

Housing Directorate 222 Upper Street, N1 1XR

Key Decision Report of the Corporate Director of Housing

Officer Key Decision	Date: 27 th October 2020		Wards: All
Delete as appropriate	Exempt	Non-exempt	

APPENDICES 2 AND 3 TO THIS REPORT ARE EXEMPT AND NOT FOR PUBLICATION

SUBJECT: Contract Award for Measured Term Contracts for Major Works to Housing Stock

1. Synopsis

- 1.1 This report seeks approval for the award of contracts for the delivery of major works to Islington's housing stock.
- 1.2 Major works include the renewal or major overhaul of failing building components such as roof coverings, windows, masonry, fire protection, water tanks, communal lighting, door entryphones, etc.

2. Recommendations

- 2.1 To award a 10 year Term Partnering Contract with a break provision after 4 and 7 years for the delivery of major works to Islington's housing stock contained on estates and mansion blocks, Lot 1 (East of Borough) to Mears Ltd.
- 2.2 To award a 10 year Term Partnering Contract with a break provision after 4 and 7 years for the delivery of major works to Islington's housing stock contained on estates and mansion blocks, Lot 2 (West of Borough) to Vinci Construction Ltd.
- 2.3 To award a 10 year Term Partnering Contract with a break provision after 4 and 7 years for the delivery of major works to Islington's street property housing stock to AD Construction Group (Architectural Decorators) Ltd.

These decisions have been delegated to the Corporate Director of Housing in consultation with the Executive Member for Housing and Development by the Council's Executive in September 2017.

3. Date the decision is to be taken

27th October 2020

4. Background

4.1 Nature of the service

The Council's Housing service operates a rolling programme of planned maintenance and major works for its directly-managed housing stock. The work consists mainly of repair and replacement of life-expired building components. Partnering contractors for major works schemes were last procured in 2010, with contracts then awarded to Mears Ltd and Breyer Group Ltd commencing in early 2011. These two contracts expired on 31 March 2019. A lengthy procurement exercise has now been completed which has resulted in three new partnering providers being selected. The process has been designed to ensure the winning bidders will provide high quality work and value for money for the Council and its residents.

The process commenced with a Meet the Buyer event attended by representatives from approximately 50 different construction companies. Contacts from the event provided useful information on the market and different models for delivering work of this nature.

4.2 Estimated Value

The Housing Capital Programme major works are currently and will continue to be funded from the Housing Revenue Account. It is anticipated that the annual budget for this work will be circa £30 - £50million. These figures are based largely on forthcoming programmes of work and budgets already allocated. It is anticipated that spend in the first year is likely to be £30m but that work will increase in coming years following the return of street properties from PFI2, additional fire protection work and works to reduce carbon emissions, hence the broad spread.

If the annual budget is reduced during the length of the contract, repair and maintenance work will need to be prioritised accordingly.

The Schedule of Rates (SoR) used for this procurement was purchased from the National Housing Federation (NHF). The NHF frequently benchmark results from tenders across the social housing sector to ensure rates reflect the building industry.

Fluctuating costs within the construction industry are well documented; it is however, considered ill-advised to attempt to avoid this through fixed pricing. The SoRs is therefore subject to indexation.

Leaseholder recharges are an important consideration for this procurement: all necessary statutory consultation has been conducted with leaseholders.

4.3 Timetable

The previous major works contracts expired on 31st March 2019. The original procurement strategy and timetable was designed to allow the signing of new contracts in January 2019 and a three-month mobilisation period.

The procurement timetable has been considerably delayed for a number of reasons, primarily because of the need to undertake urgent fire protection projects within the borough as a direct result of the Grenfell House fire, (removal of cladding at Braithwaite House and Fyfield, both very large projects along with a number of other urgent unexpected projects). All work associated with this procurement, in particular the preparation of all contract documents, has been undertaken by the Council's in-house Capital Programme Delivery team in addition to the delivery of the capital programme, thus unexpected emergency works had a serious effect on the procurement timetable.

Statutory deadlines for the procurement process in relation to section 20 Leaseholder Consultation have been fully observed in accordance with the Public Contracts Regulations 2015 and the Service Charges (Consultation Requirements) Regulations 2003. Details are set out in Appendix 3 to this report.

