



## Key Decision Report of Corporate Director of Housing

<b>Officer Key Decision</b>	<b>Date:</b> 10th June	<b>Wards:</b> All
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<b>Delete as appropriate</b>	Exempt	Non-exempt
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## **SUBJECT: Procurement Strategy for Consultant Services for Islington's New Build Programme**

### **1. Synopsis**

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of consultant services to support Islington's current new build programme in accordance with Rule 2.7 of the council's Procurement Rules.
- 1.2 The council needs to engage a range of specific and specialist services that it does not have in-house to achieve delivery of the new build programme to meet ambitious targets by 2022 and to bring schemes forward for completion beyond the current target completion date.

### **2. Recommendation**

- 2.1 To approve the procurement strategy for using the Notting Hill Genesis (NHG - formerly Notting Hill Housing) consultant frameworks to support the delivery of the new build programme for the reasons outlined in this report.

### **3. Date the decision is to be taken**

10 June 2019

### **4. Background**

- 4.1 Housing New Build manage the delivery of the council's new build programme and oversee the delivery of development initiatives across the borough.

Each new build development scheme requires a range of technical and professional disciplines and services to facilitate its successful delivery. These disciplines include, but are not limited to services such as: architecture and design; employer's agent; civil and structural engineers; mechanical and electrical engineers; quantity surveyors; quality inspectors; landscape architects and planning consultants.

Housing New Build have considered and explored a variety of options available in the marketplace for procuring these services; these are highlighted in section 3.4 of this report.

#### 4.2 **Estimated Value**

The fees for consultant services appointed via the NHG framework agreements will be funded through the council's approved new build budgeted resources. Consultant fees are capitalised and included as part of the overall scheme costs on a project-by-project basis.

The average annual value of the consultant services procured to support the delivery of the new build programme is estimated to be £1-1.2m per year and a total estimated value of £3.5-4m over the next 3 years, though this could increase if the current programme is expanded.

The council uses and will continue to use in-house resources where there is capacity and expertise. In-house architects and building control currently help to deliver the council's new build programme. In addition, Housing is funding additional resources in a number of other council departments including housing property services, legal, communications, and planning to develop further specific roles internally to support the new build programme.

#### 4.3 **Timetable**

With an ambitious programme to deliver by 2022 and new schemes to be carried forward to ensure a rolling programme beyond the current target period, it is necessary that a strategy for procuring consultant services is in place by end of May 2019.

We have consulted with strategic procurement, legal services, and property services about the options for procuring consultants. We have communicated with officers at LB Haringey, LB Hackney, LB Camden, LB Newham and LB Ealing in an effort to understand how other local authorities are procuring similar services and to investigate any potential scope for collaborative working.

The council's legal team have reviewed the NHG framework documents, including the access agreement. Once internal approvals are in place, we anticipate that the access agreement will be signed by both parties to allow use of the framework within two-four weeks.

#### 4.4 **Options appraisal**

Set out below are the various options we have considered as part of developing the strategy set out in this report.

##### *Option A*

Individual procurement exercises for each consultant service required on a project-by-project basis.

Benefits:

- Ability to engage suitably qualified and experienced consultants based on a project specific brief.

Drawbacks:

- The resources required to undertake multiple 'one-off' tender exercises would be well beyond our current capacity.
- With a very active market, it can be challenging to attract the right level of interest from consultants.

##### *Option B*

Procure our own framework of consultants for future new build projects.

Benefits:

- Ability to set terms of procurement based on the council's own specific requirements.

Drawbacks:

- Timeline for completion of an EU compliant procurement process.

- Significant resources would be required to undertake such a procurement process, particularly given the range of disciplines and differences between those disciplines.
- We would essentially be replicating procurement routes that are already established with no guarantees of any improved outcomes, including value for money.

### *Option C*

Utilise an existing and compliant consultant services framework agreement.

#### Benefits:

- More cost effective as fewer council resources needed owing to EU compliant competitive procurement exercise completed by a third party.
- Potential to resource from a wider pool of experienced consultants, particularly in more specialist areas.
- Does not prohibit other forms of procurement or restrict us from undertaking other options should that be necessary.

#### Drawbacks:

- Framework providers could terminate the access agreement often with minimal notice required.

It is our view that the most efficient and flexible approach is Option C. The benefits of procuring consultants via an existing consultant services framework agreement, which has been established through a compliant procurement process by another organisation, far outweigh the potential drawbacks.

The NHG framework consists of a range of experienced consultants, of which, a number have already successfully delivered services supporting the council's new build programme. Importantly though, there will be an opportunity to work with consultants we have not previously worked with. This will allow us to compare and benchmark services from a wider pool, as well as bringing more variety and innovation to some of our working practices.

The term of the framework is initially 4 years from the commencement date (May 2017) with an option of extending by a further year, which if triggered would mean that we could continue to use it until May 2022.

## 4.5 **Key Considerations – Reference to social value and impact on staff**

### London Living Wage

Clause 29.1 of the NHG framework agreement specifies that consultants awarded contracts under the framework agreement must pay all individuals that it employs to carry out services no less than the London Living Wage.

### Social Value

Social value will be included within the award criteria, and assigned the appropriate weighting as part of a supplier's quality submission during a direct selection or mini competition process. Attributing a proportion of a tender evaluation to social value will help to ensure that social enterprises, Small or Medium Sized Enterprises (SME's) and socially driven suppliers, stand a better chance of winning work through the procurement process.

