

London Borough of Enfield

Operational Report

Report of: Joanne Drew – Director of Housing & Regeneration

Subject: Award Consultancy Contract – Lift Consultancy Services

Cabinet Member: Cllr G Needs

Executive Director: Sarah Cary – Exec Director - Place

Ward: All Wards

Key Decision: KD 5070

Purpose of Report

1. To seek approval for the award of a three-year measured term contract for the provision of Lift consultancy services across the housing stock, in furtherance of the Councils statutory duty as Landlord.
2. The contract is being awarded for a three-year term with the ability to extend for a further two years, at twelve monthly intervals.

Proposal(s)

3. That approval be given to direct award a new three-year, Consultancy contract to the first placed service provider on South East Consortiums (SEC) Compliancy Management Framework, and authority to extend (at the Council's sole discretion) for a further 2 years at 12 monthly intervals, the contract, subject to the contractors continued performance.

Reason for Proposal(s)

4. The current consultancy contract has expired and the Council must now seek to procure a new service contract to support delivery of its compliance management function.
5. The current service provider is continuing to deliver services on a rolling contract basis until such time as a new contract is awarded.
6. Following consultation with the Councils procurement hub, it was agreed that a direct call off via an OJEU compliant framework, was the quickest route to market, whilst remaining compliant with the Councils Contract Procurement Regulations (CPRs).

7. As such following a review of the available frameworks, the South East Consortium's framework (which the Council retains membership of and as such is able to access enhanced framework rates) Lift consultancy services lot was selected.

Relevance to the Council's Corporate Plan

Good homes in well-connected neighbourhood

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

Sustain strong and healthy communities

9. 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

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

Background

11. The Council has statutory duties under the Health & Safety at Work etc Act; The Lifting Operations and Lifting Equipment Regulations (LOLER) and the Social Housing Regulator's Homes standard to control the risks posed by passenger lifts and other forms of lifting equipment, used for the transportation of people and goods.
12. The Council is required to undertake bi-annual Thorough Examination Reports (TERs) of all lifting equipment, to ensure risks are assessed and managed. The TERs are currently completed by Zurich Insurance under a separate commission. The appointed Lift Consultancy acts as the Councils "Competent Person" and is responsible for assessing the actions from the TERs in relation to risk, prioritising actions for completion and providing assurance that works have been completed to the necessary standard of quality.
13. In addition, the Lift Consultant is required to undertake annual equipment / plant audits, to identify H&S risks within plant areas, maintenance requirements and opportunities for improvement. The provision of an annual stock condition survey is also a requirement of the contract.
14. Within the new contract scope, we have included for the provision of feasibility studies for the upgrading of passenger lifts to fire fighting or evacuation lifts, in line with forthcoming legislative requirements, in addition to the provision of advice regarding mitigation of vandalism to lift cars and doors, a key cause of service failure; upgrading of in-car

communication systems, including CCTV and lift service monitoring equipment and the design services for lift refurbishment or replacement.

15. The consultant will act on behalf of the Council to provide assurance regarding the quality of works undertaken by the Councils lift maintenance contractor, ensuring that both general maintenance and upgrade works are undertaken to the required level of quality and that appropriate action is taken to mitigate service failures. The Council has commenced a lift replacement programme which will continue into the 2021/22 financial year.
16. Echelon (a specialist procurement consultancy) were appointed to support the Council with the tender exercise.
17. A direct call off strategy was selected as the most expedient route to market, given the value of the contract. This is deemed compliant with the Councils CPRs.
18. South East Consortium as an OJEU compliant framework have evaluated, all service providers, on price and quality, as such the proposed supplier, has been evaluated as the first placed supplier on the lot, hence providing the Council with the most advantageous offer.
19. The first placed bidder on the Lot was interviewed as part of the selection process to confirm they met the Councils competence requirements and had sufficient capacity to fulfil the contract over the three-year term.
20. The Council propose to award the contract via a the Council standard Consultancy contract, as such orders for services, will be raised by the M&E & Compliance team, as required against a set of agreed schedule of rate costs, which are embedded within the framework.
21. The annual value of the contract is such that it is below the threshold whereby Leaseholder Consultation is required under The Landlord & Tenant Act. The cost of this service forms part of the annual service charge costs, as such there is no capital charge recovery associated with this contract award.

Main Considerations for the Council

22. The Council has statutory duties under the Health & Safety at Work etc Act; LOLER and the Social Housing Regulator's Homes standard to control the risks posed by lifting equipment.
23. The Council is required to undertake bi-annual Thorough Examination Reports (TERs) of all lifting equipment, to ensure risks are assessed and managed. The TERs are currently completed by Zurich Insurance under a separate commission. The appointed Lift Consultancy acts as the Councils "Competent Person" and is responsible for assessing the actions from the TERs in relation to risk, prioritising actions for completion and providing assurance that works have been completed to the necessary standard of quality.

