

Report of: Executive Member for Housing and Development

Meeting of:	Date	Wards
Executive	14 June 2018	All

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SUBJECT: PROCUREMENT STRATEGY FOR NEW BUILD CONSTRUCTION AND REFURBISHMENT WORKS

1. Synopsis

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of New Build Construction and Refurbishment Works in accordance with Rule 2.5 of the Council's Procurement Rules.
- 1.2 It is recommended that a four-year framework agreement is established to facilitate the construction of new homes and external/internal refurbishment works and to also cover construction of other capital projects including community centres, libraries, health centres and other similar capital projects. The primary focus of the framework agreement will be new build homes and refurbishment but it will be available to all Council directorates who have a need to employ construction contractors for other types of capital build projects as mentioned above. The individual service department will be responsible for all aspects of any appointments they draw down from the framework agreement and will get the necessary sign off from the respective Corporate Director for the service area.
- 1.3 It is anticipated that undertaking internal or external refurbishment simultaneously with newbuild works will deliver economies of scale in usage of heavy plant, resources, preliminaries and other associated costs. In addition, by coordinating new build and refurbishment there will be less disruption for our residents and a more coordinated approach to general works and new build.

2. Recommendations

- 2.1 To approve the procurement strategy for Islington's New Build and Construction Framework as outlined at paragraph 3.1.
- 2.2 To delegate authority to the appropriate Corporate Directors to award contracts under the new framework agreement without limitation as to value.

3. Background

3.1 Nature of the service

One of the Council's key strategic goals is to deliver more homes. Islington's Housing Strategy is being developed with ambition to increase the number of affordable homes across the borough.

Previous experience, lessons learned and knowledge and thorough market research has informed this strategy and established that procuring our own framework agreement is the best route to market.

To deliver a programme of this size and complexity, the Council needs to employ a sufficient number of contractors to deliver the Council's New Build Programme to meet the specific requirements we have as a council.

The framework agreement will support further mini-competitions and direct call-off contract for separate lots for the following value bands. The bands have been set by using industry data and benchmarking from other frameworks.

Lot 1 - £ 0 - £5M

Lot 2 - £ 5M - £15M

Lot 3 - £ 15M +

To enable competition within each band a minimum of four contractors will be selected for each band. Each contractor will be selected for their suitability.

Performance KPIs will be set within the framework agreement and these will be regularly measured to ensure performance standards and expectations are met, and costs continue to represent value for money. In addition, regular and ad hoc review meetings will be held with contractors to consider performance issues and action taken as appropriate.

3.2 Estimated Value

Contracts awarded under the framework agreement will be primarily funded through the Council's approved New Build Budgeted Resources.

The average annual value of the contracts to be awarded pursuant to the framework agreement is estimated to be £150m with a total estimated value of £600m for the life of the framework (4 years). As this is a framework agreement, there is no guaranteed volume or value of work. Our estimate also takes into account an increase in the programme if the framework agreement is accessed for anon housing building projects.

The projected spend (at budget setting 2018-19) for the current New Build Programme is; 18/19 £86m, in 19/20 £89m and in 20/21 £50m.

The Council via the Housing Strategy group is currently exploring different ways in which the New Build programme can be expanded. The Council is in discussion with the Ministry of Housing, Communities and Local Government (MHCLG) regarding funding. Permission is being sort to retain Right to Buy (RTB) receipts beyond the three-year cap for spending RTB receipts. In addition, Islington is seeking permission to extend the borrowing cap to enable the building of more homes. Reduction in rent setting within the Housing Revenue Account (HRA) has been lifted and it is hoped that, in future, the HRA will be able to make contributions to the future new build programme.

In addition to RTB receipts, a large proportion of our funding is from the sale of new build private homes which helps cross subsidise the genuinely affordable housing. Private sale receipts will continue to cross subsidise the new build programme.

Consideration is being given to the disposal of our smaller owned sites which would generate additional resources to build new homes.

Any reduction in resources will inevitably mean that fewer new homes will be built. However, there is a strong commitment to build as many genuine affordable homes as we can with the resources available.

3.3 **Timetable**

The current framework agreement expires on 6 September 2018. Our programme is for the new framework to be in place by May 2019

Anticipated key dates:

Advert to be published in July 2018

Selection Process and Invitation to Tender – October 2018

Contract award - April 2019

Commencement of framework agreement – May 2019

Interim arrangements will need to be put in place after the expiry of the current framework. This will be a combination of individual standalone procurements or access via a third party external framework agreement.

3.4 **Options appraisal**

Our new framework agreement for New Build Construction and Refurbishment works will cover most circumstances. However, there will be circumstances where the New Build Team will want to procure contractors competitively using different methods such as via OJEU or by accessing other OJEU procured external Framework agreements through third party buying consortiums. It is acknowledged that if a contract is procured through competitive tenders or via another available framework, this will be treated as a new procurement and will be subject to the Council's governance procedures regarding the procurement strategy and award of the contract.

