

***Please note Part 2 report is now confidential appendix.***

## **London Borough of Enfield**

### **Operational Report**

**Report of:** Peter George, Programme Director Meridian Water

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**Subject:** MW Strategic Infrastructure – Bloom Consultant  
Procurement

**Executive Director:** Sarah Cary, Executive Director – Place

**Ward:** Upper Edmonton

**Key Decision:** 5206

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### **Purpose of Report**

1. The purpose of this report is to seek approval of the use of Call-Off contracts with Bloom Procurement Services Limited (under the North East Purchasing Organisation (NEPO) Framework) to directly appoint a CEEQUAL Assessor, Architectural and Landscape Architect Services and Engineering services to support the Meridian Water Team on the Strategic Infrastructure Works.
2. In early December 2018 the GLA submitted, on behalf of Enfield Council, a funding application to Central Government for a total of £156m to build strategic infrastructure in Meridian Water. Confirmation that Enfield Council have successfully secured the HIF funding was provided in August 2019. Detailed terms and conditions of funding are currently being negotiated. Availability of funding will be contingent on the satisfaction by the Council of conditions precedent. The funding will only be available to be drawn by the Council until 31st March 2024. In August 2020 central government increased the funding amount by £14m, to a total of £170m.
3. The Council has adopted a programme of design and procurement of Design Consultants via Bloom to maintain continuity of a well performing team and protect design quality. The Call-Off agreements will ensure timely delivery of works ahead of the HIF funding deadline of March 2024.
4. The Call-Off agreement will support the Meridian Water team to obtain the relevant specialist resource to aid delivery of work programmes, specific projects and specialist pieces of work for time limited periods, where the required level of resource and knowledge is not available in-house.
5. The Framework has been procured in compliance with the Public Contracts Regulations.

6. The Framework will support transparency, reporting and audit of all activity associated with professional and consultancy services.

### **Proposal(s)**

It is recommended that the Executive Director - Place.

7. Approves the use of the Call-Off contract with Bloom Procurement Services Limited to directly appoint: ARUP as CEEQUAL Assessor for a contract term of 44 Months, KCA to provide Architectural services for a contract term of 44 Months and Periscope to provide Landscape Architect Services for a contract term of 44 Months and ARUP to provide Engineering services for a contract term of 4 Months. The value of each respective call-off is set out in the Part 2 Report.
8. Authorises Legal Services (to work in partnership with the Procurement & Commissioning Hub & the Meridian Water Team) to prepare and complete the call-off contracts (together with any supplementary contractual documentation) and arrange for sealing of the same.
9. Authorise expenditure for the scope of services and contingency costs set out within the body of this report.
10. Note budget and funding sources for the expenditure (see Confidential Appendix).

### **Reason for Proposal(s)**

11. The below points are the key reasons of the recommendation of this procurement method.
  - Keep to the existing HIF programme for the Main Contractor procurement and post contract technical advice in order to achieve the HIF Funding Deadline of March 2024;
  - Maintain existing knowledge of the design, site and issues of the current and well performing design team;
  - Maintain Design and Construction Quality for the Council;
  - Maintain continuity for the Council and the project;
  - Keep to existing programme and maintain continuity for discharging planning and funding conditions;
  - Help the Strategic infrastructure works to achieve a sustainability rating supportive of the Meridian Water Sustainability Strategy through the appointment of a CEEQUAL assessor.

### **Relevance to the Council's Plan**

#### **12. Good homes in well-connected neighbourhoods**

The recommendations in this report do provide the authority to maintain the Technical Design Team to finalise the strategic road infrastructure and flood

alleviation works. The construction of these key pieces of infrastructure will unlock new housing development in Meridian Water.

**13. Sustain strong and healthy communities**

The scope of service includes the design and monitoring of the several green spaces linking up with existing green spaces in the area and thereby enhancing the value of the local green infrastructure. As well as implement the sustainability strategy.

**14. Build our local economy to create a thriving place**

The delivery of strategic road and flood alleviation works will unlock the Meridian Water area and significantly increase accessibility of the site, especially by public transport. It is expected that increased accessibility will support local businesses, as well as attract new jobs and business growth in the area supporting Enfield residents and the local economy.

**Background**

15. The purpose of this report is to seek approval of the use of a Call-Off contract with Bloom Procurement Services Limited (under the North East Purchasing Organisation (NEPO) Framework) to directly appoint a ARUP as the CEEQUAL Assessor, KCA as Architect, Periscope Landscape Architect Services and ARUP as Engineering services to support the Meridian Water Team on the Strategic Infrastructure Works.