Consultation about the contracts has taken place with colleagues in the Housing Responsive Repairs team, Homes and Communities and Housing Needs divisions and with residents via a leaseholder and tenant forum. The tenant and leaseholder forum was particularly worthwhile and provided very useful advice and feedback concerning resident communications and the need for this to be fully inclusive and always in a variety of different forms, so face to face meetings and door knocking, newsletters, personal letters, emails, text messages, residents' meetings. It also covered how residents would prefer complaints to be handled and dealt with, and how their views and feedback can be collected at the end of each project. The detailed notes from this meeting are contained within Appendix 4 to this report.

4.4 **Options appraisal**

A two stage competitive tender was used in order to form a short list of viable high quality bidders.

Collaboration with other social landlords was carefully considered. At the time that the procurement exercise commenced no other providers were in a position to work with us. However, we have subsequently joined forces with London Borough of Camden to be included in the setting up of a framework of major works constructors, the intention being that this arrangement would provide back up if one of the new service providers fails.

After very careful consideration, consultation with different bodies and research it was decided that the work would be let in three separate lots, as described in para 2.1 above. Undertaking cyclical work to street properties is very different to undertaking such works to purpose built blocks of flats on estates, (pricing, materials, building techniques, resident consultation etc. are very different). In addition, PFI 2 properties will return to Islington's management in 2022, so in preparation for this it was determined that three Lots would work best.

The NHF term partnering contract was chosen as the most suitable form of contract, and for a maximum term of 10 years, containing 2 break clauses after 4 and 7 years. The contracts will be let as Design and Build contracts, thus reducing risk for the Council.

Large procurement exercises such as this one are very labour-intensive and costly for both client and constructors and, with this in mind, it was decided that three term partnering contracts, each for a maximum term of 10 years, would be procured rather than a framework arrangement that can only run for a maximum of 4 years.

4.5 **Key Considerations**

The new service providers have committed to engage with residents and local communities and undertake a range of initiatives primarily aimed at reducing local worklessness such as careers advice to school children, help with writing CVs, DIY home decorating sessions, and actively looking at employment opportunities within their companies for local residents. All three companies are keen to explore ways to engage with our residents and understand issues that affect their lives and work with their suggestions to combat negative issues such as antisocial behaviour on or around estates. Each provider will be required to take on one apprentice per annum (with many apprenticeships lasting 3 years).

A requirement for the payment of LLW is included within the contract documentation.

Working in conjunction with Islington's i-work team will assist the new service providers with the appointment of apprentices.

We will also encourage the new providers to use local suppliers and manufacturers wherever possible.

A system of rigorous project reviews will be mandatory for continual learning, development and improvement.

Some members of the previous providers' staff may have TUPE rights.

4.6 Evaluation

This tender was conducted in two stages, known as the Restricted Procedure as the tender is 'restricted' to a limited number of organisations. The first stage was Selection Criteria through a Selection Questionnaire (SQ), which established whether an organisation met 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 met the SQ requirements as specified in the advertisement and were then invited to tender (ITT). The second stage is the ITT which is forwards-looking using Award Criteria. Tenders were evaluated on the basis of the tenderers' price and ability to deliver the contract works or services as set out in the award criteria in order to determine the most economically advantageous offer.

The cost/quality award criteria were split 50%/50%. The quality criteria covered: customer care, management of works on site including management of subcontractors, information handling, health and safety, community engagement and supporting apprentices.

The detailed tender pricing and quality evaluation matrix is contained in Appendix 2

4.7 Business Risks

Tender returns were generally priced exceptionally low, which is of concern. The reasons for this are believed to be related to Covid-19 and also Brexit, such as loss of work, a lack of other procurement opportunities and thus a desire on the part of the bidders to secure some work. However, many of the bids appeared to be unsustainable. In order to try to mitigate associated risks, the quality submissions were robustly examined and marked accordingly.

The business opportunities associated with this procurement hinge mainly on the longevity of the contract, particularly in terms of partnering and collaborative working, developing processes and procedures that work for both parties and delivering projects efficiently in terms of staff resources. Procurement is expensive in terms of staff resources (for clients and service providers); this arrangement could result in no further tendering for up to 10 years.

