

Key Decision Report of the Corporate Director, Housing and Adult Social Services

Officer Key Decision	Date: 20 June 2017	Ward(s): All
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Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Procurement Strategy for Islington Council Frameworks for Special Projects and Small Works**1. Synopsis**

1.1 This report seeks pre-tender approval for the procurement strategy in respect of three (3) framework agreements for common/high spend works and will also be applicable to works across the Council in accordance with Rule 2.5 of the Council's procurement rules.. Primarily these will be utilised and managed by the Housing Special Projects Team.

1.2 The three categories of works in the Council's Frameworks for Special Projects and Small Works are identified as:

- Framework 1 - Surfacing and Paving
- Framework 2 - Lighting Improvements
- Framework 3 - General Works (multi-trade)

2. Recommendation

2.1 To approve the procurement strategy for Islington Council Frameworks for Special Projects and Small Works as outlined in this report.

3. Date the decision is to be taken:

20th June 2017

4. Background

4.1 Nature of the requirement

The Council requires various categories of works on an ad-hoc basis. A spend analysis has been carried out and various categories have been identified based on Housing Special Projects Team spend over the past three (3) years. Due to the ad-hoc nature and varied requirement of works it is proposed these categories are procured as Framework agreements. Whilst there are related Frameworks already set up by Housing, they are unable to deliver the specialist low-value nature of works required. Category management has identified that other departments in the Council have similar requirements that could be met through this framework. Therefore, this framework will be made available to other departments across the Council.

The Housing Special Projects Team work in liaison with residents, Islington Housing colleagues & Councillors to deliver borough wide environmental & security improvements on our estates. These works are funded from various funding streams including the Environmental Improvement and Estate Security budgets, Section 106 (developer contributions) and other capital & revenue funding streams that become available throughout the financial year.

Under the current Environmental Improvement and Estate Security Programme, Tenants Residents Associations (TRA), Tenancy Management Organisations (TMO), residents groups, and estate management officers and all Ward Councillors are invited to put forward their proposals and bid for funding. The agreed schemes are jointly decided between the area resident panels and the Special Projects Team who also provide costs that generally range from as little as a few hundred pounds to as much as £25k. The Housing Special Projects Team then work with key stakeholders to develop the projects to installation through the financial year.

From April 2017 funding from the Environmental Improvement and Estate Security budgets will come to an end and the Programme will cease to exist. Any future improvement activity that would previously have been delivered under this programme will receive additional funding from Section 106 contributions and will be subject to the rules set out in the s106 and Community Infrastructure Levy meaning that works need to be of public benefit which will eliminate some of the estate improvements previously delivered.

Due to the nature of how schemes originate through resident led bids and housing priority needs we are unable to predict the nature of our spending. We cannot anticipate what schemes will be put forward and on what scale. Our service often bridges a gap between scheduled capital cyclical maintenance work and reactive repairs delivering well needed environmental improvements to elements that are overlooked or cannot be afforded by other service areas. This has resulted in large aggregate spends in those areas with specialist contractors over recent years.

Other departments in the Council may wish to call-off the Frameworks as appropriate, where there are requirements of urgency, specialist works or particular skills required.

4.2 Estimated Value

The contracts across the Council will be funded from capital, revenue and S106 funding. Each contract under the frameworks will require an appropriate level of budget approval at departmental levels. The value of each category of framework listed below is based on spend by the Housing Special Projects Team who are leading on this project. However, total value of the frameworks reflect possible requirements by departments throughout the Council over the 4 years lifetime.

- Estate Surfacing & Paving – under £2,000,000
Spend over the past 3 years has been approximately £1.5 by the Housing Special Projects Team

- Estate Lighting Improvement – under £2,000,000
Spend over the past 3 years has been approximately £600k by the Housing Special Projects Team
- General Works (multi-trade) – under £2,000,000
Spend over the past 3 years has been approximately £600k by Housing Special Projects Team

Savings could be achieved by departments choosing to call off the framework, via a mini-competition for each project.

4.3 Timetable

A phased approach is planned for the award of the framework agreements. Advertise the first framework before the end of September 2017.

It is anticipated that all Frameworks will be awarded by the end of April 2018.

The procurement process will be undertaken in compliance with the Public Contracts Regulations.