16. In July 2018 Cabinet authorised a funding bid for the Housing Infrastructure Fund (HIF) and delegated the authority to approve the contractor procurement for the HIF delivery works to the Programme Director of Meridian Water in consultation with the Director of Law and Governance (KD4711). Confirmation that Enfield Council have successfully secured the HIF funding was provided in August 2019. The Funding agreement is due to complete in September 2020. Detailed terms and conditions of funding are currently being negotiated with the Ministry of Housing, Communities and Local Government. Availability of funding will be contingent on the satisfaction by the Council of conditions precedent. The funding will only be available to be drawn by the Council until 31st March 2024.

17. The scope of works proposed for funding includes rail enhancement works amounting to a value of circa £40m (which are outside the scope of this proposed procurement project) and strategic road and flood alleviation works for a value amounting to circa £116m. All these professional fees are to be paid out of this grant funding.

18. The grant funding will only be available to be drawn by the Council until 31<sup>st</sup> March 2024. In order to make a claim for funding, the relevant infrastructure expenditure must have been incurred by the Council (or, in respect of claims

made in the 4<sup>th</sup> financial quarter of each year, will be incurred) in the relevant financial year in which the claim is made. The result of this is that, in order to claim the full amount of grant available, infrastructure works will need to have been completed by 31<sup>st</sup> September 2024.

19. The original appointments of the technical and design team were up to the stage of planning submission and the due diligence stage following the submission of the funding application. Now the Council has successfully secured the HIF money, further services are required up until the end of the project (March 2024).
20. To ensure timely delivery the Council must appoint these consultants in line with the demanding grant funding programme requirements. Comprehensive re-procurement of the services required would put timely delivery of the Strategic Infrastructure Works ahead of the funding deadline at risk. Furthermore, the consultants have all worked on the masterplan, have performed well during the contract term and have existing knowledge and expertise that would be lost if procured through a new tender. Therefore, this report seeks authority to appoint the mentioned consultants to facilitate the delivery of the works within the funding conditions.

## **Main Considerations for the Council**

### **Team and Governance**

21. The method of main contractor procurement requires a technical advisory team to be appointed by the Council to support on technical sign off and issues during the pre-contract and contract stages of the Strategic Infrastructure Works. In addition, the appointment of a CEEQUAL Assessor is required to help the Strategic infrastructure works to achieve a sustainability rating supportive of the Meridian Water Sustainability Strategy.
22. The Meridian Water Team appointed a Technical Design Team in 2018 to design and obtain planning for the Strategic Infrastructure Works as well as support the council in the Bid for the HIF. ARUP were appointed to provide Engineering Services and lead the design team and planning process. KCA were appointed as Architects and Periscope as Landscape Architects.
23. The Contracts for the above Technical Design Team expired in December 2019. A competitive procurement exercise was carried out in 2019 to re-procure for the Lead Designer role which is currently being performed by ARUP. In March 2020 Jacobs were confirmed as ARUP's replacement by July 2020 and to take this role forward until March 2024. Following the appointment of Jacobs, the requirement for the additional technical services

requested within this report became apparent. Therefore, a separate procurement has carried out.

24. Notwithstanding the expiry of the current contracts, there is a requirement to continue these services and fulfil the role of technical advisors to the Council until the completion of the Strategic Infrastructure Works.
25. To ensure timely delivery of works ahead of the funding deadline of March 2024 and maintain the current well performing suppliers, the Council is seeking approval to procure the Design Consultants via Bloom to maintain continuity and programme.
26. It is therefore recommended that KCA and Periscope are directly appointed using Bloom Procurement Services Ltd for the remaining project programme. Further recommendation is that ARUP is appointed directly using Bloom Procurement Services Ltd as CEEQUAL assessor for the remaining project programme and appointed in their role as technical advisor to handover to Jacobs, who have been newly appointed as technical advisors on the project.

### **Scope of Works**

27. A scope of service has been fully aligned to meet the requirements of the Council for the remainder of the project commencing from March 2020. The Scope of Service has been prepared by an independent project management consultant.
28. The Services required by the Council are expanded below:

#### **Tender Process**

- Review of Tenders and support commercial team;
- Review of proposed opportunities and any Value Engineering solutions;
- Support Project Manager in assessment of proposed Construction Programme;
- Support Project Manager in assessment of proposed Logistics Strategy;
- Interrogate survey results;
- Support on the implementation of the Sustainability Strategy.

