London Borough of Enfield

Operational Report

Report of Joanne Drew, Director of Housing and Regeneration

Subject: Award of works contracts – Decent Homes Internal Refurbishment Works

Executive Director: Sarah Cary

Ward: Boroughwide

Key Decision: 5313

Purpose of Report

1. To obtain approval to award two contracts for internal refurbishment works (Kitchen, Bathroom and Electrics replacements) to residential properties in the Borough, following a compliant tender process.

Proposal

2. That approval be given to award and enter into two contracts for a duration of 2 years plus the option to extend each contract for one further year to “Contractor 4” and “Contractor 5” for the replacement of kitchen, bathrooms and electrics to Council Owned properties where these are identified as life expired.

Reason for Proposal

3. The HRA Capital programme for 2022-23 is focused on the delivery of the decent homes standard, especially where components may be impacting on a resident’s quality of life.

4. Given the high volume of properties included in the programme and planned timescale for completion of the works, it was decided to award two separate contracts to ensure the Council mitigates risks around possible future labour shortages and supply chain performance.

5. A compliant tender exercise has been undertaken in accordance with the Council’s Contract Procedure Rules. The tender was evaluated based on a quality/cost split of 55/45, with Contractors 4 and 5 scoring highest overall and therefore considered to have provided the most economically advantageous tender. Further details are provided in Part 2.

Relevance to the Council’s Plan

6. The contract will support the following objectives from the Corporate Plan:

7. Good homes in well-connected neighbourhoods: The programme will improve the quality and safety of existing homes and therefore positively impact on the wellbeing and quality of life for our residents.

8. Sustain healthy and confident communities: Improving the existing homes where people desire to live will help to create and maintain healthy and confident communities.

9. An economy that works for everyone: Ensuring residents are able to fully participate in activities within their neighbourhood.

Background

10. The capital programme has identified the need for a continued programme of internal refurbishment works 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 which forms Criteria A of the standard.

11. The project does not include works to leasehold properties.

12. The tender was issued with the intention of entering into two contracts with the two highest ranked 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 to the contractors of work content or mix.

13. Tenders were issued via the London Tender Portal (LTP) to six 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 scope of works includes:
    - Replacement of life expired kitchens
    - Replacement of life expired bathrooms
    - Replacement of life expired electrics

15. Each component listed above will be replaced on instruction, following a validation survey and testing where required.

16. These 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 as part of their quality submission at ITT stage. Commitments include apprenticeships, work placements, donations to social value initiatives and using local suppliers.

Main Considerations for the Council

17. The programme is required to ensure that the Council delivers homes that meet the Decent Homes Standard.

18. See restricted appendix for further details.

Safeguarding Implications

19. The works will require Contractors to enter residents' homes and therefore the Contract Documents require Disclosure & Barring Services (DBS) and adherence with the Council's Safeguarding Policy.

20. 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

21. 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 reference to the importance of housing quality as a determinant of health.

22. The contractors will be completing works in-line with the government's Covid Secure and CLC guidelines. They are required to provide a detailed method statement and risk assessment for each activity and the Council and its advisors will review and comment on these prior to the commencement of works.

23. A dedicated communication strategy and information pack will be jointly developed by the Council and Contractor and both will provide an RLO function to enable access and support residents during the works to their home.

Equalities Impact of the Proposal

24. 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.

25. Individual requirements are addressed prior to starting on site to ensure all relevant individual circumstances are considered during the works.

26. The awarded contracts will include a duty to assist us with meeting the requirements of the Equalities Act 2010 as described in the Fairer Enfield policy.

Environmental and Climate Change Considerations

27. The Contractors' offers include several environmental commitments that will be delivered to the Council including related to waste management, recycling and carbon reduction. Contractors will use local suppliers where possible to minimise the carbon footprint of delivers and increase the use electric vehicles during the contract term.

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

28. Risks to the Council and likely impact if the proposed decision and related work is not taken are detailed below

Risk	Likelihood	Impact
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
The council will fail to meet Criteria A of the Decent Homes Standard which covers the Housing Health and Safety Rating System (HHSRS)	High	High

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

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

Risk	Mitigation	Residual likelihood	Residual impact
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
Contractor refusing to sign the contract	Draft contract issued with ITT and no updates are proposed. Adopt stand by or withdraw stance.	Low	Low

30. See restricted appendix for further details.

Financial Implications

31. 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.