We have a strong record of supporting local companies through the procurement of consultants to support the new build programme, particularly evident in the number of Islington based architectural practices we have and continue to work with. The NHG framework consists of a number of SME's and consultants based in Islington.

#### 4.6 **Evaluation**

The framework allows for direct selection (without further competition) or a mini-competition between framework consultants.

The criteria under which a consultant can enter into a call off contract to carry out the services required, without any further competition is set out in the framework agreement.

##### Direct Selection criteria

- Where it is determined that a Framework Consultant will provide the most economically advantageous offer for the proposed Call Off Contract by reference to the Framework Consultants' tender submissions for the Framework Agreement and having regard to the particular requirements of the Call Off Contract in question
- where the Framework Consultant has introduced a development opportunity to which the Call Off Contract relates
- where the Framework Consultant has already carried out significant services "at risk" in relation to the development site to which the Call Off Contract will relate
- where the Call Off Contract has substantial similarities to a previous project in which the Framework Consultant was involved
- where for reasons of urgency it is not reasonably practicable to award the Call Off Contract by way of a Mini-Competition
- where it is determined through application of the Capability Criteria that only one Framework Consultant is capable of carrying out the Call Off Contract

##### Mini-Competition

To award a Call Off Contract by way of a Mini-Competition, the framework sets out certain qualitative criteria to be used for evaluation. The criteria may include (but shall not be limited to) some or all of the following:

- conformity of the Consultant's proposal with the council's specific requirements;
- relevant experience, qualifications and track record of the team proposed by the Consultant;
- the Consultant's proposed work method;
- the Consultant's proposed programme for the delivery of the services;
- the Consultant's design related proposals;
- the Consultant's social value proposals.

The percentage weightings given to the price and quality elements of the evaluation will typically be 40% price and 60% quality. The framework does not prescribe this price/quality split and the weighting can be adjusted if considered appropriate.

Key Performance Indicators (KPIs) will be administered throughout each call off contract. These will be used to monitor ongoing performance against the schedule of services and to compare the performance of consultants. The KPIs will monitor:

- (a) Overall performance/ service
- (b) Level of satisfaction with product and information provided
- (c) Level of satisfaction with consultant in providing a quality service
- (d) Level of satisfaction with consultant in providing timely delivery of service
- (e) Quality of communication.

#### 4.7 **Business Risks**

The risk of the framework access agreement being terminated before the framework expiry date is considered low.

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.

4.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the procurement rules.

### **5. Implications**

#### 5.1 **Financial implications**

The Council's existing new build programme consultant services framework (covering a range of specialist services not employed in house) has expired if we do not proceed with an alternative framework we would either need to enter into individual contracts on a scheme by scheme basis or set up our own framework both of which are labour intensive procurement processes and would detract staff resources from the delivery of the programme.

Alternatively, as this report recommends we could utilise an existing framework set up by a housing association delivering a new build programme. The Notting Hill Genesis consultant services framework has 2 years remaining (with a possible 1 year's extension).

The Housing department's research shows that the indicative framework prices are competitive as compared to the market and as such this would appear to be the most cost effective approach.

We anticipate incurring consultant service costs of between £3.5m-£4.5m over the next 3 years, these costs have been included in the latest new build programme agreed by the Council as part of the 2019-20 budget setting process.

#### 5.2 **Legal Implications**

The council as a local housing authority has powers to provide housing accommodation by erecting houses under Section 9, Housing Act 1985. The council may appoint external consultants to facilitate the delivery of the new build housing programme (section 111 Local Government Act 1972). Accordingly, the council has power to enter into consultancy agreements for this purpose under section 1 of the Local Government (Contracts) Act 1997.

Contracts for the appointment of consultants are service contracts. The threshold for application of the Public Contracts Regulations 2015 (the Regulations) is currently £181,302 for public service contracts. The value of the proposed consultant contracts will exceed that threshold. The proposed procurement strategy is to use the NHG consultants framework to procure the consultants.

The NHG framework is available for use by local authorities. In order to procure consultants from the framework, the council will be required to enter into an access agreement with NHG. Consultants may then be appointed by direct selection or following a mini competition.

#### 5.3 **Environmental Implications**

Engaging with consultants to support the council's delivery of New Build properties will have a minor environmental impact similar to most office-based contracts. This will include energy use (both in the building and the internet servers hosting the sales website), water use, waste generation and resource usage, potentially including the printing of project-related documents. There are also likely to be some travel-related impacts (emissions and congestion) as consultants will travel to Islington's offices or

project sites for meetings and site inspections. The work of the consultants may also have an indirect impact as a result of any building work that takes place with their input, or long-term impacts related to the use of any housing built with their input. These impacts, which include material, energy and water use, as well as construction waste, will be identified in reports at the relevant approval stages.

#### 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.

Project specific Resident Impact Assessments are undertaken for each individual new build project and therefore a separate RIA is not required for this report.

#### 6. Reasons for the decision

6.1 For the reasons set out above, the NHG Framework provides the council with a compliant procurement route to engage with essential consultant services required to support the new build programme.

#### 7. Record of the decision: (to be completed after 5 days on the website and re-sent to Democratic Services)

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

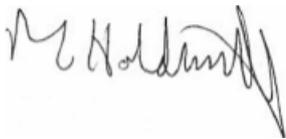
#### Appendices

- None

#### Background papers:

- None

#### Signed by:



**Corporate Director of Housing**

**Date: 10<sup>th</sup> June 2019**

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