

London Borough of Enfield

Operational Report

Report of Joanne Drew, Director of Housing and Regeneration

Subject: Award of Works Contract for Decent Homes Heating Upgrades

Executive Director: Sarah Cary

Ward: Boroughwide

Key Decision: 5129

Purpose of Report

1. To obtain approval to award two contracts for Decent Homes Heating Upgrade works to residential properties in two lots; to the North (including a small number of out of borough properties in Hertfordshire) and South of the Borough, following a compliant tender process via the Southeast Consortium Procurement Framework

Proposal(s)

2. That approval be given to award two, 12-month contracts with the option of two 12-month extensions, for Heating Upgrade works, in two separate lots, with properties split by geographical area, in furtherance of the Council's duty as a landlord to meet the Decent Homes standard.
3. That the Contract for properties in the North of the Borough be awarded to Contractor 3 and the Contract in the South to Contractor 6. The decision to award two separate contracts by geographical area, is recommended to ensure the Council mitigates risks around possible future labour shortages and supply chain performance.
4. See restricted appendix for further details.

Relevance to the Council's Plan

5. The contract will support the following objectives from the Corporate Plan.
6. Good homes in well-connected neighbourhood: The programme will improve the quality and safety of existing homes and therefore positively impact on the quality of life for our residents.
7. Sustain strong and healthy communities: Improving the existing homes where people desire to live will help to create and maintain strong sustainable communities.

8. Build our local economy to create a thriving place: Ensuring residents are able to fully participate, in activities within their neighbourhood.

Background

9. The 2020/21 capital programme has identified the need for a substantial programme of heating upgrades to ensure Council's residential stock achieves the Decent Homes Standard and its energy performance objectives.
10. These contracts will deliver heating and energy performance improvements to circa 1,200 properties per annum spread across the borough with a small number of out of borough properties in Hertfordshire. The properties have been selected based on stock condition information.
11. The scope of works includes gas boiler replacements, central heating upgrades and associated building works.
12. The project does not include works to leasehold properties.
13. Tenders were issued via the London Tender Portal (LTP) to seven contractors with a proven track record of delivery in this area and of a suitable size to deliver the works. In accordance with the Councils Contract Procurement Regulations (CPRs).
14. Indicative property lists for each area were included in the tenders. Whilst tenderers were permitted to submit tenders for both areas, tenderers were required to identify their preferred area, as they could only be awarded one of the contracts. In the circumstances that a tenderer be ranked first for both areas, they would be awarded their preferred option and the second ranked tenderer would be awarded the remaining area.
15. See restricted appendix for further details.

Main Considerations for the Council

16. The programme is required to ensure that the Council delivers homes that meet the Decent Homes Standard. The scheme will also deliver energy performance improvements, in line with the Councils Carbon reduction strategy.
17. See restricted appendix for further details.

Safeguarding Implications

18. The works will require Contractors to enter resident's homes and therefore the Contract Documents require Disclosure & Barring Services (DBS) and adherence with the Council's Safeguarding Policy.
19. 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 in both the works delivered and the processes adopted by the

Contractors. Evaluation of the Contractors offers in this area are a major component of the qualitative evaluation.

Public Health Implications

20. Good homes is a basic necessity for human health, the award of this contract will help secure this. It should also mitigate the risk from excess winter deaths as well as that of placing residents in a position of 'heat or eat' whereby poverty and expenditure places the resident in a situation of having to choose between the two.

Equalities Impact of the Proposal

21. It is not deemed relevant or proportionate to carry out an equality impact assessment/analysis for the approval of the tender that represents the winning bid and complies with the tender requirements of the Council for external repairs as part of the Council's Decent Home Programme.
22. Individual requirements are addressed prior to starting on site to ensure all relevant individual circumstances are considered during the works.
23. Any contract 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

24. The Contractor's offers include several environmental commitments that will be delivered to the Council including related to waste management, recycling and carbon reduction.
25. In addition, the works will provide improved environmental performance from the resident's homes by providing modern facilities. Current installations are required to meet bespoke requirements and current regulations, and this will typically result in improvements in environmental performance of the home.

