

**Report of:** Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	18 October 2018	All

Delete as appropriate	Exempt	Non-exempt

**SUBJECT: Procurement Strategy – General Building Work for the Housing Repairs Service, Special Projects Team and Housing Legal Repairs**

## 1. Synopsis

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of General Building Work for the Housing Repairs Service, Special Projects Team and Legal Repair Team. in accordance with Rule 2.5 of the Council’s Procurement Rules.
- 1.2 The procurement will be advertised in two lots. Lot 1 will be for a framework agreement of four (4) general building contractors to support the Housing Repairs service including out of hours, and to provide resources to the Special Projects Team.
- 1.3 The model will be designed as an overarching framework agreement with four (4) individual term partnering contracts. Each contractor will be allocated an area of the borough within which all work orders including Special Projects work will relate for a period of six (6) months before geographical rotation (north, south, east, west).
- 1.4 The framework may also be made available to other service areas with like works across the Council where there are requirements of urgency, specialist works or particular skills required, but primarily it will be utilised, by the Housing Repairs and Special Projects teams.
- 1.5 Lot 2 seeks to procure one contractor to undertake borough-wide repairs and maintenance works that are the subject of a claim for disrepair for the specified term of the agreement.

## 2. Recommendations

- 2.1 To approve the procurement strategy for General Building Work for the Housing Repairs Service, Special Projects Team and Legal Repair Team as outlined in this report.
- 2.2 To delegate authority to award the contracts to the Corporate Director of Housing and Adult Social Services in consultation with the Executive Member for Housing and Development.

### 3. Background

3.1 The current General Building Maintenance and Repairs including Out of Hours Contract comes to an end in January 2019. The council provides responsive repairs services to approximately 29,000 properties. This contract provides for specialist technical support and additional support to the in-house Housing Repairs Service during busier 'peak' times. There will always be a need for some additional support as the service is demand led. It covers General Building related repairs including plumbing, carpentry, metal work, glazing, brickworks and groundwork. There is an option under the current contract to issue a further extension.

The Special Project Team are also seeking a number of general build contractors to carry out estate improvement works.

The current Housing Legal Repair contract comes to an end in October 2018, with provision in the contract to extend for a further year. The nature of this work is general building work, but requires specific response and completion in line with the procedures within the The Pre Action Protocol for Housing Disrepair Cases. This is best delivered by a team separate to other General Build Works.

Therefore, it is proposed to undertake a joint procurement with two lots: one to secure for the Council, four contractors to deliver borough-wide general building works for both the Repairs service and Special Projects Team, and the other for a single contractor to deliver Legal Repair Works

The Housing Repairs Team and Special Projects team will be responsible for day to day operational management of works orders and project works. The Housing Contracts Team will be responsible for management of the framework agreement.

3.2 The estimated value of Lot 1 is £3,800,000 over a period of four (4) years (2 years + 2 years).

This value is arrived at pro rata from the spend on works currently contracted out by the Housing Repairs Service at £450,000 per annum from the Housing Revenue Account (HRA) repairs and maintenance budget, and then past spend directly with contractors from the Special Projects Team at £500,000 per annum with funding from development contributions (Section 106/community infrastructure levy (CIL))

The estimated value of Lot 2 is £1,600,000 over a period of four (4) years (2 years + 2 years). This is funded from the HRA repairs and maintenance budget, and estimates are based on current contractual spend (£400,000 per annum).

The overall estimated aggregated value of both framework agreements for Lots 1 and 2 is £5,400,000.00.

Values are based on historical repairs data and expenditure. The spend in respect of the Housing Repairs service element of this contract incorporates reduction in spend on contracted repairs already realised by increased volume of repairs undertaken in-house.

There will be no guaranteed volumes of work for either Lot. Values may decrease should additional works be brought in-house or if there is a reduction in legal disrepair claims.

The Special Projects Team work is funded by Section 106/CIL monies and expenditure will fluctuate depending on this funding.

