

Please note Part 2 report is now confidential appendix.

London Borough of Enfield

Operational Report

Report of Joanne Drew

Subject: Hertford Road Major Works Scheme Part 1

Executive Director: Sarah Cary

Ward Southbury, Enfield Highway and Turkey Street

Key Decision: 5313

Purpose of Report

1. To obtain approval to award the Contract for the Hertford Road external enveloping scheme following a compliant tender process via the South East Consortium framework.

Proposal(s)

2. That approval be given to award the Contract for the Hertford Road major works scheme to Wates Property Services Ltd.

Reason for Proposal(s)

3. The Better Council Homes programme includes targeted investment in Council housing. The agreed programme at Hertford Road includes planned external refurbishment works to address decency failures, weather tightness and the replacement of external elements that have reached the end of their functional life.
4. The procurement plan for 21/22 capital programme was approved at the Procurement and Commissioning Board on Feb 2020, 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.
5. A compliant competitive tender exercise has been undertaken utilising the Southeast Consortium Procurement Framework. The tender was evaluated based on a cost quality split of 44% cost and 55% quality, in accordance with framework parameters, with the first placed overall bidder therefore considered to have provided the most economically advantageous tender.

Relevance to the Council's Corporate Plan

6. Good homes in well-connected neighbourhood: The programme will improve the quality and safety of existing homes creating thriving neighbourhoods and places.
7. Sustain strong and healthy communities: 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.
8. Build our local economy to create a thriving place: 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 strategy has identified the need for a substantial programme of external envelope works across the estate to address decency failings, safety improvements and replace elements of the fabric which have reached the end of their functional life.
10. The project includes works to leasehold properties. Consultation is already underway and to date leaseholders have been issued with a Notice of Intent (NOI). A Notice of Estimate (NOE) will be issued prior to contract award.
11. The contract has been procured via a mini tender via the EU compliant Southeast Consortium (SEC) Framework under their framework rules.
12. Tenders were issued via the SEC framework in February 2021 and bidders were instructed to submit fixed price tenders to comply with the Price Framework specification and drawings.
13. There are 212 properties within this scheme of which 73 are leasehold properties.
14. The scope of works will include the following: roof renewal or repair only where required; soffits and rainwater goods; renewal of flat and communal windows and doors where required; flat entrance door renewal; asbestos surveys and removal where required; repair and resurfacing of individual balconies only where required, hallways and walkways; balcony balustrade repairs only where required; repairs and redecoration to internal and external communal areas; cavity insulation works where required; external fabric repairs where required; communal lighting renewal; installation of door entry system where required; upgrade of integrated reception system; renew or repair fencing where required; paving and hard standing repairs or replacement where required and pram shed refurbishment where required.
15. The blocks within the scheme are detailed below:

Address	No. of storeys	No. of properties
1-19 Westcroft Close	2	19
1-30 Larksfield Grove	3	30
31-51 Larksfield Grove	3	21
52-63 Larksfield Grove	3	12
34-74 St Martins Estate	3	21

53-93 St Martins Estate	3	21
19-65 Carterhatch Lane	3	24
67-89 Carterhatch Lane	3	12
400-422 Hertford Road	3	12
289a-319b Hertford Road	3	40

Main Considerations for the Council

16. The Council has statutory and regulatory duties under a number of primary and secondary instruments including the Social Housing Regulators Homes Standard to maintain its stock in a safe, decent condition, free from defects. As such the Council has a legal duty to undertake these works.

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. The works will improve the living conditions of those residents that receive works. They will contribute towards reducing heating bills, sustaining tenancies, reducing fuel poverty and improving the environment for the residents of the block.
20. Any measure which alleviates relative or absolute poverty within the borough, including fuel poverty, will in turn reduce the chance of developing poor health and chronic conditions.
21. Residents of adequately heated properties are far less likely to develop respiratory and associated conditions or suffer from acute exacerbations of those. In turn helping to reduce the number of preventable referrals to both hospital and residential social care.
22. The Contractor will be completing works in-line with the governments Covid Secure and Construction Leadership Councils guidance.

