



London Borough of Enfield

Title of Report:	Operational KD Report for Award the Fire Safety Works Package 4 contract
Report to:	Executive Director Housing Regeneration Development: Sarah Cary
Date of Report:	09 May 2023
Directors:	Executive Director Housing Regeneration Development: Sarah Cary Director of Housing and Regeneration: Joanne Drew
Report Author:	Acting Investment and Resident Safety Director: Paul O'Donnell
Ward(s) affected:	Brimmsdown and Bullsmoor
Key Decision Number	KD 5620
Implementation date, if not called in:	30 th May 2023
Classification:	Part I Public

Purpose of Report

1. To obtain approval to award one contract for Fire Safety works to eight council owned residential blocks.

Recommendations

- I. That approval be given to award and enter into a contract with “Contractor A” for Fire Safety Works to Exeter Road (Ashcombe, Newton, Honiton and Tiverton) and Kettering Road (Keys, Welch, Woolpack and Dorset) for the contract price detailed in the confidential appendix.
- II. That approval be given for the project cost as detailed in the confidential appendix, including consultancy services, staff costs and contingency will be £7,827,060

Background and Options

2. The HRA Capital Programme for 2023-24 is focused on the investment in our housing stock to ensure it meets building safety requirements, especially where this would impact the safety of buildings in which residents reside.
3. Given the high volume of blocks, which require fire safety works and planned timescale for completion, it was decided to separate these packages into four distinct packages, 1, 2&3, 4 and 5.
4. The project includes leasehold properties, and the section 20 process has been followed with the support of the councils Home Ownership Team.
5. Tenders were issued via the London Tenders Portal (LTP) (DN580149) following the restricted process of the Public Contract Regulations (2015) as the pre-tender estimate for the works was over threshold. This process was conducted in line with the Councils Contract Procedure Rules (CPRs) and the Public Contract Regulations (PCR) 2015.
6. The tender was evaluated based on a quality/cost split of 60/40.
7. The scope of works includes:
 - a. Fire Compartmentation works and firestopping
 - b. Soil Stack Replacement
 - c. Replacement/Installation of Evacuation system
 - d. Replacement/Installation of Fire Alarm System
 - e. Communal Door Replacement
 - f. Upgrade of Communal Decorations and Flooring

These works will also address any other actions identified by the fire risk assessment or development of the building safety case report as required by the Building Safety Regulator.

8. The contract specification and scope of works has been produced by a specialist consultancy, Pellings LLP, following detailed surveys of the blocks.
9. 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, tenderers were required to submit an offer detailing their social value commitments as part of their quality submission at ITT stage.

10. The form of contract will be JCT Intermediate Building Contract 2016 with Contractors Design (JCT ICD 2016).

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

a. A single contract for all Fire Safety Works to blocks across the borough

12. Single Long-Term Contract

a. This approach is used within the sector but usually for regular works e.g. decency components and has benefits including management input i.e. a single relationship to manage. However, the key factors that led to its rejection are below:

i. Failure or poor performance is systemic and provides a major risk for the Council

ii. Only Major Contractors have the capacity to tender for these works and therefore competition is limited and capacity or even Major Contractors for this volume of works would be limited

iii. The potential involvement of Small/Medium Enterprises (SMEs) is limited to working for the Main Contractor reducing local opportunities

Preferred Option and Reasons for Preferred Option

13. The preferred option was to group the blocks geographically into 4 packages which are large enough to maintain supplier appetite in a competitive market, whilst limiting risk of non-delivery of council objectives due to poor performance.

14. Officers considered that this option provides the optimum solution because:

a. Having 3-4 contractors reduces the impact of failure or poor performance (across all 4 packages – 1 is in the scope of this Key Decision)

b. The Council's delivery team and structure is ideally suited to this scale of Contract

c. The size of the contract enables smaller SMEs to tender

d. 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.

Relevance to Council Plans and Strategies

15. The contract will support the following objectives from the Council Plan:

- a. **More and better homes:** 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.
- b. **Sustain healthy and safe communities:** improving the existing homes where people desire to live will help to create and maintain healthy and confident communities.
- c. **An economy that works for everyone:** ensuring residents can fully participate in activities within their neighbourhood.

Financial Implications

16. This report is requesting approval to award and enter into a contract with "Contractor A" for Fire Safety Works to Exeter Road (Ashcombe, Newton, Honinton and Tiverton) and Kettering Road (Keys, Welch, Woolpack and Dorset).
17. To approve a total estimated project budget of £7.83m which includes contract sum, consultancy fees, 1.4% staff costs and 20% client contingency.
18. The full implications of the project can be found in the confidential appendix.