3.3 A formal procurement project plan will be finalised following the approval of this strategy.

As landlord, the Council is obliged to consult with all leaseholders who are affected by the works (Landlord and Tenant Act 1985 and the Consultation Regulations). This consultation will mean that the Council will be able to recover relevant service charges from leaseholders. A two stage "Section 20" consultation will take place with leaseholders as part of this procurement. The first consultation (notice of intention) will take place upon approval of this procurement strategy and the second consultation will

take place at award stage (notification of proposal) within the procurement process. This applies to both General Build for Housing Repairs and for Legal Repairs. However, that consultation is not applicable to the Special Projects Team as the S106/CIL funding source does not attract any charge.

The procurement process will be undertaken in compliance with the Public Contracts Regulations 2015 and the Council's Procurement Rules.

An indicative timetable is included in paragraph 3.9 of this report.

- 3.4 In preparing this procurement strategy a competitive tender process, an external framework, collaboration with neighbouring authorities and the option of insourcing have been considered by the Housing Repairs Service.

An external framework was considered however this approach was deemed inappropriate for the purposes of the council's needs. A framework agreement has several contractors to select from and is a time saving way of procuring. However, the pricing is already in place if you select the contractor at the top of the list. You can carry out a mini tender, amongst those on the list, however contract terms are already agreed and cannot be tailored to meet the specific contract needs. This is particularly important in respect of the legal repair lot. The schedule of rates within available frameworks are not fit for purpose and do not meet Islington's specific requirements. The high volume of works orders, specifically general build orders mean it would not be practical to conduct a mini tender exercise each time a repair order is raised, so this option is not suitable for either Lot.

Insourcing for the whole of the general build works would not be practical as the in-house repairs team needs a back-up resource to deal with fluctuations in varying workloads. The specific requirements and need to comply with legal orders and the The Pre Action Protocol for Housing Disrepair cases mean that Legal Repair work is beyond the capacity of the in-house team that is geared to dealing with a high turnover of minor repairs by appointment on a daily basis.

Collaboration with neighbouring authorities was considered within the options appraisal. However, this option is not suitable as service delivery models did not meet requirements.

It was decided that both the Housing Repairs Service and the Special Projects Team who require a very similar trade delivery from general build contractors jointly procure a single framework model with four (4) contractors appointed, using the two stage restricted tender procedure. It was determined that a separate lot would be procured to appoint a single contractor to deliver the specific requirements of Legal Repair works. Keeping these specialised work streams separate allows the in-house team and support contractors to concentrate on the vital issue of day-to-day repairs. The appointed contractor for Legal Repair Works will be able to focus on the Council's processes and requirements for this critical activity ensuring that the strict timescales of The Pre Action Protocol for Housing Disrepair and court orders are met, reducing unnecessary legal costs and compensation payments.

- 3.5 There will be key social benefit clauses within the framework agreement terms in respect of the Housing Repairs in-house back up service and the Legal Repair work including offering apprenticeship opportunities, work experience placements, job shadowing and training opportunities. Contract conditions will require a minimum of one apprentice for every £1m of spend per contractor in respect of Housing Repairs spend. The service is currently working with the Council's IWork team to explore ways contractors may be able to deliver additional social value, aimed at improving job opportunities for local residents, especially those who are disadvantaged in the labour market.

Contractors will also be expected to contribute to the our in-house repairs training programmes for residents by providing donations to cover cost of tools and equipment and/or provide their appropriately skilled staff to assist with delivery of the training. Contractors will be encouraged to provide community benefits. For example, to cover the cost of providing Wi-Fi to 20 community centres to assist vulnerable residents with on-line repairs reporting.

The size and scale of projects delivered by the Special Projects Team 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 published on the Official Journal of the European Union (OJEU), the London Tenders Portal (the Council's e-procurement portal), and Contracts Finder. 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.

Staff from the existing contractors delivering the current contracts for Housing General Build and Legal Repair will be subject to Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended 2014) or "TUPE". TUPE is designed to protect the rights of employees when they are transferred from one employer to another. This is unlikely to apply in respect of contractors currently utilised by the Special Projects Team because the Council has no on-going commitment to any individual contractor at present where relevant conditions for TUPE could apply.