Equalities Impact of the Proposal

23. 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 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

24. 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.
25. Where relevant, works will be in accordance with current 'Approved Document L – Conservation of Fuel and Power' requirements and will enhance the thermal comforts of flats, reduce draughts and carbon emissions from domestic buildings which are currently around 38% of the borough in total.

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

26. The table below details the risk if the proposed decision to award this contract is not approved:

Risk	Likelihood	Impact
The Council will fail to meet Decent Homes Standard	High	Medium
Increased levels of resident dissatisfaction with the condition of their homes	High	Medium
Deterioration of property that may lead to increased future costs	High	Medium

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

27. 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 issues	The Councils requirements are built into the bespoke contract and tender documentation	Med
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.	Low
Shortage of materials	Review contract clauses that deal with significant cost increases, agree a collaborative approach with the contractor to manage the risk, monitor closely, look at alternative suppliers	Med
Shortages of labour	Communicate with contractor early to ascertain the extent of this problem, request a statement from the contractor on what if any impact the labour issues highlighted are impacting on their ability to deliver the contract	Med

Financial Implications

28. An investment budget was approved as part of the rent setting report in February 2021 and the costs of these works are included, in the HRA 30yr business plan.

Legal Implications

[Provided by Zainab Salim]

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. The Council must be mindful of the Fire Safety Act 2021 (FSA 2021) which received Royal Assent on 29 April 2021 and seeks to amend the Fire Safety Order 2005. The FSA 2021 provides that all responsible persons (i.e. the relevant duty-holder) for multi-occupied, residual buildings must manage and reduce the risk of fire for: (i) the structure and external walls of the building, including cladding, balconies and windows; and (ii) entrance doors to individual flats that open into common parts. The Council must further continue to closely monitor the Building Safety Bill to ensure that when enacted and if any of the buildings covered by this contract will fall within the definition of High Risk Residential Building (in the draft bill currently over 18 metres or six storeys), any legal requirements on the Council are implemented.
31. The Council must comply with its Contract Procedure Rules (CPRs) and the Public Contracts Regulations 2015 (PCR 2015), and its obligations with regard to obtaining best value under the Local Government Act 1999. Both the PCR 2015 and the CPRs permit the use of framework agreements. It is noted from the procurement implications in this report that the P&C Hub has carried out due diligence on the use of the Framework Agreement by the Council. The Council must ensure that the terms of the call off contract are consistent with the terms of the Framework Agreement.
32. The Key Decision process under the Constitution must be followed as the contract value is above the Key Decision threshold of £500,000. The contract must be in a form approved by Legal Services for and on behalf of the Director of Law and Governance and it must be executed under seal.
33. The CPRs provide that contractors must be required to provide sufficient security in one of the forms outlined in CRP 7.3 for all contracts with a value above £1,000,000. If this requirement is to be waived, the Executive Director of Resources must approve such a decision, with reasons and risk mitigation measures set out in the relevant authority report, prior to the contract award. Further, CPR 6 (Insurance) states that contracts with direct advice and/or design services provided by the supplier (including all consultancy and construction arrangements) must have a requirement for professional indemnity insurance. The Service Department must undertake a risk assessment to ensure that the levels of insurance are adequate seeking advice from the Council's Insurance team.

Workforce Implications

34. The above report has no direct implications on the current workforce at this time as these are works not completed by our employees.
35. 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

36. HRA Property Implications: these are found throughout this report.
Corporate Property Implications: none.

Other Implications - Procurement

37. A review of known suitable 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.
38. Due diligence and approval of the South East Consortium (SEC), the preferred agreement, was undertaken by the Procurement & Commissioning Hub prior to any procurement.
39. As the value of the works are over £1m, approval of the procurement route was required. A business case was presented to the Procurement & Commissioning Review Board on 16.11.2020 that reviewed the procurement route and approved.
40. 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 obtained.
41. As the contract is over £1m the service must ensure that the supplier has sufficient security. Evidence of the form of security is required, or why no security was required, must be stored and retained on the London Tenders Portal for audit purposes.
42. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.
43. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

44. The anticipated contract values were 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.
45. 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.
46. 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

47. Taking into account all of the above the procurement process for the Hertford Road major works scheme has been conducted in accordance with the Council's Standing Orders and therefore recommend award to Wates Property Services.

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Appendices

Appendix 1 – Part 2 Confidential Report