

London Borough of Enfield

Operational Report

Report of: Joanne Drew – Director of Housing & Regeneration

Subject: Award of works contract – Channel Island Blocks Building Safety Improvement Work

Cabinet Member: Cllr Gina Needs (Cabinet Member for Social Housing)

Executive Director: Sarah Cary – Executive Director - Place

Ward: Enfield Highway

Key Decision: 5129 - Approving major works schemes outlined in the Major Works Programme 20/21 and Emergency Building Safety Works

Purpose of Report

- 1 To seek approval to award the Contract for the Channel Island Blocks building safety and internal refurbishment work, following a compliant tender process via the Southeast Consortium (SEC) procurement framework.

Proposal(s)

2. That approval be given to award and enter into the Contract for the Channel Island Blocks Building Safety and internal Improvement Works to “Contractor 6”.

Reason for Proposal(s)

3. The HRA Capital programme for 2020-21 is focused on the delivery of building safety works, sustainability improvements and the replacement of aged and failing water services infrastructure which is detrimentally impacting on resident’s quality of life.
4. The procurement plan for the 20/21 capital programme was approved at the Place Procurement Board on Tuesday 24th September 2019, noting that all such procurement activity would be carried out in accordance with the Council’s procurement rules to ensure the programme delivers value for money and achieves the quality standards expected for tenants and leaseholders.
5. A compliant tender exercise has been undertaken utilising the Southeast Consortium Procurement Framework. The tender was evaluated based on a cost quality split of 60/40, in line with the frameworks agreed weighting criteria, with Contractor 6 scoring

highest overall and therefore considered to have provided the most economically advantageous tender. Further details are provided in Part 2.

Relevance to the Council's Corporate Plan

Good homes in well-connected neighbourhood

6. The programme will improve the quality and safety of existing homes creating thriving neighbourhoods and places.

Sustain strong and healthy communities

7. Developing and sustaining good quality and safety compliant housing in areas where people desire to live, will help to create and maintain strong sustainable communities.

Build our local economy to create a thriving place

8. Support residents to take more responsibility to increase the local economy and improve their communities by more active engagement in project delivery.

Background

9. The asset management team has identified the need for a substantial programme of safety led refurbishment works, across the portfolio to ensure the Council's stock maintains the required standards and addresses risk identified in the Councils Fire Risk Assessments.

10. This project includes works to both tenanted and leasehold properties.

11. A tender package was compiled, and a mini competition tender exercise, was arranged via the EU compliant SEC Framework under their framework rules. The internal works comprise the upgrade and installation of active and passive fire safety systems, electrical upgrades to flats and communal areas, kitchen and bathroom upgrades, retrofitting sprinkler systems, lateral mains replacement, internal decorations to communal areas.

12. The works will be undertaken to the following blocks as indicated in the table below:

Property Location	Block Name	Address	No. of dwellings
A	Guernsey House	4 Eastfield Rd, Enfield, EN3 5UZ	50
B	Jersey House	2 Eastfield Rd, Enfield, EN3 5UY	50
C	Herm House	10 Eastfield Rd, Enfield, EN3 5XD	50
D	Sark House	8 Eastfield Rd, Enfield, EN3 5XB	50

- a. The work is necessary to rectify a number of failing mechanical systems, which are impacting on lift operation; damaging the building fabric and detrimentally impacting on residents living conditions. In addition to ensuring the Council remains compliant with its statutory obligations under Regulatory Reform (Fire Safety) Order and The Homes Standard.
- b. Tenders were issued on the SEC portal and bidders were instructed to submit their tender on the following basis:-
 - i. Fully fixed price tenders to comply with the price framework, specification and drawings.
 - ii. Tenders to be evaluated using SEC's matrix on a 60% cost, 40% quality basis.
 - iii. Tenders to be exclusive of Value Added Tax.
 - iv. The Tender period spanned the period of lockdown restrictions due to Covid-19. As a result, the tender return period was extended twice, the final deadline for tender return was Friday 29th May 2020 at 12 noon, to ensure bidders had sufficient time to return competitive bids,

Main Considerations for the Council

13. The Council has statutory duties under the Landlord and Tenant Act (1987) and Commonhold and Leasehold Reform Order (2002), to keep its buildings in good repair and condition.
14. Furthermore the Council has a statutory duty under the Regulatory Reform (Fire Safety) Order to ensure the risk from fire is reduced as far as reasonably practicable. These works have been identified in recent Fire Risk Assessments, as such the Council has a legal duty to undertake these works.