The New Build Team has previously engaged contractors using other established framework agreements, namely City West Housing Trust and Homes and Communities Agency Multidisciplinary Panel and Notting Hill Housing Trust. Appointment of contractors on other framework agreement has always been with the agreement of Strategic Procurement.

3.5 **Key Considerations**

Employment and Training

Islington Council is committed to supporting residents into employment, especially those who are disadvantaged in the labour market. Increased training and employment outcomes will be pursued by building in these requirements at the commencement of any procurement, commissioning strategy or process.

Given the scale of this procurement strategy there is further work to be done to describe and quantify the employment and training opportunities we would expect residents to benefit from. A statement of employment and training requirements (such as skilling up residents on new construction practices) will be drafted and supplied as part of the tender process documentation. Ensuring that local employment is given a substantive weighting in terms of scoring will also be a key consideration.

An indication of the scale of employment we would expect from a procurement of this size would be, 1 apprenticeship for every ten units of residential and employment opportunities to last for a minimum duration 52 weeks. The winning bid will need to demonstrate assurance to the Council's commitment to supporting residents into employment.

New homes

The majority of new homes being built in the New Build Programme are much needed family sized homes charged at social (council) rent. The sites for new homes and other associated works are often areas with anti-social behaviour problems or are dilapidated buildings such as garages and poor quality housing. These issues can be addressed through the delivery of the new homes projects which will improve the quality of living standards for our residents.

New homes are built to a very high standard and often surpassing national standards. Our aim is to reduce carbon emissions and promote higher standards of sustainable design. New Homes to be built in relation to this strategy will be designed to develop sustainable communities through which the standard of living in those areas is improved. New social rented homes will be affordable for existing tenants and those in need of housing – particularly providing better accommodation for families in overcrowded conditions as well as encouraging under-occupiers to release family sized homes.

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.

Social Value and other considerations

The Council should be able to achieve a significant amount of social benefit and value through this procurement. As part of the evaluation process bidders will be asked 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.

Social value will be included as an award criterion within the tender process. In order to derive the maximum social benefit from the contract and the supply chain, the bidders will be asked to set out what they can offer from a menu of options that the council have achieved from other contractors in the past. This includes offers relating to apprentices and training, equal opportunities, investment of profit in charitable causes identified by Islington and corporate social responsibility offers or any other proposals they would like to put forward. The London Living Wage will be a condition of the contract being entered into, as far as is legally permitted.

The development will deliver a number of benefits that meet the Council's corporate objectives including:

- Making Islington fairer, by providing high quality facilities and services available to the community, with particular focus on provision for vulnerable residents.
- Tackling the housing shortage, by building new affordable homes and in particular new council homes.
- Delivering good services on a tight budget, by carefully managing the project to contain costs and utilising the receipts from open market sales to pay for the development without recourse to additional council funding.
- Creating a good quality of life, by providing well designed and modern public leisure, health and nursery facilities, and improved public spaces.

All new build development is expected to bring further social benefits, including S106 contributions towards improvements in the vicinity of and environmental improvements to the public realm within and around the redevelopment site.

All new build development is designed in accordance with the council's detailed planning requirements and in accordance with the Employer's requirements to address the social and environmental sustainability of the development proposals.

There are no TUPE implications relating to this procurement.

3.6 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 which is forward 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% Qualitative and 40% cost. This split for selecting the contractors to be appointed to the Framework is a tried and tested formula applied to ensure that selection is focused on contractors that offer high quality whilst offering good value for money. This balance is necessary to ensure that we procure good quality contractors that are competitive but that we also attract them to the Framework. Where direct call-offs are proposed these will be managed on a business case basis and linked to Framework position and score.

All tenders procured through an OJEU compliant framework agreement will be conducted in the relevant stages outlined by the contract. All contracts will be based on the following qualitative and cost criteria:

Qualitative:

- Commitment to the design principles
- Programme
- Methodology

Cost:

- Proposed Preliminaries
- Overhead and Profit
- Pre-Construction fee proposal to participate in the second stage tender process

Qualitative

A key driver for the evaluation of all contractors will be their ability to deliver high quality buildings. The complexity of the different uses we have within the new build programme will require experienced contractors with excellent project management and construction expertise.

Cost

It is essential that contractors provide the Council with best value, and they can show that they are experienced at keeping construction projects on budget while adhering to an agreed construction timetable.

The approach to assessment of price will be to score bidders against the cheapest price offered for the commercial element of the first stage tender. Bidders will be scored against the lowest price bid and awarded points proportionately as they diverge from that. Any divergence from the anticipated costs of the redevelopment will affect the council's ability to maximise affordable housing on the redevelopment site; it is therefore critical that the council seeks the best price, alongside assurances through the tender process that the tenderer has experience of delivering projects to budget.

3.7 **Business Risks**

There is a risk that the Council will not be able to secure appropriate contractors for this framework agreement but this is seen as a low risk.

