

London Borough of Enfield

Operational Report Please note Part 2 report is now a confidential appendix

Report of Joanne Drew - Director of Housing & Regeneration

Subject: Award of Lead Designer Consultancy Services – Walbrook House

Cabinet Member: Cllr G Needs

Executive Director: Sarah Cary – Executive Director - Place

Ward: Lower Edmonton

Key Decision: KD 5129

Purpose of Report

1. This report seeks approval to award the Lead Designer Consultancy Services, RIBA Stages 1 to 7, in respect of proposed retrofit works at Walbrook House.

Proposal(s)

2. That a contract be awarded to Consultant 1 for Lead Designer services, following a compliant tender process utilising the Fusion 21 procurement framework.

Reason for Proposal(s)

3. The Better Council Homes programme includes targeted investment in Council housing. The agreed programme at Walbrook House includes cladding remediation, general internal building safety and decency improvement measures; the installation of a new heating system to support sustainability improvements and the replacement of aged infrastructure which combined are having a detrimental impact of residents' 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 Councils' procurement rules, to ensure that the programme delivers both value for money and attains the quality standards expected by residents.
5. A compliant tender exercise was undertaken using the Fusion 21 procurement framework via the Councils E-Tendering Portal. The tenders were evaluated on a 70/30 quality and cost split, in line with the Councils agreed weighting criteria. Consultant 1 submitted the second lowest price for the works and

scored the highest quality marks therefore achieving the highest score overall. It is therefore demonstrated that “Consultant 1” has submitted the most economically advantageous tender with detail being provided in Appendix 1-Part 2.

Relevance to the Council’s Plan

Good homes in a well-connected neighbourhood

6. The programme will improve the quality and safety of existing homes contributing to the creation and sustainability of thriving neighbourhoods and places

Sustain strong and healthy communities.

7. The proposed works will assist and sustain the development of high quality, safe housing, in areas which people desire to live so contributing to the building of strong, sustainable communities.

Build our local economy to create a thriving place.

8. Through effective procurement, consultation and liaison residents will be encouraged to share responsibility for delivering a successful project and its’ positive contribution to the local economy.

Background

9. The external wall system was removed from Walbrook House during 2019 following a review of wall systems across the Councils portfolio. Subsequent investigations into the condition of the building fabric and M&E services have identified a comprehensive suite of improvements which are required, to ensure the building can perform over the next thirty years and beyond.
10. The scope of works proposed encompasses both tenanted and leasehold properties as well as communal and service areas as follows:
 - New Cladding and associated windows and glazing solutions
 - Identify and address any building structural failures
 - Review Ventilation Strategy
 - Installation of Ground Source Heat Pump (subject to feasibility & review)
 - Existing Gas Service to be removed.
 - Upgrade IRS System
 - Replace Internal SVPs (which will include at least partial replacement of kitchens and bathrooms)
 - Renew Fire Stopping within residential units, communal areas, new aperture over riser cupboard doors
 - New Fire Door Installation to Flat entry doors, communal areas, landlord service access doors
 - New External Landscaping
 - New signage and wayfinding
 - Fire Alarm

- Sprinkler Installation

11. The works are necessary to ensure that the Council complies with its statutory obligations under the Regulatory Reform (Fire Safety) Order 2005, the Decent Homes standard and the Housing Health and Safety Rating system and is able to meet its forthcoming duties under the Building Safety and Fire Safety Acts respectively.
12. To deliver the programme of works the Council must appoint a number of competent consultants, to form a "Design team" to design, specify and deliver the required works. Consultant 1 will act as Lead Designer, ensuring that all elements of the design are coordinated.

Main Considerations for the Council

13. The Council has statutory duties under the Landlord and Tenant Act (1985) and Commonhold and Leasehold Reform Act (2002) to maintain its buildings in a good state of repair.
14. The works are necessary to ensure that the Council complies with its statutory obligations under the Regulatory Reform (Fire Safety) Order 2005, the Decent Homes standard and the Housing Health and Safety Rating system and is able to meet its forthcoming duties under the Building Safety and Fire Safety Acts respectively

Safeguarding Implications

15. The works will require Consultants to enter residents' homes. Accordingly, Consultants will require Disclosure and Barring Service (DBS) checks. Compliance with the Council's Safeguarding Policy will also be mandatory for all consultants and employees.
16. A dedicated, full time Resident Liaison Officer (RLO) has been appointed through the enabling/survey works and will continue throughout the development of the project to its completion on site. The RLO has been provided space within the Walbrook Wellbeing centre where they regularly attend and manage communications with residents whilst maintaining safe working arrangements in line with the Government Guidelines around Covid-19

Public Health Implications

17. The works will improve the safety and general living conditions for current and future residents aligning with the provisions of the Enfield Joint Health and Wellbeing Strategy which identifies the importance of housing as a determinant of health. The works will:
 - i. Help facilitate the safe and quick evacuation of occupants.
 - ii. Ensure the defensive barrier of the flats is maintained and keep compartmentalised areas protected.