Safeguarding Implications

- 15 The works will require Contractors to enter resident's homes and therefore the Contractors require Disclosure & Barring Services (DBS) checks and will be required to adhere to the Council's Safeguarding Policy.
- 16 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 during both the pre-contract and Construction phases. Evaluation of the Contractors offers in this area are a major component of the qualitative evaluation.

Public Health Implications

- 17 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 makes frequent references to the importance of housing quality as a determinant of health.
- 18 The contractor will be completing works in-line with the governments 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 commencement of works.
- 19 All the bids received allow for currently known restrictions due to Covid-19. These may ease however there is also the possibility that further measures or localised outbreaks may bring new or deeper restrictions during the project.
- 20 A dedicated communication strategy, information pack will be jointly developed by both the Council and the Contractor and both will provide an RLO function to enable access and support residents during the works to their home.

Equalities Impact of the Proposal

- 21 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, however it should be noted that the any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010

Environmental and Climate Change Considerations

- 22 The works will provide improved environmental performance of resident's homes by providing modern facilities.
- 23 Where relevant, works will be in accordance with current "Approved Document L – Conservation of Fuel and power" requirements and will enhance the thermal comfort of flats and reduce drafts.

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

24 Risks to the Council and likely impact if the proposed decision and related work is not taken

Risk	Likelihood	Impact
The Council has a statutory duty under the Regulatory Reform (Fire Safety) Order to ensure the risk is reduced as far as reasonably practicable. These works have been identified in recent Fire Risk Assessments, as such the Council has a legal duty to undertake these works	High	High
The Council will fail to meet Decent Homes Standard	High	High
Increased levels of resident dissatisfaction with the condition of their homes	High	Medium
Deterioration of property that may lead to increased future costs	Medium	Low

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

25. The table below highlights risks identified and mitigating actions taken.

Risk	Mitigating action	Residual risk High / Medium or Low
Necessary procurement skills for the project	The works have been procured through the SEC Framework and therefore the procurement has been conducted in full compliance with Public Contract Regulations 2015	Low
Compliance with Public Contracts Regulations 2015	Contract procured via established framework with support from the framework providers who ensure compliance with the framework rules and Public Contract Regulations 2015	Low
Contractor claims for additional monies	Robust Quantity Surveying support/resource within the Council to ensure contract provisions applied	Low
Contractual	The Councils requirements are built	Med

issues	into the bespoke contract and tender documentation	
Supplier performance	Clearly defined key performance indicators (KPI's) have been incorporated into the contract. Structured and regular meetings to be held with the Councils Project Manager to monitor programme and performance.	Low
Coronavirus	Service continuity maintained. Please refer to Appendix 1.	Medium

Financial Implications

- 26 An investment budget was approved as part of the rent setting report in February 2020 and the costs of these works are included, in the HRA 30-year business plan.
27. The full cost of the project is within scope of the projected project budget line within the Capital Programme for 2020-21 and 2021-22.

Legal Implications

28. 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 this way.
29. Under s.111 Local Government Act (1972) local authorities may do anything, including incurring expenditure or borrowing which is calculated to facilitate or is conducive or incidental to the discharge of their functions.
30. Homes (Fitness for Human Habitation) Act 2018 require landlords to ensure that the property is fit for human habitation on the occupation date and for the duration of the contract. Landlords can no longer argue in court that works are not required simply because there is no disrepair. Repairing obligations imposed by section 11 of the Landlord and Tenant Act 1985 covers: structure and exterior to include drains, gutters, external pipes, installations in homes for supply of water, gas, electricity and sanitation (inc basins, sinks, baths and sanitary conveniences, installations for space heating and heating water. Part of structure and exterior also includes Bannisters. Landlord's obligations in relation to the structure and exterior are treated as extending to any part of the building in which he has an estate or interest.
31. Additionally, contractual and common law rights require the landlords to maintain an existing fire escape and stairway retained in his possession. Under the Regulatory Reform (Fire Safety) Order 2005, landlord must ensure that its properties are fire safe, they must carry out periodical risk

