to support the process taken.

9 IMPACT ON COUNCIL PRIORITIES

- 9.1** The remediation of work at Meridian Water is a part of the Masterplan which is fundamental in achieving sustainable development. Planning and urban design guidance about the significant scale of change proposed throughout the document seeks to achieve fairness for all, sustainable growth and the development of strong communities.

10 EQUALITIES IMPACT IMPLICATIONS

- 10.1** The Council will have a framework which will enable the successful delivery of Meridian Water, by ensuring that sites are remediated. This will result in the delivery of a minimum of 8,000 new homes and 3,000 new jobs by 2030 which will be available to local residents. By employing high quality contractors, the Council will be able to ensure it is acting in the best interests of its communities.
- 10.2** The overarching aim of the Neighbourhood Regeneration Team is to improve the quality of life for all, within the Council's priority regeneration areas. Individual PEQIAs are prepared for each project, setting out the equalities impacts for individual interventions. The Council will work with all members of the team to ensure equality impacts assessments are considered and completed as required at all stages of the regeneration process.

11 PERFORMANCE MANAGEMENT IMPLICATIONS

- 11.1** Delivery of a comprehensive regeneration scheme at Meridian Water is a corporate priority within the Council's Business Plan 2012-15. Completion of the Masterplan and delivering phased infrastructure improvements will help to meet Outcome 2.10 of the Business Plan; to improve the quality of life of residents through the regeneration of priority areas and promote growth and sustainability.

12 HEALTH AND SAFETY IMPLICATIONS

- 12.1** All contractors tendering for the remediation framework were required to demonstrate minimum health and safety performance as part of the PQQ process.

13 HR IMPLICATIONS

Not Applicable.

14 PUBLIC HEALTH IMPLICATIONS

- 14.1** The remediation works are subject to planning permission which include satisfying conditions relating to environmental management and monitoring and verification reporting.

15 Appendices Appendix 1 - ITT

Background Papers

None