Safeguarding Implications

24. The services will not require Consultants to enter resident's homes, however as services will be undertaken in communal areas of Specialised housing units the Council requires the Consultants representatives to complete basic Disclosure & Barring Services (DBS) and adherence with the Council's Safeguarding Policy.

Public Health Implications

25. 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.
26. The contractor will be completing works in-line with the governments Covid Secure and CLC guidelines.

Equalities Impact of the Proposal

27. 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

28. The proposed appointment of a supplier represents a like for like replacement so the move to another provider will likely lead to no significant change in carbon emissions. It is noted that work is underway to engage with the Council's supply chain, with a view to introducing ethical and sustainable procurement requirements. However, given these are not adopted requirements, and the contract needs to be awarded as soon as possible (via a third party framework), then proceeding is an acceptable approach.

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

29. Risks to the Council and likely impact if the proposed decision and related work, is not taken

Risk	Likelihood	Impact
The Council will be in breach of its statutory duties as Landlord and will be subject to prosecution	High	High

The Council will fail to meet the Decent Homes Standard	High	High
Reputational damage due to (lift) service failure	High	Medium

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

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

Risk	Mitigating action	Residual risk High / Medium or 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
Price Assurance	The contract is being procured via the Councils standard Consultancy contract form, as such order will be raised to instruct work, ensuring the team have price assurance and can carefully monitor the annual budget spend	Low
Contractual issues	The Councils requirements are built into the bespoke contract and tender documentation	Low
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 – Contractor workforce / material lead ins	All contractors are required to work in accordance with Covid secure and CLC guidance. Further lockdowns are not expected to impact delivery.	Low

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Financial Implications

31. The cost of this contract will continue to be funded by the Repairs revenue budget, which are included within the HRA 30 year Business Plan.
32. Costs are recoverable from residents via service charges.

Legal Implications

By email 10.02.2021

33. The Council has the power under s.1(1) Localism Act (2011) to do anything individuals generally may do provided 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 as proposed in this report. 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. The proposals outlined in this report are incidental to the functions of the Council.
34. The contract is a public services contract under the Public Contracts Regulations 2015 (PCR 2015) and the contract value is above the threshold for public services contract (currently £189,330) under Part 2 of the PCR 2015. The Council must therefore ensure that it complies with the PCR 2015 and the Council's Contract Procedure Rules (CPRs).
35. Use of a Framework is permitted under the PCR 2015 and the CPRs for above threshold contracts. A due diligence exercise must be carried out by the Procurement and Commissioning Hub (P&C Hub) to confirm that the Council can validly call off from the Framework and the Council must be clearly identified as a contracting authority able to use the Framework when the Framework was set up.
36. A direct award can only be made if (i) Best Value can be demonstrated; (ii) it is permitted by the rules of that Framework; and (iii) the rules of the Framework on direct award are complied with. CPR 14.4 states that Frameworks, where they exist, should be used provided Best Value can be demonstrated and managers are required to retain sufficient evidence to demonstrate compliance.
37. The contract award must be in accordance with the process set out in the Framework agreement and the terms of the call off contract must be consistent with the framework terms. The contract must be executed as a deed and must be in a form approved by Legal Services for and on behalf of the Director of Law and Governance.
38. The Council must ensure that it complies with CPR 7 on financial security which requires sufficient security in one of the forms outlined in CRP 7.3 to

be obtained for all contracts with a value of £1,000,000 and above. If such security is deemed not to be required, then the Executive Director of Resources must approve the financial risk prior to award and the report for the award of contract must set out the reasons and risk mitigation measures (CPR 7.4).

39. The contract value is above the Key Decision threshold and the Council must ensure that the Key Decision process under the Council's Constitution is followed prior to the award of the contract.

Workforce Implications

40. The above report has no direct implications on the current workforce at this time as these are works not completed by our employees.
41. Resources to manage the contract are already provide within the existing M&E & Compliance management function.

Property Implications

42. HRA property implications: these are throughout this report.
43. Corporate property implications: none.

Other Implications - Procurement

44. 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.
45. 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.
46. As the contract is potentially over £1M the provider must be required to provide sufficient security in accordance with Clause 7 (Financial Security) of Councils Contract Procedure Rules.
47. The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal
48. 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.
49. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

50. In line with CPR's all contracts over £100,000 must have a nominated contract owner in the London Tenders Portal, and over £500,000 must show evidence of regular contract management and monitoring of KPI's.
51. All frameworks must be legally compliant have terms that are acceptable to the Council and that due diligence must have been carried out by Legal to ensure this.

Options Considered

52. No other options were considered as frameworks offer the most expedient route to market available, whilst remaining compliant with the Public Contract Regulations 2015.
53. 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.
54. Tendering through OJEU compliant Frameworks 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

55. That approval be given to award a three-year consultancy contract to the first placed service provider on the Lift Consultancy lot, utilising the South East Consortium (SEC) Framework.

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Date of report 15th March 2021

Appendices

Appendix 1 – Part 2 (Confidential) report