assessments, ensure all tenants always have access to an unrestricted escape route. Landlords must correctly install fire doors, provide a safe escape route and emergency lighting that is able to resist fire, smoke and fumes for long enough for residents to evacuate the property. Accordingly, the Council is obliged to remedy and carry out general refurbishment works, and upgrade items listed in 5.3.1.

32. The value of the contract exceeds the relevant EU threshold, which means that the Public Contracts Regulations 2015 (PCR 2015) apply to the procurement. The use of a framework is a compliant route to award, provided that the procurement process complies with the PCR 2015, the Council's Contract Procedure Rules (CPR), and the terms of the framework itself. The P&C Hub carried out due diligence on the SEC framework and has confirmed that a compliant procurement process has been undertaken.
33. The terms of the contract procured must be consistent with the SEC framework, and it, along with any other supplementary contractual documentation must also be in a form approved by the Director of Law and Governance ahead of contract commencement.
34. In respect of any contract with a value of £1m and over (as is the case here), the Council's CPRs (7.2) state that the contractor must be required to provide sufficient security. In accordance with CPR 7.3 'sufficient security', means one of the following:
 - (i) parent company, ultimate holding company or holding company guarantee where their finances prove acceptable;
 - (ii) director's guarantee or personal guarantee where their finances prove acceptable;
 - (iii) performance bond, retained funds or cash deposit; or
 - (iv) any other security as determined by Financial Management Services and/or Legal Services.
35. Evidence of the form of security required or why no security was required must be stored on the E-Tendering Portal for audit purposes. The Council should liaise with the Procurement & Commissioning Hub for assistance on this.
36. As the value of the contract exceeds £500,000, officers must ensure this report follows the Council's Key Decision process.
37. The Council must at all times, comply with its obligations relating to obtaining best value under the Local Government (Best Value Principles) Act 1999.

Workforce Implications

38. The above report has no direct implications on the current workforce at this time as these are works not completed by our employees.
39. The RLO resource provided by LBE to support on this project will part of the business as usual workload for the current Resident Liaison Officers.

- 40 Should there be future actions which result in this work being insourced, consideration will need to be given to the Council's statutory obligations with regard to the TUPE regulations.

Property Implications

- 41 There are no property implications in connection with this report

Other Implications - Procurement

- 42 A review of known suitable works framework agreements was undertaken by the service to identify available agreements to the Council, critiquing each option to narrow down those that can be considered, considering delivery timescales.
- 43 The Call-Off from the Framework must be carried out in line with the relevant framework process. As the service is using the SEC Tendering Portal all procurement documentation associated with this procurement must be uploaded onto the Councils E-Tendering Portal following successful authority to award being obtain.
- 44 As the contract is over £250k the service must ensure that sufficient security has been considered.
- 45 The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal
- 46 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.
47. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

- 48 The anticipated contract values are expected to exceed the EU procurement threshold for works contracts currently at £4,733,252. The procurement options available for consideration are:
- i. Use of a suitable OJEU Compliant Framework via direct award or mini competition.
 - ii. Tendering through OJEU either using the open or restricted process.
- 49 Frameworks offer the most expedient route to market available, whilst remaining compliant with the Public Contract Regulations 2015. Suppliers on frameworks are assessed for suitability prior to joining the framework with pre-agreed terms and conditions. Standard documentation is available but can be amended to include specific requirements by the client.

50 Tendering through OJEU allows clients to create bespoke documentation designed to fit its requirements. This approach gives tender opportunity to a wider group of bidders but requires a long time from document preparation and procurement to tender receipt.

Conclusions

51. That approval be given to award the Channel Island Blocks Building Safety and internal refurbishment works to Contractor 6, utilising the South East Consortium (SEC) Framework.

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Appendices

Appendix 1 – Part 2 (Confidential) report