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

Risk	Likelihood	Impact
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	Medium

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

Risk	Mitigation	Residual likelihood	Residual impact
Poor resident satisfaction caused by poor contractor performance	Contract Key Performance indicators and effective contract management will be employed; ultimately other contractors can be used to deliver works	Low	Low
Contractor claims for additional monies	Robust Quantity Surveying support/resource within the Council to ensure contract provisions applied	Low	Low
Incidents/accidents on site	Robust management of risk; Contractor submission of risk assessments etc	Low	Medium

26. See restricted appendix for further details.

Financial Implications

27. 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.

28. See restricted appendix for further details.

Legal Implications

29. The Council has the power to alter, repair or improve its housing stock in accordance with section 9 of the Housing Act 1985. The Council further has power under s111 of the Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. It is empowered to enter into contracts for the discharge of its legal powers (section 1 Local Government (Contracts) Act 1997) and has a general power of competence under s1 (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.

30. Throughout the engagement of the contractors, the Council must comply with its obligations with regard to obtaining best value under the Local Government Act 1999.

31. The Council must ensure that the procurement and award of the contracts have been and continue to be carried out in accordance with the Council's Contract Procedure Rules. Although the contract values are below the EU procurement threshold for works, the contracts must nevertheless be awarded in compliance with TFEU principles of equality, transparency, proportionality and non-discrimination.

32. The use of framework agreements is encouraged under the Contract Procedure Rules provided best value can be demonstrated. The P&C Hub should first carry out due diligence on the framework in question to ensure the Council is clearly identified as a contracting authority able to use the framework, and the contract

awards must be in accordance with the process set out in the framework agreement.

33. The contracts must be in a form approved by Legal Services on behalf of the Director of Law and Governance and must be consistent with the requirements of the framework which govern the form of any call-off contracts. As the value of each contract exceeds £500,000, they must be sealed by Legal Services.
34. The Contract Procedure Rules require that where a contract is awarded with a value of £1 million or over (as is the case here), the contractor must be required to provide 'sufficient security' as defined in CPR Rule 7.3 (such as a performance bond or a parent company guarantee). 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. If this requirement is waived, then the Executive Director of Resources must approve the financial risk prior to any award, and this Authority Report must set out the reasons for the waiver and what measures are to be taken to manage the risk.

Workforce Implications

35. The above report has no direct implications on the current workforce at this time as these are works not completed by our employees.
36. There is sufficient capacity in the Capital Programme structure to adequately manager and supervise these works.

Property Implications

37. There are no property implications in connection with this report

Other Implications – Procurement

38. The procurement was undertaken using London Tenders Portal (ref DN503982)
39. As the contract is over £1M the service must ensure that the supplier has provided the required security.
40. 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.
41. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements

Options Considered

42. Consideration was given to several alternative options to deliver the works that can be summarised as follows:

- Option A: A single contract covering the whole borough of a long duration i.e. 5 years or more
- Option B: 2 geographically based contracts covering all components

43. Option B was selected based upon the following:

44. Option A: Single Long-Term Contract

45. This approach is commonly used within the sector and does have benefits in terms of management input i.e. a single relationship to manage. However, the key factors that led to its rejection were:

- Failure or poor performance is systemic and provides a major risk for the Council
- Only Major Contractors have the capacity to tender for these works and therefore competition is limited
- The potential involvement of Small/Medium Enterprises (SMEs) is limited to working for the Main Contractor
- The Contract would probably exceed the OJEU threshold and would therefore require an OJEU Compliant approach which takes longer and is less cost effective than a sub-OJEU procurement.

46. Option B: 2 geographically based contracts covering all components

47. Officers considered that this option provides the optimum solution, it was selected because:

- Having two contractors reduces the impact of failure or poor performance
- The Council's management team and structure is ideally suited to this scale of Contract
- The size of the contract would enable smaller SMEs to tender
- The Council's experience in working with SMEs to deliver this type of work has been mixed but the experience gained would enable them to identify high performing contractors
- The Contracts would not exceed the OJEU threshold and procurement timescales would therefore be reduced

Conclusions

48. Taking into account all of the above the procurement process for the Decent Homes Heating Upgrades works has been conducted in accordance with the Councils Contract Procedure Rules and therefore recommend award to Contractor 3 for properties in the North and Contactor 6 for properties in South of the Borough.

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Appendices: Restricted Appendix
Background Papers: None