

MUNICIPAL YEAR 2019/2020 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:
Executive Director for Place

Agenda – Part: 1	KD Num: 4922
Subject: Replacement of Cold Water Storage Tanks to Housing Blocks boroughwide.	
Ward: Boroughwide	

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1. EXECUTIVE SUMMARY

- 1.1 This project was included as part of the Better Council Homes Workplan and Budgets 2019/20 which was approved by Cabinet on 13 February 2019.
- 1.2 The project is included in the 30year HRA Business Plan, which was detailed in Housing Revenue Account (HRA) Business Plan Budget 2019/20, Rent Setting and Service Charges report (KD4741) and was approved by Cabinet on 13 February 2019 and Council on 27 February 2019.
- 1.3 This report proposes to award the contract for the replacement of Cold-Water Storage Tanks to Housing blocks within the London Borough of Enfield (boroughwide).

2. RECOMMENDATION

- 2.1 That approval is given to award the contract for the replacement of cold water storage tanks.
- 2.2 Refer to Part 2 of this report for further details.

3. BACKGROUND

- 3.1 LBE undertake annual legionella risk assessments, along side it monthly and quarterly testing regime, across all properties with communal water services.
- 3.2 Following the last round of these risk assessments a number of water tank replacements have been recommended.
- 3.3 This scheme is deemed as high priority and is essential in order that the Council fulfils its obligations to comply with the Health and Safety at Work Act 1974 and COSHH Regulations 1994 as well as its duty of care to its residents.
- 3.4 As these works are deemed essential, any affected Leaseholders will not be re-charged.

4. ALTERNATIVES OPTIONS CONSIDERED.

- 4.1 In this case the risk assessments have highlighted a high risk of legionella due to the water tanks failing so replacement is essential.
- 4.2 It is considered that there are no viable alternative solutions.

5 REASONS FOR RECOMMENDATIONS

- 5.1 As detailed in 3.3, the Council has a duty of care to safeguard its residents and an obligation comply with current health and safety regulations. It is considered essential that this contract is awarded in order to achieve this.
- 5.2 See Part 2 for details of the tender.
- 5.3 The recommended Contractor has submitted the lowest priced tender and has been judged capable of complying with the specification.

6. COMMENTS FROM OTHER DEPARTMENTS.

6.1 Financial Implications

This scheme is included in Major Works Capital Programme for 2019-20. These costs will be funded from HRA capital resources and are included in the HRA 30 year Business Plan.

6.2 Legal Implications

6.2.1 The contents of this report constitute a Key Decision as the recommendation to accept the tender for the works will lead to capital expenditure exceeding £250,000.

This item has been included in the Key Decision List reference: KD4922. Once approved, the Key Decision process must be followed.

6.2.2 The Council has the power to alter, repair or improve its housing stock in accordance with s.9 Housing Act 1985 (as amended).

6.2.

3 Under s.20 Landlord and Tenant Act 1985 ("s.20") the Council (as landlord) has the ability to recharge leaseholders for major works via service charges, provided appropriate consultation has occurred pursuant to the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987). The Council must ensure that leaseholder consultations are carried out under s.20 (as amended) and regulations issued pursuant to s.20 prior to the award of the works contract, to enable the Council to recover the costs from the leaseholders.

6.2.4 In accordance with Section 111 of the Local Government Act 1972, the Council may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The appointment of Contractor A, as recommended in this Report, will be incidental to this power. The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to Public Law principles.

6.2.5 Additionally, the Council is empowered, under s.1 Local Government (Contracts) Act 1997 to enter into contracts in order to discharge its legal powers.

6.2.6 The Council must comply with all requirements of its Constitution and Contract Procedure Rules (CPRs). In accordance with CPR Rule 3 Five quotes were sought. As only 1 quote was received for the works the P & C Hub must approve the award of this contract.

6.2.7 Throughout the engagement of the Contractor, the Council must comply with its obligations of obtaining best value, under the Local Government (Best Value Principles) Act 1999. The Council must keep a clear audit trail of its decision to award these services to the Contractor in order to demonstrate that best value has been and will continue to be obtained for the Council.

6.2.

8 The contract price falls below the threshold for Public Works Contracts under the Public Contracts Regulations 2015 and therefore the full EU procurement procedures do not apply. However, the Council must ensure that it complies with the EU general principles of equality, transparency, proportionality, non-discrimination and mutual recognition when awarding any contract.

6.2.9 Any resultant contracts (and where relevant, ancillary contractual documentation) required in association with this matter must be in a form approved by Legal Services on behalf of the Director of Law and Governance ahead of contract commencement date.

6.2.10 As the contract value for the works exceeds £250,000 the Contract will need to be sealed on behalf of the Council.

6.2.11 Under CPR 1.18 sufficient security from the Contractor for eg by Parent Company Guarantee or Performance Bond should be considered to manage risk. 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.

Provided by LJS on 15.08.2019 based on a Report circulated on 15.08.2019

6.3 Procurement Implications

6.3.1 The procurement was undertaken using the London Tenders Portal (ref DN426869).

6.3.2 As the contract is over £250k the service must ensure that sufficient security has been considered.

6.3.3 The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal.

6.3.4 The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.

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

Procurement Implications provided by Peter Alekkou on 05th September 2019.

7 PROPERTY IMPLICATIONS

7.1 No corporate property implications noted by Property Services.

8 KEY RISKS

8.1 Delay to works commencing could increase the risk of the Legionella bacteria developing in Water Tanks.

8.2 The Council would be in breach of a number of health and safety regulations and deemed to be non-compliant. Any occurrence of Legionnaires' Disease would have a detrimental effect to the Council's reputation and costs would significantly increase putting right this wrong.

9. INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION

9.1 Neighbourhood Services have been informed of the proposed works. Liaison with residents effected by the works will be undertaken by a Resident Liaison Officer from the Major Works team and the relevant patch Neighbourhood Officer.

10. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

10.1 Good homes in well-connected neighbourhoods

The replacement of Water Tanks will provide those residents with clean and unpolluted water.

10.2 Sustain strong and healthy communities

The outcome of these major works will contribute to people's well-being in knowing their water supply is safe

10.3 Build our local economy to create a thriving place

Improving property standards and services ensures better quality accommodation which in turn contributes to a more desirable place to live and work.

11. EQUALITIES IMPACT IMPLICATIONS

11.1 Corporate advice has been sought with regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report to award contracts for major works.

11.2 However it should be noted that the any contracts awarded will include a duty on the successful contractor to assist us with meeting our obligations under the Equalities Act 2010.

12 Performance and Data Implications

12.1 The works will provide clean non-polluted water to residents thus ensuring more efficient use of assets within the HRA.

13 HEALTH AND SAFETY IMPLICATIONS

13.1 The proposed works are in line with recommendations from Health and Safety colleagues.

14. PUBLIC HEALTH IMPLICATIONS

14.1 Eliminating the possibility of any Legionnaires' Disease outbreak to residents