4.4 Options appraisal

In preparing this procurement strategy the following options have been considered:

- Continuing with the current method with site specific quotation - This is not ideal due to the high aggregate spend with specialist contractors for repeated works and it increases the risk of challenges.
- Joining an existing procurement/framework – This has been considered previously but access to these existing frameworks has not been possible due to the low level spend per project
- Create new framework agreements - This option is preferred for repeated spend when unsure of the forecasted spend for the financial year. Three categories of common work have been identified as below.

Framework 1: Paving & Surfacing £0 - 2,000,000	Typically installations and repairs to tarmacadam surfaces, concrete slab & block paving, hardstanding concrete, and resin bonded aggregate surfaces.
Framework 2: Lighting Improvements £0 - 2,000,000	Typically installations of new light fittings and associated upgrade, and compliance works.
Framework 3: General Works (multi-trade) £0 - 2,000,000	Typically small building refurbishment works inclusive of electrical, plumbing, carpentry, plastering, and painting trades.

The preferred option is to create new framework agreements, using the restricted procedure (as per 4.6) for the three individual categories of work as indicated above.

The preferred duration for each framework agreement is 4 years with 3 (three) contractors within each category. Call off for each framework would be by way of:

- 1- Direct call off by rotation – bidders awarded a contract in rotation starting with the highest scoring bidder.
- Or
- 2- Mini-competition - where all suppliers on a framework agreement who can meet the requirements are invited for a further competition.

The preferred option for call-off is option 2 – Mini-competition.

The Council is entitled to complete activities in-house without being subject to tender and so it is recommended that the selected call-off option also include a review of in-house resources on a case-by-case basis to be considered prior to call-off or competitive bid.

We have considered the opportunities of collaboration. The idea is to take a category management approach whereby all municipal Council services requiring similar works could utilise the three framework arrangements under direction from the Special Projects Team.

4.5 Key Considerations – References to social value and impact on staff

The size and scale of this procurement, spread across a significant number of contractors, makes it unviable to stipulate a requirement for apprentices. However, the Council should be able to achieve a significant amount of social benefit, through requiring as part of the evaluation process bidders to include a response of the social value they can achieve. The social value question will require bidders to consider their economic, environmental and social plans for delivery.

London Living Wage will be included as a condition of these contracts where there is no cross border interest. The Contract Notice (advertisement) will be on the London Tenders Portal, the Council's e-procurement portal). Relevant impact assessments will be completed as part of this procurement including a full risk/opportunity assessment, resident impact assessment, environmental impact assessment and health and safety impact assessment.

Transfer of Undertakings (Protection of Employment) Regulations 2006 or "TUPE" is unlikely to apply to these contracts. TUPE is designed to protect the rights of employees when they are transferred from one employer to another. This is unlikely to apply because the Council has no on-going commitment to any individual contractor at present where they could demonstrate employees work substantively on behalf of the Council

4.6 Evaluation

This tender will be conducted in two stages, known as the Restricted Procedure as the tender is 'restricted' to a limited number of organisations. The first stage is Selection Criteria through a Selection Questionnaire (SQ) which establishes whether an organisation meets the financial requirements, is competent and capable and has the necessary resources to carry out the contract. The SQ is backwards looking and explores how the organisation has performed to date, its financial standing, information about their history and experience.

A limited or 'restricted' number of these organisations meeting the SQ requirements as specified in the advertisement are then invited to tender (ITT). The second stage is the ITT is now forwards-looking using Award Criteria. Tenders are evaluated on the basis of the tenderers' price and ability to deliver the contract works or services as set out in the evaluation criteria in order to determine the most economically advantageous offer.

The proposed award criteria are 60% Price and 40% Quality
The Quality section will be weighted under the following broad headings. These headings may be further defined in the tender documents;

Proposed methodology for implementing, undertaking and delivery of works – 20%

Proposed methodology for quality control and management and supervision of works within tight budgets – 15%

Proposed approach to demonstrate social value in delivery of the contract to improve economic, social, environmental and health and safety – 5%

4.7 Business Risks

A number of risks have been identified and mitigation has been put in place to address these, including:

- Contracts not in place within the timeframe means aggregate spend will remain high with non-framework contractors. A short term solution to mitigate this would be to push back some of the work relating to the relevant categories of work until the framework agreements are in place.
- The volume of work required exceeds the value of the contract. The estimated value of each contract is based on spends from past years. Each scheme is priced and delivered on an individual basis throughout the financial year and so it is difficult to predict/forecast spend going forward. This can be mitigated by being mindful of the maximum spend for each category of work before allocating a budget for each new project.