#### **Pre-Contract Service Agreement (PCSA)**

- Advise on Technical Design provided by the Main Contractor;
- Agree design deliverables, required quality, review and comment on designs from Main Contractor;
- Support Quantity Surveyor in agreement of Contract Sum and any associated Value Engineering;

- Support Project Manager in agreement of Contract Programme and Project Phasing;
- Support Project Manager in administrating changes driven by the Council;
- Support on the implementation of the Sustainability Strategy.

### **Construction**

- Advise, review and comment on Technical Design provided by the Main Contractor;
- Inspect works for quality and non-conformance;
- Support Quantity Surveyor in Valuations and any compensation events;
- Support Project Manager in programme monitoring
- Support Project Manager in administrating changes driven by the Council
- Contribute actively in administrating completion and sign off of works.

### **Defects**

- Carry out Construction Quality Inspections and Sign off
- Support Quantity Surveyor in agreement of Final Account
- Support Project Manager and Quantity Surveyor in administration of any contract changes;
- Carry out inspections and sign off defects.

29. Once the Consultants are appointed the performance of the Consultants will be overseen by the project management consultant on behalf of the Meridian Water Team.

### **Procurement Process and Contract Approach**

30. NEPO set up a Neutral Vendor Solution, called NEPRO, in September 2012 which was available to all Public Sector organisations. The solution has been called off by several Authorities across England including Enfield Council. The second generation of the NEPO framework came to an end in November 2019. Bloom Procurement Services Ltd were re-procured through an OJEU (Official Journal of European Union) process to deliver the third generation of the framework, and this is called NEPRO3.

31. Bloom Procurement Services Ltd acts as an independent broker for the procurement of specialist professional and consultancy services by managing the supply chain to fulfil the Council's requirements. They work with accredited suppliers and manage the end to end process of the appointment. They allow the flexibility of dealing with a wide range of consultants through one managed provider.

32. The Bloom Framework provides an additional route to market for Specialist Professional Services (SPS). The agreement can be signed without any commitment to a volume of projects or value of work and will allow the Council to procure professional services as and when required.
33. Bloom currently have over 6000 suppliers registered and can add new suppliers / consultants at any time. There is active recruitment of suppliers and where there are specific project needs, new suppliers can be sourced to meet them.
34. The Councils internal governance processes must be followed to ensure the required approvals and budget are in place before commissioning services.
35. The Procurement and Commissioning team have engaged with Bloom to implement project gateways that ensure Call-offs are compliant with Council's CPRs. When a work order is raised to directly call off services, it contractually binds Bloom under its Call-Off Agreement with the Relevant Authority and Bloom with the Supplier under the Service Supplier Agreement. The Council will have the benefit of a collateral warranty from the Supplier; this is a direct contract between the Council and the Supplier whereby the Supplier warrants to the Council that it has complied with the terms of its professional appointment, giving the Council a direct right of enforcement against the Supplier should the need arise.
36. Stace project management have procured the services and reviewed the received tenders against the scope of service and market rates to maintain value for money. Fees provided by the suppliers are in line with the current market rates. The Council are achieving value for money as a result of using this method of direct appointment.
37. Active contract management and cost scrutiny for the duration of the project will help ensure value for money for the Council. The scope and programme will be monitored throughout the contract term. Any variations to the scope or programme will be an additional cost to the Council and will be based on the day rates provided as part of the tender. There is a contingency in Part 2 to cover variations.
38. It is recommended that the Bloom Standard Specialist Professional Service Provider's Collateral Warranty is requested from each supplier.

### **Cost and Funding**

39. The expenditure to deliver the scope of service set out in this report is to be funded from the Housing Infrastructure Fund. Confirmation from Central Government that Enfield Council/GLA has been successful in securing the

HIF funding was received in summer 2019 and the Funding Agreement is due for completion in September 2020.

40. Fees provided by the suppliers have been reviewed and monitored to ensure they are in line with the market rates and the Council are achieving value for money as a result of using this method of direct appointment.
41. To maintain value for money this procurement is fixed on a required scope of service over a specified programme. Payments will be monthly based on the services completed. Payments will be monitored against the scope of service to ensure the Council is paying for works completed.
42. The costs of undertaking this procurement is set out in part 2 of this report. The cost are as budgeted and are contained in the currently approved project expenditure.

### **Safeguarding Implications**

43. The recommendations in this report do not have any safeguarding implications. The appointment of suppliers to provide technical services to help deliver strategic infrastructure in Meridian Water will not impact on children, young people or venerable adults. Safeguarding implications of the overall project are considered in separate reports.

