

# London Borough of Enfield

## Operational Report

Report of Joanne Drew, Director of Housing and Regeneration

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**Subject:** Award of External Works Contracts

**Executive Director:** Sarah Cary

**Ward:** Boroughwide

**Key Decision:** 5129

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### Purpose of Report

1. To obtain approval to award three contracts for external refurbishment works to residential properties in the Borough, following a compliant tender process.

### Proposal(s)

2. That approval be given to award three, two-year contracts with the option to extend each contract for a further 12 month period at the sole discretion of the Council, for external refurbishment works to 2676 Council owned homes to those successful contractors mentioned in the restricted appendix, following a compliant tender process.

### Reason for Proposal(s)

3. Given the high volume of properties included in the programme and planned timescale for completion of the works, it is recommended to award three separate contracts to ensure the Council mitigates risks around possible future labour shortages and supply chain performance.
4. The procurement plan for the 20/21 capital programme was approved at the Procurement and Commissioning Hub 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.

## **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 refurbishment works to approximately 2,650 dwelling houses throughout the borough, to ensure that the stock remains well maintained in accordance with the Decent Homes Standard and ensure compliance with the Housing Health and Safety Rating System.
10. Tenders were issued with the intention of entering into three contracts with the first three ranking Contractors for two years with the potential to extend the contracts for a further year subject to performance and budget availability. The Contracts are designed to be flexible in use and are 'Order based', i.e., works are packaged into Orders with defined start and finish dates and agreed prices based upon the tendered rates. There is no obligation upon the Council to issue Orders and no guarantee of work content or mix.
11. The scope of works includes:
  - a. Repair and replacement of pitched and flat roof coverings and associated details, flashings and rainwater goods.
  - b. External fabric repairs.
  - c. Structural repairs.
  - d. Insulation measures including external wall insulation, cavity wall insulation and loft insulation.
  - e. Works to eliminate the ingress of water, presence of damp, free ventilation and thermal bridging.
  - f. External works including repair and replacement of fencing and paving.
  - g. Work to boundary control elements and retaining walls.
12. The project does not include works to leasehold properties.
13. Tenders were issued via the London Tender Portal (LTP) to 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 Procedure Rules (CPRs).

14. The new agreements are designed to bring additional benefits to both residents and the wider Enfield community through social value initiatives built into the contract. Accordingly, bidders were required to submit an offer detailing their social value commitments via the social value portal.

### **Main Considerations for the Council**

15. The programme is required to ensure that the Council delivers homes that meet the Decent Homes Standard.
16. See restricted appendix for further details.

### **Safeguarding Implications**

17. 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.
18. 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**

19. Good homes are a basic necessity for human health, the award of these contracts 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**

20. 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.
21. Individual requirements are addressed prior to starting on site to ensure all relevant individual circumstances are considered during the works.
22. 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**

23. The Contractor's offers include several environmental commitments that will be delivered to the Council including related to waste management, recycling and carbon reduction.

24. In addition, the works will provide improved environmental performance from the resident's homes by providing modern facilities and improved thermal efficiency through insulation measures, works to eliminate the ingress of water, presence of damp, free ventilation and thermal bridging. Following completion of works a domestic EPC inspection will be undertaken to update the property performance rating.
25. Installations are required to meet bespoke requirements and current Building 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**

26. See table

<b>Risk</b>	<b>Likelihood</b>	<b>Impact</b>
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**

27. See table

<b>Risk</b>	<b>Mitigation</b>	<b>Residual likelihood</b>	<b>Residual impact</b>
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	Medium
Incidents/accidents on site	Robust management of risk; Contractor submission of risk assessments etc	Low	High

28. See restricted appendix for further details.

**Financial Implications**

29. 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.
30. See restricted appendix for further details.

## Legal Implications

*Legal Implication comments provided by MP on 08/02/21 based on version of report circulated on 01/02/21 timed at 11:18hrs.*

31. 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.
32. 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.
33. The Council has conducted its tendering exercise in accordance with the Council's Contract Procedure Rules (CPRs) and (where applicable) the Public Contract Regulations (2015) (PCRs). The Council must continue to have due regard to both its CPRs and the PCRs along with the procurement principles of transparency, equal treatment and proportionality throughout the procurement and contract award process.
34. In accordance with CPR 7 (in particular, CPR 7.2) and depending on individual contract value, the Council should have (at pre-procurement stage) considered whether additional security would be required from the successful provider(s). For contracts £1,000,000+ in value, suppliers must be required to provide sufficient security in one of the forms outlined in CRP 7.3. If in the later instance, such security is deemed not to be required then the Executive Director of Resources must approve such a decision, with reasons and risk mitigation measures set out in this report. In addition, 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 if required.
35. The Council must comply with its obligations relating to obtaining best value under the Local Government (Best Value Principles) Act 1999
36. As this constitutes a Key Decision officers must be mindful of the Council's Key Decision process and follow it accordingly.
37. All contracts and supplementary legal documentation arising as a result of this report must be in a form approved by Legal Services for and on behalf of the Director – Law & Governance ahead of contract commencement.

## **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. There is sufficient capacity in the Capital Programme structure to adequately manager and supervise these works.

## **Property Implications**

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

## **Other Implications - Procurement**

41. The procurement was undertaken using London Tenders Portal (ref DN505490).
42. As the contracts are managed Measured Term Contracts the service will ensure that works instructed, during the proposed term of the contracts, to the successful suppliers are monitored so that the procurement threshold levels are observed and not breached.
43. As the contract is over £1M the service must ensure that the supplier has provided the required security.
44. 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.
45. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

## **Options Considered**

46. Consideration was given to several alternative options to deliver the works that can be summarised as follows:
  - a. Option A: A single contract covering the whole borough of a long duration i.e. 5 years or more.
  - b. Option B: 2 geographically based contracts of up to 3 years duration
47. Option B was selected based upon the following:
48. Option A: Single Long-Term Contract
49. 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:
  - a. Failure or poor performance is systemic and provides a major risk for the Council.

- b. Only Major Contractors have the capacity to tender for these works and therefore competition is limited.
  - c. The potential involvement of Small/Medium Enterprises (SMEs) is limited to working for the Main Contractor.
  - d. 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.
50. Option B: 2 geographically based contracts
51. Officers considered that this option provides the optimum solution, it was selected because:
- a. Having 2 contractors reduces the impact of failure or poor performance.
  - b. Performance appraisals will determine whether 12-month extensions will be agreed.
  - c. The Council's management team and structure is ideally suited to this scale of Contract.
  - d. The size of the contract would enable smaller SMEs to tender.
  - e. 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.
  - f. The Contracts would not exceed the OJEU threshold and procurement timescales would therefore be reduced.

## **Conclusions**

52. It is recommended to award the three contracts to the highest ranked bidders, following a compliant tender process.

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Report Author: Sarah Stevenson-Jones  
Resident Safety Programme Director

Date of report: 12 February 2021

**Appendices: Restricted Appendix**  
**Background Papers: None**