- iii. Protect residents, visitors to the block, operatives, members of the public, property and minimise damage in the event of a fire.
- iv. Replacement of the drainage stacks will help provide a healthy and sterile living environment

18. The Consultants will be operating within the governments Covid Secure and CLC guidelines. They will be required to provide detailed method statements and risk assessments for each activity. The Council, Contract Administrators and Principle Designer will review and comment on these plans prior to the commencement of activities.

19. All bids received allow for the currently known Covid related restrictions. It should be noted that additional restrictive measures may be introduced nationally or locally which may have negative impact on project delivery.

20. A comprehensive communications strategy has been prepared by TPAS (Tenant Participation Advisory Services) jointly with the council and the Resident Liaison Officer (RLO). The appointed RLO's duties includes enabling access and supporting residents whilst activities, surveys and subsequently works are carried out to their home.

Equalities Impact of the Proposal

21. Corporate advice was sought in relation to equalities with agreement being reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report. It should be noted however that any contracts awarded should include clauses imposing duties on the successful tenderer to assist the Council in meeting its obligations under the Equalities Act 2010.

Environmental and Climate Change Considerations.

22. A sustainability strategy being prepared by the MEP Consultants will guide the Consultant's and drive the specification of works. Where appropriate and relevant proposed materials and works will be in accordance with Approved Document L "conservation of fuel and power". This to enhance the thermal comfort of residents, decrease bills where possible and reduce carbon emissions from the residential sector in accordance with local and national targets.

23. Generally, and specifically, where possible the materials to be specified are those with the lower/least environmental impact commensurate with the required performance standards being met such as water based rather than solvent based coatings.

24. Risks associated with not proceeding with the recommended award and the impact on subsequent works are detailed in the below table.

Risk	Likelihood	Impact
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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.	Medium	High
The block is exposed to adverse weather and building components and finishes are deteriorating. Failure to progress the works will cause further damage and increased costs.	High	Medium
Residents are having to cope with problems such as mould, water ingress, high heating bills and pigeon infestation whilst the council is preparing to re-clad the block. Prolonging the procurement of these works will detrimentally impact on resident's wellbeing	High	High

25. Risks associated with awarding the Consultant contract as advised and mitigating actions:

Risk	Mitigating action	Residual risk high/low
Necessary skills, and experience to deliver the design requirements and specification of works.	The proposed Consultants are highly experienced in these types of works and underwent a rigorous pre-qualification process when joining the framework. In addition, the weighting criteria applied to the ITT was split at 70% Quality/30% price where written statements required under the quality submissions were further assessed.	Low
Compliance with 2015 Public Contracts Regulations	Services have been procured using a 2015 Public Contract Regulations complaint framework (Fusion 21 Framework)	Low
Contractual matters	The Council's requirements are built into bespoke contract and tender documentation.	Low
Performance of Consultant	Structured and regular design team meetings to be held with the F3 group and the Council's Programme Manager to monitor programme and performance.	Low
Coronavirus	Service continuity maintained. Please refer to Appendix 1.	Low

Financial Implications

26. The budget for this project was approved as part of the rent setting report in February 2021, these costs are included in the HRA 30-year business plan.