A number of opportunities have been identified and action has been put in place to address these, including:

- Better partnership working. Having regular providers who deliver the services will allow us the opportunity to improve service delivery.
- A chance to impact social value. Having a specific question with a focus on social value will allow us the opportunity to have an impact on the community we service.
- Due to the low value of each call-off within the framework, local and small providers will have the opportunity to tender for the work.

4.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to sign the Council's anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences. The adequacy of these measures will initially be assessed by officers and the outcome of that assessment will be reviewed by the Council's Procurement Board

4.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

Relevant information	Information/section in report
1 - Nature of the service	See paragraph 4.1
2 - Estimated value	Each framework agreement has an estimated value of between £0 and £2,000,000 of Islington Council spend over 48 months. See paragraph 4.2
3 - Timetable	See paragraph 4.3
4 - Options appraisal for tender procedure including consideration of collaboration opportunities	See paragraph 4.4
5 - Consideration of: Social benefit clauses; London Living Wage;	See paragraph 4.5

Best value; TUPE, pensions and other staffing implications	
6 - Evaluation criteria	Price 60% and Quality 40% See paragraph 4.6
7 - Any business risks associated with entering the contract	See paragraph 4.7
8 - Any other relevant financial, legal or other considerations.	See paragraph 4.8

5. Implications

5.1 Financial implications:

As S 4.1 intimates the specific budgets for environmental improvement & estate security allocated within the HRA (both capital & revenue) have been withdrawn wef 2017-18 as part of delivering the HRA savings required to mitigate against the 1% rent reduction.

Given that there are no specific budgets allocated to cover off these special projects/small works it should be noted that prior to entering into any call offs against these frame work contracts funding will need to be secured/agreed in advance with the relevant budget holders either within Housing or across the Council.

There is no guaranteed minimum level of work being offered to the framework contractors hence there should be no risk of having to commit expenditure that is not funded.

5.2 Legal Implications:

The council has an obligation to keep its housing properties in good repair (Part 2 of the Housing Act 1985; section 11 of the Landlord and Tenant Act 1985; tenancy conditions and right to buy lease). The Council also has power to provide surfacing and paving works, lighting improvements and general works under the General Power of Competence set out in section 1 of the Localism Act 2011.

The proposed frameworks are for works. The estimated value of each of the proposed framework is below the threshold for application of the Public Contracts Regulations 2015 (currently £4,104,394.00). Although sub-threshold contracts do not need to strictly comply with the provisions of the Regulations, there is a requirement under EU rules for such contracts to comply with the principles of equal treatment, non-discrimination and fair competition. The council's Procurement Rules require contracts over the value of £164,176.00 to be subject to competitive tender. In compliance with the principles underpinning the Regulations and the council's Procurement Rules a competitive tendering procedure with advertisement will be used.

On completion of the procurement process the frameworks may be established as recommended in the report. In deciding whether to appoint the selected contractors the Service Director of Housing Operations should be satisfied as to the competence of the chosen tenderers and that the tender prices represent value for money for the Council.

5.3 Environmental Implications

The scoping exercise identified that there would be negative impacts on the following:

- Energy use and carbon emissions
- Use of natural resources
- Travel and transportation
- Waste and recycling
- Climate change adaptation

- Biodiversity
- Pollution

Provision will be made within the framework specification and contractor selection criteria to mitigate impact on each of the above with reference to relevant legislation and the stipulation that the contractor must sign-up to Council commitment to reducing carbon emissions.

5.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment has not been completed as we believe the procurement will not have any negative impact on any persons within the protected characteristics groups. This procurement will not change how the service is delivered. Diversity and equality are considered within the procurement process.

6. Reasons for the decision: (summary)

- 6.1** The Council requires various categories of works on an ad-hoc basis. Due to the ad-hoc nature and varied requirement of works, it is proposed these categories are procured as framework agreements. Whilst there are related frameworks already set up by Housing, they are unable to deliver the specialist low-value nature of works required.

7. Record of the decision:

- 7.1** I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:

Corporate Director, Housing & Adult Social Services Date

Appendices

None

Background papers:

None

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