- 3.6 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 cost criteria will use of the National Housing Federation (NHF) Schedule of Rates (SORs) and Bespoke SOR's and schedule of works for specialist work that maybe required and not exist in the NHF rates.

The proposed award criteria for both lots will be set at 50% Price and 50% Quality. The quality criteria amounting to 50% will be made up as follows, subject to review;

Lot 1:

- Proposed approach to resourcing, mobilisation and delivery of contract – 15%
- Proposed approach to cost and quality management – 15%
- Proposed approach to customer service, equalities and social value – 15%
- Proposed approach to Health and Safety – 5%

Lot 2:

- Proposed approach to resourcing, delivery and administrative processes for management of contract – 15%
- Proposed approach to meeting volume and timescales – 5%
- Proposed approach to cost and quality management – 5%
- Proposed approach to customer services, equalities and social value – 15%
- Proposed approach to Health and Safety – 5%

- 3.7 The Council is responsible for undertaking the repair, maintenance and improvement of its housing properties and installations therein (Part 2 of the Housing Act 1985 and section 11 of the Landlord and Tenant Act 1985). The Council has power to enter into such contracts under section 1 of the Local Government (Contracts) Act 1997 on the basis that such services are properly required for the discharge of the Council's functions.

Residents' are reliant on the Council to deliver repairs to keep their homes in a good state of repair. Failure by the Council to meet its repair obligations could impact adversely on residents and carries a

reputational risk for the Council. There is also a financial risk as there is potential for more legal disrepair claims if the Council does not deliver statutory obligations in respect of repairs. Leaseholders pay service charges for relevant repairs and expect that they will be carried out effectively. These risks can be mitigated by ensuring this framework agreement is procured within the given timescales to deliver the necessary services.

There is a risk contractors cannot meet volumes of work. This risk is managed by clear requirements set out within the specification, rigorous assessment at ITT stage. The appointment of a number of contractors act as a back up to each other.

A delayed framework agreement in place resulting in continued high aggregate spend with non-framework contractor from the Special Projects Team.

Failure to comply with the Pre Action Protocol for Housing Disrepair or court orders exposes the Council to substantial claims for legal costs and compensation and significant reputational risk. This can be mitigated by the appointment of a single contractor able to provide a separate team working only on legal repair works, focused operational case and contract management. This approach allows the in-house team and its support contractors to concentrate on delivering the volume of day to day repairs effectively and to ensure the Council meets its landlord repairing obligations.

The key risks associated with this procurement are:

Risk	Likelihood	Impact	Priority	Mitigation
Procurement is unsuccessful with no suitable supplier tendering or being identified	Low	High	Medium	Interim emergency measures will be sought and plans to re-procure put in place
The successful tenderer pulls out of the contract prior to start of the contract	Low	High	Medium	Interim emergency measures will be sought and plans to re-procure put in place
Delays to the procurement process result in limited mobilisation time for new supplier	Medium	High	High	A project plan is in place and the Project Procurement team need to ensure agreed key milestones are met.

The opportunities identified are;

- Not guaranteeing volumes of works allows flexibility to increase volumes of in-house work if practicable.
- Having a framework of contractors in place enables the Special Projects Team to start work immediately funding is available without need for further procurement activity.
- Tenants and Leaseholders are more likely to receive a seamless service and value for money with a procurement timetable planned in advance.

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.

3.9 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	General Building repairs including out of hours cover in order to support the in-house repairs service (including

	Legal Repairs Team) and provide resources for the Special Projects Team.  See paragraph 4.1
2 Estimated value	The estimated value for Lot 1 is between £0 and £3,800,000 over 4 years. The estimated value for Lot 2 is between £0 and £1,600,000  See paragraph 4.2
3 Timetable	SQ – January 2019 ITT– February 2019 Contract Award – July 2019 Contract Start – October 2019  See paragraph 4.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	A competitive tender process has been selected.  See paragraph 4.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	London Living Wage and social benefit clauses will be included as part of the contract terms. Best value is considered as part of the specification, award criteria and delivery of the service. There may be TUPE implications. See paragraph 4.5
6 Evaluation criteria	The award criteria will be split at Price 50% and Quality 50%.  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

## 4. Implications

### 4.1 Financial implications

General Building work for the Housing Repairs Service and Legal Repairs Team is funded by the Housing Repairs budget (£32.03m in 2018/19). The allocation for spending on Repairs Subcontractors is £3.50m.