### **Public Health Implications**

44. Meridian Water is poorly connected by public transport, walking and cycling and although the site lies adjacent to the North Circular Road and Meridian Way, a strategic north-south route, the central and eastern part of the site have no direct connection to the proposed railway station, the most important piece of new infrastructure. The intervention proposed for the development should address these site constraints and design-in foundations to prioritise walking and cycling. The infrastructure designs should be grounded on an urban structure that improves the environment and to encourage healthy lifestyle. The utilities corridor should also be designed to provide specs for smart technologies, introduce suitable energy infrastructure to help residents save energy bills and improve air quality.

### **Equalities Impact of the Proposal**

45. Corporate advice has been sought in 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.
46. It should be noted that projects or workstreams deriving from this may be subject to a separate Equalities Impact Assessment (EqIA). Therefore, any projects or workstreams will be assessed independently on its need to undertake an EqIA to ensure that the Council meets the Public Duty of the Equality Act 2010

## Environmental and Climate Change Considerations

47. Planning Committee has reviewed the application for Strategic Infrastructure Works and noted that the development has regard to climate change and seek to address some of the key elements to delivering a sustainable development at Meridian Water by:

- Proposing a comprehensive strategy to address flood risk;
- Improving connectivity and opportunities for active travel thus reducing reliance on the motor vehicle;
- enhancing the biodiversity value of the site through the naturalisation of part of Pymmes Brook and the creation of two new parks;
- provision of the necessary infrastructure to facilitate future connectivity to the decentralised energy network.

The consultants will support the council in meeting these objectives with the main contractor delivering the Strategic Infrastructure Works.

48. The consultants have been part of the MW design team for the last 3 years and helped develop the Meridian Water Sustainability Strategy and recognise the importance of sustainability for the project. They are also an organisation committed to achieve net zero operational emissions by:

- Reducing absolute scope 1 and 2 GHG emissions globally 30% by 2025 from a 2018 base year.
- Reducing scope 3 GHG emissions globally 30% by 2025 from 2018 base year.
- Purchasing Gold Standard certified offsets that remove greenhouse gases to offset all domestic and international flights.
- From 2030 compensating for other residual hard-to decarbonise emissions with high quality certified greenhouse gas removal.

49. In terms of project outcomes, the new appointment for the CEEQUAL Assessor is to help the Strategic infrastructure works to achieve a sustainability rating supportive of the Meridian Water Sustainability Strategy.

### Risks that may arise if the proposed decision and related work is not taken

**50. Risk: The Housing Infrastructure Fund is not or only partially secured.**

Should none or only part of the HIF funding be secured following completion or the Funding Agreement, the Design Team, Services and the chosen procurement process will need to be reviewed. If conditions are not satisfied to obtain funding, the council are to self-fund the appointments.

**Mitigation:** The Council can terminate or modify the procurement if no funding is secured. If the amount of money assigned by the MHCLG is materially lower, the scope of service will need to be reviewed, which could result in having to stand down the team and review strategy. Further legal advice will be sought in such circumstances

### Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

#### **51. Risk: Limited competition**

Due to direct appointment there is no competitive lever for consultants to be commercially favourable.

**Mitigation:** Stace have procured the bid and reviewed against the scope of service and market rates to maintain value for money. Furthermore, active contract management and cost scrutiny for the duration of the project will help ensure value for money for the Council.

#### **Financial Implications**

52. See Part 2 – Financial Report.

#### **Legal Implications**

**Prepared by MD 26<sup>th</sup> August 2020 (based on report circulated at 14:10 on 25<sup>th</sup> August 2020)**

53. The Council has the power under s.1(1) Localism Act (2011) to do anything individuals generally may do providing it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in the way proposed in this report.

54. It is proposed that the Council enters into four call-off contracts under the Bloom (NEPRO3 Framework). The estimated value of three of the contracts is above the current Public Contracts Regulations 2015 threshold for services.

55. Any procurement must be carried out by the Council in accordance with the Public Contracts Regulations 2015 (where applicable) and the Council's Contract Procedure rules, both of which permit the use of a framework provided the resulting call-off contract is based on the framework terms and the rules of the framework are followed. The Bloom framework permits direct call-offs without competition in the manner proposed in the report. However, the Council must still ensure that best value can be demonstrated.

56. In respect of contracts valued at between £500,000 and £1,000,000, officers must consider whether or not to require security from the provider in the form of parent company guarantee, performance bond or similar. Evidence of the form of security required, or why no security is required, must be stored and retained on the E-Tendering Portal for audit purposes.