Legal Implications

(ZS 13th April 2023)

19. Under the Regulatory Reform (Fire Safety) Order 2005 (RRO), the Council as landlord has a duty to take general fire precautions and to carry out (and regularly review) a fire risk assessment and as a result to put in place measures to remove, or reduce, so far as is reasonable, risk from fire or the spread of fire.
20. The Building Safety Act 2022 (BSA 2022) which was enacted on 28 April 2022 established a regime on fire safety with emphasis on "higher risk buildings" and it is intended to complement the RRO 2005 and the Housing Act 2004. The BSA 2022 created, amongst others, (i) obligations on the management of building safety risks in occupied higher risk buildings; and (ii) new roles and responsibilities during the occupation of a higher risk building on Accountable Persons. Under Part 4 of the BSA 2022, building safety risk is a risk to the safety of people in or about the higher risk building arising from the spread of fire and structural failure. Higher risk buildings for the purpose of Part 4 of the BSA 2022 is a building that is at least 18 metres in height or has at least 7 storeys and contains at least two residential units and an Accountable Person is the person responsible for building safety risks when a building is occupied. The Council will be an Accountable Person under the BSA 2022 for its housing stock that fall within the relevant legislation.
21. Commons parts and non-residential part of higher risk buildings and buildings that do not fall within the definition of higher risk buildings will

continue to be subject to the RRO 2005. Accordingly, the recommendations in this report will enable the Council to meet its duties under the RRO 2005, the Housing Act 2004 and the BSA 2022.

22. Additionally, section 111 of the Local Government Act 1972 gives a local authority power to do anything (whether or not 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 its functions. Further, the Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may generally do provided it is not prohibited by legislation. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way.
23. The contract value is above the threshold for public works contracts (currently £5,336,937 inclusive of VAT) under the Public Contracts Regulations 2015 (PCR 2015). The Council must comply with the Public Contracts Regulations 2015 and its Constitution (in particular, the Contract Procedure Rules) in the procurement of the Services. The Council must further ensure that it complies with its obligations regarding best value in accordance with the Local Government Act 1999. By carrying out a competitive tender after publishing a contract notice, the procurement process was carried out in accordance with the PCR 2015 and the Council's Contract Procedure Rules.
24. 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.
25. The CPRs provide that where the value of the contract is one million pounds and above, contractors must be required to provide sufficient security in one of the forms outlined in CRP 7.3. If the contractor cannot provide such security, 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.

Equalities Implications

26. An Equality Impact Assessment has been undertaken and is appended to this report.
27. The works will be delivered to the social housing blocks described above and will benefit residents irrespective of the protected characteristics of the residents.
28. People with disabilities will be profiled by the Contractors Resident Liaison Officer (RLO) and necessary adaptations to the fire alarm mechanism will be installed in individual properties e.g. vibrating pillows or flashing alarms.

29. Development of disabilities following the completion of the works and any required adaptations will be managed under the council's existing aids and adaptations referrals process. The terms and conditions of the contract will require adherence with the Equalities Act and contractors will be required to share their Equality Diversity and Inclusion policy to assure the council of their recruitment policies.
30. Engagement with residents will be undertaken by the Contractor in accordance with their processes for resident engagement and liaison which were evaluated as part of their tender submission which will be adapted according to the profile of the resident e.g. vulnerability, language spoken.

Environmental and Climate Change Implications

31. The Contractors' offer includes 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 deliveries.

Public Health Implications

32. 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 refers to the importance of housing quality as a determinant of health.
33. 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.

Property Implications

34. HRA property implications: these are to be found within the main body of this report
35. Corporate property implications: none

Safeguarding Implications

36. 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.
37. 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 the processes adopted by the Contractors. Evaluation of the Contractors offer in this area are a component of the qualitative evaluation.

Procurement Implications

38. The procurement was undertaken using the London Tenders Portal ref DN580149 using the Find a Tender Service. The procurement was carried out on behalf of the Council by Echelon Consultancy Limited.
39. As the procurement was undertaken by Echelon Consultancy Limited, it was not led by Procurement Services. This procurement appears to have been carried out in accordance with the Council's Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015). Ultimate accountability for compliance lies with Echelon Consultancy Limited.
40. As the contract is over £500k, the service must ensure that sufficient security has been considered to manage risk. 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.
41. 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 arrangements for the future management of the contract. The award of contract must be published on Find a Tender and Contracts Finder to comply with and the Public Contracts Regulations and the Government's transparency requirements.

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Appendices: Appendix 1: Restricted Appendix
Appendix 2: Equality Impact Assessment

Background Papers:

The following documents have been relied on in the preparation of this report:

- Tender Report from Pellings LLP (Confidential)