Legal Implications

27. Under Section 1(1) Localism Act (2011) the Council can do anything individuals' generally may do provided it is not prohibited by legislation and subject to public law principles. There is no expressed prohibition, restriction or limitation contained in statute law against the use of this power in this manner.
28. Under Section 111 of the Local Government Act (1972) Local Authorities have power to do anything (whether involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The matters outlined in this report are incidental to the functions of the Council's departments and are intended to help ensure an effective service.
29. The Homes (fitness for human habitation) Act (2018) requires landlords to ensure that property (under their ownership and/or control) is fit for human habitation on the occupation date and for the duration of a contract. It is no longer possible for Landlords to argue that works are not required merely because there is no disrepair. Repairing obligations imposed under Section 11 of the Landlord & Tenant Act (1985) covers structure, the exterior including drains, gutters, external pipes, installations in homes including water, gas, electricity and sanitation with the Landlords obligations relating to the structure are treated as extending to any part of the building in which they have an estate or interest.
30. Rights existing under Contract and Common Law require Landlords to maintain an existing fire escape and/or stairway in its possession/ownership/control. Under the Regulatory Reform (Fire Safety) Order (2005) Landlords must ensure that its buildings are safe from fire, that they carry out regular and periodical risk assessments and ensure that tenants, operatives, employees, visitors to the buildings and members of the public will always have access to an unrestricted escape route. Landlords must ensure that fire doors are correctly installed, that a safe escape route is provided and that fire, smoke and fume resistant emergency lighting capable of resisting these effects so as to allow safe evacuation of the building is installed. Accordingly, the Council is required to carry out the refurbishment and new installation works listed in section 11.
31. The current value of the services is above the current European Union Threshold and therefore the Public Contract Regulations 2015 (PCR 2015) were applied to the procurement of this contract. The use of the Fusion 21 Framework is a compliant way to procure and award and complies with the PCR (2015), the Councils Contract Procurement Rules (CPRs) and the terms of the framework itself. The Procurement & Commissioning Hub carried out due

diligence on the Fusion 21 framework and has confirmed that a complaint procurement process has been undertaken.

32. Relevant Insurances were required and submitted on the e-tendering portal for the purposes of audit.
33. The terms of the contract procured for this project must be consistent with the Fusion 21 framework and it, along with all and any other supplementary contractual documentation must also be in a form approved by the director of Law and Governance ahead of contract commencement.
34. With respect to any contract with a value of between £500,000 and £1,000,000 (as is the situation with this contract) the Council's CPRs (7.2) state that the Council must consider obtaining sufficient security from the contractor, to manage risk. 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. directors guarantee or personal guarantee where the finances prove acceptable
 - iii. performance bond, retained funds, 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 the purposes of audit. The Council should liaise with the P&C Hub for assistance on this.
36. Where contract values exceed £500,000.00 it is incumbent on officers to ensure this report follows the Council's Key Decision process
37. The Council must always comply with its obligations relating to the obtaining of best value under the Local Government (Best Value Principles) Act (1999).

Workforce Implications

38. At this time this report carries no expressed or implied implications for the Council's current workforce as the described services will neither be carried out nor completed by its employees.
39. A separate Employers Agent Consultancy appointment has been made, to ensure that the Council has adequate resources deployed to manage a complex project of this nature and ensure as Client, that the required level of Governance and Assurance is in place to ensure a successful outcome for residents.

Corporate Property implications.

40. None

Procurement Implications

41. A Business Case was presented to the Departmental procurement Board/ P&C Review Board.
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. Due diligence and approval of the Fusion 21 framework was undertaken by the Procurement Services prior to any procurement.
44. F3 Group by agreement from Fusion 21 carried out the tender via the Councils E-Tendering Portal in line with the Councils Procurement Regulations. The London tenders Portal reference is DN 508132.
45. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts will be undertaken on the Councils E-Tendering Portal, including future management of the contract.
46. The awarded contract will be promoted to Contracts Finder to comply with the Government's transparency requirements.

Other Implications

47. Prior to tender a review of suitable works framework agreements was undertaken as the estimated contract sum was likely to exceed the OJEU limits for Services. The Fusion 21 Framework is compatible and compliant with both the Councils the OJEU procedure.
48. The award of the contract including evidence of authority to award, promoting to the Councils contracts' register and the uploading of executed contracts must be undertaken with Fusion 21 to comply with frameworks terms of use and central governments transparency requirements.

Options Considered

49. Competitive tender via the OJEU procurement route under an open or restrictive process.
50. Utilising a suitable and OJEU compliant framework via direct award or mini competition.
51. Using a framework can save time and money, while still delivering a service specified to local requirements. Consultants are assessed for suitability prior to joining the framework and have signed up to pre-agreed terms and conditions.

Standard documentation is also provided as well as support from the framework itself.

52. Undertaking a competitive tender or mini competition allows clients to create bespoke documentation designed to fit its requirements and opens the opportunity to a wider group of bidders.

Conclusions

53. Following a compliant procurement process which has been conducted in accordance with the Council's Standing Orders it is recommended that approval be given to award the Lead Designer Consultancy Services, RIBA Stages 1 to 7, in respect of proposed works at Walbrook House to Consultant 1".

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Date of report: 22/02/2021

Appendices

Appendix 1 – Part 2 (Confidential) report