57. Any contract over £500,000 in value or which is to be enforced for a period of more than 6 years must be sealed by Legal Services. If the contract is over £100,000 then the legal department will need to hold the original of the contract.

58. It is proposed that the contracts will be funded from the Housing Infrastructure Fund (HIF). The grant agreement remains subject to contract and availability of funding is dependent on the Council satisfying conditions to funding. Any services instructed before confirmation of availability of funding will be undertaken at the Council's risk. Officers must ensure continued compliance

with obligations in the HIF grant agreement relating to the delivery of infrastructure works.

59. This constitutes a Key Decision. Officers must therefore be mindful of the Council's Key Decision process and follow it accordingly.

60. All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by the Director of Law & Governance.

### **Workforce Implications**

61. This paper is proposing to contract with external providers to deliver aspects of the HIF Programme of work that cannot be delivered internally. Therefore, there are no employment implications.

62. The contract/supplier arrangements detailed in this report has been reviewed to confirm they are not interim resource requirements that may raise IR35 implications.

### **Property Implications**

63. There are no specific property implications arising directly from this report however it is anticipated that there may be future Property Imps as the HIF works progress and construction starts. Any future reports arising as a result of these proposals will need to be further reviewed and when property transactions are included Strategic Property Services will comment on those individual deals and reports at that time.

### **Other Implications**

#### **Procurement Implications**

64. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).

65. The Council's CPRs (CPR 7.2) state that, for contracts valued between £500,000 and £1,000,000, officers must consider whether or not to require adequate security from the provider in the form of parent company guarantee, performance bond or similar. Evidence of the security (or reason why no security is required), must be uploaded onto the London Tenders Portal for audit purposes.

66. 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.

67. All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements.

68. Any framework entered into must be:

- Available to the council to access legally
- Accessed via the rules of the framework
- Use the Terms & conditions of the framework provider.
- It should be noted that not all frameworks represent value for money; especially if they are a direct award. Best value must be demonstrated for these awards.

69. The contract must be promoted to the contract register to create the contract record for transparency regulations.

70. The tender was a call-off from the Bloom Framework. Due diligence was carried out by the Procurement and Commissioning Hub (P&C Hub) on the Council's ability to use the framework. The use of the Bloom framework on a direct award was chosen as this would enable speedy procurement of the selected providers to ensure timely delivery of the works and to provide continuity of service from these providers.

71. As the call-offs were undertaken using the Bloom Portal the call-off information and contracts will also be uploaded to the London Tenders Portal. For reference purposes the Bloom codes are as follows:

- CEEQUAL Assessor (ARUP): Project Number 2277
- Architectural services (KCA): Project Number 1766
- Landscape Architectural Services (Periscope): Project Number 1838
- Engineering Services (ARUP): Project Number 1782

### **Options Considered**

72. Do nothing – the council will be exposed to an unacceptable level of risk in terms of the contractors performance not meeting requirements. Technical team will carry out the checks to ensure the contractors delivers the works in accordance with the scope of works.

73. Use London Tenders Portal to conduct quotations and tenders for specific project requirements. This would not guarantee the use of specific suppliers and would not meet time constraints. Comprehensive re-procurement of the services required would put timely delivery of the Strategic Infrastructure Works ahead of the funding deadline at risk.

74. Other Frameworks- There are a range of frameworks available for consultancy services such as those provided by ESPO (Eastern Shires Purchasing Organisation) and the CCS (Crown Commercial Service). Some of these frameworks have limited category of services which do not meet evolving project requirements, furthermore some Frameworks do not allow new suppliers to join the framework during their duration.

75. Due to time constraints which is a key driver for achieving the funding conditions the above options could put the Council at risk of being in breach of the HIF Grant Determination Agreement.

## **Conclusions**

76. The purpose of this report is to seek approval of the use of Call-Off contracts with Bloom Procurement Services Limited (under the North East Purchasing Organisation (NEPO) Framework) to directly appoint a CEEQUAL Assessor, Architectural and Landscape Architect Services and Engineering services to support the Meridian Water Team on the Strategic Infrastructure Works.

77. This procurement method will allow the project to maintain the tight programme and budget set by the HIF Grant Determination Agreement. It will provide the council with consistency and continuity of advice and design, as well as holding onto historic knowledge and understanding of the project from inception.

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Date of report

## **Appendices**

- Part 2 – Financial Report (Part 2) – Confidential

## **Background Papers**

The following documents have been relied on in the preparation of this report:

None