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London Borough of Enfield

Operational Report

Report of Joanne Drew

Subject: Construction Management Services – Walbrook House Part1
Executive Director: Sarah Cary
Ward: Lower Edmonton
Key Decision: 5129

Purpose of Report

1. This report seeks approval to award the Construction Management Services, RIBA Stages 2 to 7, in respect of proposed retrofit works at Walbrook House.

Proposal(s)

2. That a contract be awarded to bidder 1 for Construction Management services, following a compliant tender process utilising Crown Commercial Services 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 Crown Commercial Services (CCS) Framework Agreement via the Councils E-Tendering Portal following a Pre-Qualification process in accordance with the Public Contracts Regulations (PCR). 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.

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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 contributing to the creation and sustainability of thriving neighbourhoods and places.
7. Sustain strong and healthy communities: 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.
8. Build our local economy to create a thriving place: 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. Walbrook House is a 23-storey occupied tower block built in the 1960s. It was overlaid with a new rainscreen cladding system in 2002/3 due to historic water penetration and to enhance thermal efficiency. The external wall system was removed in 2019 following a review of wall systems across the Council's 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 District Heating and connection to the Council's District heating Network by 2025/26.
 - 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 proposed design solutions are complex and involve multiple interfaces between different design elements and trades. The appointment of a specialist Construction Manager to manage the design process will ensure designs are effectively coordinated and managed to minimise disruption during delivery of the works on site.
12. In 2020 the Council decided to procure the works using a Construction Management procurement route whereby a Construction Manager (CM) is appointed to manage the project through a number of individual Consultant and Trade packages. Approval to procure the CM to undertake surveys, scope the works and procure the design team

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was approved in a previous report reference **KD 4992**. The design team, contracted directly with LBE, is now in place progressing Stage 2 of the RIBA Plan of Works. The current CM appointment is due to end in July 2021 and therefore a new procurement exercise has been undertaken to progress the design and works to the block.

13. The anticipated fees for the Construction Management services were over the EU threshold and services were procured via Crown Commercial Service (CCS) Framework under their Construction Works & Associated Services Lot reference RM6088, in line with the Councils Corporate Procurement Procedure Rules.
14. Prior to tendering expressions of Interest were sought by CCS to establish interest that included a background and proposed scope of works at Walbrook House. From the 12 suppliers on the LOT. Six did not respond and three declined the opportunity and provided no reason for refusal. Three expressed an interest and were invited to tender on the 24th March 2021 via the Councils E-Tendering Portal. All three returned a tender.

Main Considerations for the Council

15. 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.
16. 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

17. The works will require Consultants to enter residents' homes. Accordingly, Consultants will require Disclosure and Barring Service (DBS) checks. Compliance with the Councils Safeguarding Policy will also be mandatory for all consultants and employees.
18. 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

19. 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.

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- 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
20. 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.
21. 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.
22. A comprehensive communications strategy has been prepared by TPAS (Tenant Participation Advisory Services) jointly with the council and will be reviewed with the dedicated Resident Liaison Officer (RLO) appointed for the project. The RLO's duties includes enabling access and supporting residents whilst activities, surveys and works are carried out to their home.

Equalities Impact of the Proposal

23. Whilst we are procuring the design teams and trade contractor's we will be building in measures to address social value and help the Council meet its obligations under the Equalities Act 2010 and its Public Sector Equality Duties (PSED). These will include promoting local jobs and contract opportunities for BAME groups, training, work experience, apprenticeships and supporting local community projects. The recommended CM is committed to hosting buyer events for local SME's to understand the opportunities that the project will provide and include a Social Value Charter with each Consultants agreement and Trade contract.

Environmental and Climate Change Considerations.

24. 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". It is intended that the solution will ensure the building achieves a minimum Sap of 86 (Energy Performance Certificate B).
25. A new District heating system is proposed that will connect to the expanding Council-Owned Energetik community heat network. This together with the retrofit works will go some to enhancing the thermal comfort of residents, decreasing bills where possible and reducing carbon emissions from the residential sector in accordance with Enfield's Climate Action Plan and national targets.
26. 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.

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

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

Risk	Likelihood	Impact
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.	High	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	High
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

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

28. Risks associated with awarding the Construction Management contract as advised and mitigating actions:

Risk	Mitigating action	Residual risk high/low
Necessary skills, and experience to deliver the works under Construction Management.	The proposed Company are highly experienced in delivering works under Construction Management 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 compliant framework (Crown Commercial Services)	Low
Contractual matters	The Councils requirements are built into bespoke contract and tender documentation.	Low

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Performance of the Construction Management team.	Structured and regular design, technical and progress meetings to be held to monitor programme and performance. Robust systems in place to capture, share and store information from design to completion of works.	Low
Coronavirus	Service continuity maintained. Please refer to Appendix 1.	Medium

Financial Implications

29. 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

30. 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 proposed in this report.
31. Under Section 111 of the Local Government Act (1972) the Council has 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.
32. 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.
33. The current value of the services is above the public procurement threshold and therefore the Public Contract Regulations 2015 (PCR 2015) will apply to the procurement of this contract. The use of a framework is a compliant route to award, provided that the procurement process complies with the PCR 2015, the Council's Contract Procedure Rules (CPR), and the terms of the framework itself. It is noted that the Procurement and Commissioning Hub has carried out due diligence on the Crown Commercial Services framework and has confirmed that a compliant procurement process has been undertaken.
34. The terms of the contract procured must be consistent with the CCS framework, and in a form approved by the Director of Law and Governance
35. In respect of any contract with a value of £1m and over, the Council's CPRs (7.2) state that the contractor must be required to provide sufficient security. 'Sufficient security', means one of the following: (i) parent company, ultimate holding company or holding company guarantee where their finances prove acceptable; (ii) director's guarantee or personal guarantee where their finances prove acceptable; (iii) performance bond,

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retained funds or cash deposit; or (iv) any other security as determined by Financial Management Services and/or Legal Services. 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 and Commissioning Hub for assistance on this.

36. As the value of the contract exceeds £500,000, officers must ensure this report follows the Council's Key Decision process.
37. The Council must 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 Councils 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.

Property implications.

40. HRA Property Implications: These are found throughout this report. Corporate Implications: None

Other Implications - Procurement

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 Crown Commercial Services framework was undertaken by the Procurement Services prior to any procurement.
44. Echelon Consultancy Ltd, by agreement from Crown Commercial Services carried out the tender via the Councils E-Tendering Portal in line with the Councils Procurement Regulations. The London tenders Portal reference is DN 534089.
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.

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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 Crown Commercial Services 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 Crown Commercial Services 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 Construction Management Services, RIBA Stages 3 to 7, in respect of proposed works at Walbrook House to Consultant 1".

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Appendices

Appendix 1 – Part 2 Confidential Report