Our current timetable to establish a new framework agreement will result in a six-month gap between the old framework agreement expiring (September 2018) and the new framework commencing (February 2019). The new build team has previously operated without a framework agreement and the options available to procure any contracts during this period will primarily allow the use of Third Party frameworks through consortiums that the Council has access to as an interim measure. Time permitting the project may lend itself to a traditionally tendered scheme allowing for the necessary OJEU period. The New Build team will manage the time between frameworks to determine the best options to procure the relevant scheme. Delay in the procurement process should not delay the New Build Programme.

The period of the framework agreement will be four years. Over that period, it would be diligent to review the appointed contractors to ensure standards are being met. If contractors fall below our standards on quality or if contractors do not have the capacity to take on our projects, having a contingency of using other frameworks will allow officers to select the best contractor to meet our specific requirements at the time and avoid under performance issues with contractors towards the end of the four-year framework agreement.

It is important that we have access to specialist contractors not on our framework agreement. Having access to other frameworks will allow us to use specialist contractors. Currently we are considering building over existing buildings and this will require contractors with this experience.

The framework agreement gives the opportunity to continue with the successful progression of the Council's New Build Programme. The new framework agreement will replace the current one which expires on 6 September 2018. Dividing the framework agreement into Lots based on value, should attract locally based small and medium businesses to bid for inclusion onto the framework.

- 3.8 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 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	The provision of contractors services in connection with the Council's New Build Programme See paragraph 3.1
2 Estimated value	The average annual value of the contract is estimated to be £150mpa, with a total estimated value of £600m for the life of the contract. As this is a framework agreement, there is no guaranteed volume or value of work.
3 Timetable	Anticipated key dates: Advert to be published in Mid July 2018 ITT to be published in October 2018 Contract award April 2019 Commencement of framework agreement May 2019 See paragraph 3.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	This will be a Council framework agreement procured using the two stage restrictive procedure. See paragraph 3.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	See paragraph 3.5

6 Evaluation criteria	60% quality and 40% price. See paragraph 3.6
7 Any business risks associated with entering the contract	There is a risk that the Council will not be able to secure appropriate contractors but this is seen as a low risk. See Paragraph 3.7
8 Any other relevant financial, legal or other considerations.	See paragraph 3.8

4. Implications

4.1 Financial Implications

There is no minimum level of work that is required to be allocated to any of the contractors within the framework hence the Council's financial position is protected.

The Report recommends a framework approach as one that delivers the best combination of price & expedient delivery.

The new build programme budget over the next 3 years stands at £225m this is likely to increase to around £300m-£350m over the 4-year life of the framework.

The estimated value of the framework totals £600m which allows for growth in the new build programme and for the framework to be used elsewhere within Housing & by other Council departments

4.2 Legal Implications

The Council has the power to provide housing accommodation by building houses on land acquired for held for that purpose or by converting buildings into houses (section 9 Housing Act 1985). The council is also empowered to provide buildings and other facilities needed to deliver its functions Accordingly, the Council may establish a framework of contractors to take forward the housing new build programme and other building projects on behalf of the Council and enter into framework agreements with those contractors.

The estimated value of the procurement for new build housing exceeds the financial threshold (£4,551,413 for public works contracts) for the full application of the Public Contracts Regulations 2015. Accordingly, the procurement of the new build framework will need to be advertised in OJEU and conducted in accordance with the requirements of the 2015 regulations relating to the restricted procedure and framework agreements.

Contractors may be procured to deliver building projects other than thorough the new build framework. In such circumstances, the provisions in the Procurement Rules regarding approval of the procurement strategy and award of the contract will need to be followed.

4.3 Environmental Implications

The main long-term environmental implications of this contract relate to the design of the dwellings, both in terms of materials used and the energy efficiency of the new buildings. The council will require that any new homes in the Programme are built to a minimum standard and compliant with Part M of the Building Control regulations.

The contractors employed will also have their own environmental impacts related to the work, such as energy usage and waste generation.

4.4 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.

Council officers on the project team and the appointed multi – disciplinary design team have and continue to take into consideration these key equality opportunities in formulating the design proposals for Islington's New Build programme. The design proposals of all our schemes are subject to ongoing consultation meetings with the local stakeholder group and members of the community. The feedback received at these meetings are taken into account when progressing the design proposals to address any negative impacts of the redevelopment on residents.

5. Reasons for recommendations

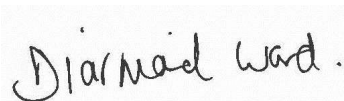
- 5.1 The Council is committed to providing high quality new homes in terms of design, in- use performance and long-term sustainability and energy efficiency creating places that are genuinely affordable places to live for residents in housing need and helping them tackle the cost of living. Any organisation wishing to work with the Council on its new homes programme must therefore be committed to and able to demonstrate they have the necessary track record, including relevant experience, skills and capacity to deliver our objectives on complex inner city sites.
- 5.2 The current contractor framework agreement expires in September 2018. The procurement of a new framework agreement is paramount to continue the benefit of allowing the quick appointment of contractors with the expertise and capacity to assist in delivering the New Homes Programme.

Appendices: None

Background Papers: None

Final report clearance:

Signed by:



Executive Member for Housing and Development

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