32. See restricted appendix for further details.

Legal Implications
(Legal implications provided by SM on 18th January 2022 based on a report emailed on 11th January 2022.)

33. 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. This power includes the power to enter into contracts.

34. 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.

35. The Council has conducted its procurement exercise in accordance with the Council's Contract Procedure Rules (CPRs) as the total value of the contract is below the threshold above which the Public Contract Regulations (2015) (PCR 2015) would otherwise apply. For works contracts such as the contracts that are the subject of this report, the CPRs require the council to attain 5 quotes and where possible two quotes should be attained from local suppliers. The Council must continue to comply with its CPRs and Constitution in the award of this contract.

36. In accordance with CPR 7.2 for contracts with a value of £1,000,000 and over suppliers must be required to provide sufficient security in one of the forms outlined in CRP 7.3, such as a Parent Company Guarantee or performance bond. Where the supplier cannot provide security but the council has no acceptable alternative provider or has decided to accept the level of risk, then the Executive Director of Resources must approve the financial risk prior to the award. In this case this report must set out the reasons why it is proposed that the contract should be awarded despite absence of security and what measures are to be taken to manage the risk (CPR 7.4).

37. The Council must comply with its obligations relating to obtaining best value under section 3 (the general duty) of the Local Government Act 1999, which states 'A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.'

38. As this constitutes a Key Decision officers must be mindful of the Council's Key Decision process and follow it accordingly.

39. 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 of Law & Governance. It is noted that the form of contract to be used for the purposes of the main works contract shall be the JCT Measured Term 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. There is sufficient capacity in the Capital Programme structure to adequately manage and supervise these works.

42. 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

43. HRA property implications: These are found within the body of this report.

44. Corporate property implications: None.

Other Implications - Procurement

45. A business case approving the route to market was presented to and approved by Procurement Services.

46. The procurement was undertaken using London Tenders Portal (ref DN580046, in accordance with the Councils Contracts Procedure Rules (CPRs).

47. As the contracts are managed Measured Term Contracts, the service will ensure that works instructed to the successful suppliers during the proposed term of the contracts are monitored so that the Public Contracts Regulations Threshold (Financial) values for Works are observed and not breached.

48. In accordance with the CPRs the Supplier must be required to provide sufficient security. Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes. As the contract is over £500k the service must ensure that sufficient security has been considered, for these contracts a performance bond will be required from each contractor. A performance bond for £150,000 (10% of the annual contract value) per supplier is a contractual requirement.

49. 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 London Tenders Portal including future management of the contract.

50. In accordance with the Councils CPR's the service must ensure that a Contract Manager is nominated and allocated to the procurement once uploaded onto the LTP, and that the monitoring requirements are adhered too.

51. The awarded contract will be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

52. Consideration was given to an alternative option to deliver the works alongside that chosen; these can be summarised as follows:

- Option A: A single contract of a long duration covering the whole borough i.e. 5 years or more
- Option B: 2 geographically based contracts of up to 3 years duration

53. Option B was selected based upon the following:

54. Option A: Single Long-Term Contract

55. 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:

- Failure or poor performance is systemic and provides a major risk for the Council (all eggs in one basket)
- Only Major Contractors have the capacity to tender for these works and therefore competition is limited
- The potential involvement of Small/Medium Enterprises (SMEs) is limited to working for the Main Contractor reducing local opportunities
- The Contract value is likely to 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.

56. Option B: 2 Geographically Based Contracts

57. Officers considered that this option provides the optimum solution, it was selected because:

- Having 2 contractors reduces the impact of failure or poor performance
- Performance appraisals will determine whether any 12-month extensions will be agreed
- The Council's delivery team and structure is ideally suited to this scale of Contract
- The size of the contract enables smaller SMEs to tender

- The Council's experience in working with SMEs to deliver this type of work has been mixed, but the experience gained would enable identification of high performing contractors
- The Contracts would not exceed the OJEU threshold and procurement timescales would therefore be reduced

Conclusions

58. It is recommended to award the two contracts to the highest ranked bidders, following the compliant tender process.

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Appendices: Restricted Appendix
Background Papers: Echelon Evaluation Report 1082 ITT DH 2022-25