It is anticipated that the current budget provision will continue to be available in the foreseeable future to support General Building work for Housing Repairs and Legal Repairs. The cost of this contract will therefore be contained within current and future years' budgets without causing additional pressure to the Council.

Currently, there is no budget allocation for General Building work for the Special Projects Team as their work is funded by section 106/CIL. The volume of work is therefore depending on the availability of this fund.

#### 4.2 **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 may enter into contracts for such services under section 1 of the Local Government (Contracts) Act 1997. The Executive may provide Corporate Directors with responsibility to award contracts with a value over £2 million using revenue money and over £5 million using capital money (council's Procurement Rule 16.2).

The proposed framework is for works. The estimated value of the proposed framework is above the threshold for application of the Public Contracts Regulations 2015 (currently £4,104,394.00). The council's Procurement Rules require contracts over the value of £164,176.00 to be subject to competitive tender. In compliance with the requirement of the Regulations and the council's Procurement Rules a competitive tendering procedure with advertisement in the Official Journal of the European Union will be used.

On completion of the procurement process the framework may be established as recommended in the report. In deciding whether to appoint the selected contractors the Interim Corporate Director of Housing and Adult Social Services 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.

The contract is for a period in excess of 12 months and therefore will be qualifying long term agreements under section 20 of the Landlord and Tenant Act 1985. Accordingly the council will need to comply with the leaseholder consultation requirements applicable to long term qualifying agreements set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (as amended).

#### 4.3 **Environmental Implications**

Carrying out building and maintenance work has several environmental impacts. During the building or maintenance process, new materials will be used, as well as energy in the plant and equipment, which will cause on-site emissions if powered by fossil fuels. The works will generate waste and there is a risk to biodiversity when working in roofspaces or around trees. In addition, the contractor will be using vehicles to arrive at and deliver materials to sites, which will contribute to air pollution (unless electric vehicles are used) and congestion.

Provision will be made within the framework specifications and contractor selection criteria to mitigate impact on each of the above with reference to relevant legislation and the stipulation that the contractor must adhere to the requirement of the Councils Housing HSE Code of Conduct for Contractors and appropriate legislation.

The Contractor should ensure that waste materials are kept to a minimum and that waste leaving sites is reused or recycled where practicable. The Contractor will have a duty of care to ensure that any waste disposal is done legally and in alignment with the waste hierarchy.

In addition, Contractors should be encouraged to use low or zero emission vans. Where possible, the Contractor should use recycled or sustainably produced materials. The contractor will install energy saving replacement parts where possible and if compatible. Where complete renewals are required, then energy saving replacements will be considered.

#### 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.

A Resident Impact Assessment was completed on 19<sup>th</sup> September 2018. This procurement will not have any negative impact on any persons within the protected characteristics groups. This contract will

have a positive impact on vulnerable groups as it will ensure that their properties are maintained to a high standard. Access to the discretionary repairs service will also enable vulnerable groups to have repairs undertaken that would normally be the responsibility of the resident. Diversity and equality are considered during the procurement process. Potential service providers will be asked a scored question during the procurement process about how they assess and manage repairs for customers with any of the equalities characteristics. It is a contractual requirement for service providers to work to Islington Council's policies and procedures, where equality, diversity and an accessible service for all is factored into service delivery procedures.

## 5. Reason for recommendations

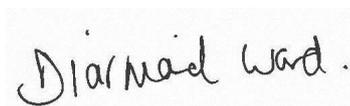
- 5.1 This report recommends the approval of the procurement strategy in respect of General Building Work for the Housing Repairs Service, Special Projects Team and Housing Legal Repairs to be primarily utilised, controlled and managed jointly by the Housing Repairs service and Special Projects Team.

**Appendices:** Resident Impact Assessment

**Background papers:** None

**Final report clearance:**

**Signed by:**



8/10/18

**Executive Member for Housing and Development**

**Date:**

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