- 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 complete an 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 in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	Delivery of major works projects on Islington's housing stock.
	See paragraph [1.2]
2 Estimated value	The estimated value per year is £30 to £50 million.
	The agreements are proposed to run for a period of 4 years with two optional extensions each of 3 years.
	See paragraph [4.2]
3 Timetable	Contract Award – November 2020 Mobilisation November – March 2021 Commence work on site April/May 2021
	See paragraph [4.3]

4 Options appraisal for tender procedure including consideration of collaboration opportunities	Three Lots, let as Term Partnering Contracts for a maximum of 10 years with 2 break clauses after first 4 years and then after a further 3 years.
	See paragraph [4.4]
5 Consideration of: Social benefit clauses; London Living Wage; Best value;	Range of initiatives primarily aimed at reducing local worklessness. Payment of LLW Appointment of 1 apprentice per annum per Lot.
TUPE, pensions and other staffing implications	See paragraph [4.5]
6 Award criteria	The award criteria price/quality split is 50%:50% The breakdown is more particularly described within the report.
	See paragraph [4.6]
7 Any business risks associated with entering the contract	Risks identified around low bids that could be unsustainable.
	See paragraph [4.7]
8 Any other relevant financial, legal or other considerations.	See paragraphs [5.1-5.4]

5. Implications

5.1 Financial implications

The proposed contract awards as set out in the recommendations section represent the most economically advantageous tenders submitted, based on the application of the procurement procedures outlined in this report.

The awards in respect of Lots 1 & 2 relate to cyclical improvement works (including door entry works, fire safety & electrical upgrades) in respect of estate-based properties.

The estimated capital budget provision, for lots 1 & 2, included in the 30 YR HRA Business Plan, over the next 10 years, based on current contract prices, is circa £25m per year.

It is difficult to quantify the financial impact of these new contracts because the methodology adopted in pricing these new contracts differs from that used when the previous contracts were priced. However, a small sample of comparable schedule of rates indicates that the new contract prices are broadly similar, whilst this provides some assurance, given the size of the sample, it cannot be taken as a guarantee that other types of works new prices will follow suit.

Having said this the 2 preferred bidders indicative tendered schedule of rate prices suggest that the annual cost, to deliver on our estimated value of works required, would be in the region of £20m per year, which is in line with the available budget provision.

The award in respect of Lot 3 relates to cyclical improvement works (including door entry works, fire safety & electrical upgrades) in respect of street properties. The majority of street properties are currently managed under the PFI2 contract, which ends in July 22, with all management, repair and major works capital expenditure responsibilities reverting back to the Council WEF April 22.

The estimated capital budget provision, for lot 3, included in the 30 YR HRA Business Plan, over the next 10 years (WEF April 22), is circa £10m per year.

It should be noted that although this budget recognises the increased average unit cost of works relating to street properties, estimated at £3.5k, as compared to the average unit cost of works relating to estate-based properties, estimated at £1.25k-£2k, it is in fact based on an indicative best assessment provided by Housing Property Services.

Having said this, the preferred bidder's indicative tendered schedule of rate prices suggest that the cost, to deliver on our estimated value of works required, would be closer to just over £12m per year. However, given that leaseholders represent around 30% of street properties, assuming a prudent 15% recovery rate, as not all cyclical works are recoverable, then this would bring the annual cost back down to closer to just over £10m per year, which is in line with the available budget provision.

The estimated long-term annual budget provision for all 3 lots totals an average of £35m per year. Given the uncertainties described above in relation to all 3 lots it will be imperative, moving forward, as works are commissioned & costed, that the financial position is closely monitored, which could ultimately lead to the necessity to consider re-prioritising works if the budget provision comes under pressure

In addition the report indicates that annual spend could reach levels of up to £50m a year. Whilst fluctuating levels of spend year on year can be accommodated in the Business Plan this is on the basis that over a 10 year period the overall spend on ALL capital works including expenditure not covered by the contracts referred to in this report averages around £50m per year. As such in order to accommodate spend in excess of £35m other capital works would potentially need to be forgone or a wider scale review of the services, assumptions and policies under pinning the current 30 year HRA business plan would need to be undertaken.

5.2 **Legal Implications**

The council is responsible for undertaking the repair of its housing estates, properties and installations pursuant to the Housing Act 1985. Accordingly the council may enter into contracts for the housing capital programme major works (section 1 Local Authorities Contracts Act 1997).

The contract is a public works contract for the purposes of the Public Contracts Regulations 2015 (the Regulations). The threshold for application of the Regulations to works contracts is currently £4,733,252 The estimated value of the proposed contract was above this threshold and therefore the provisions of the Regulations applied and the contract was advertised in OJEU and procured using the restricted procedure.

The contract was procured as three lots and the tenders have been evaluated in accordance with a pre-agreed evaluation model. Mears Ltd, Vinci Construction Limited and AD Construction Group obtained the highest rating for Lot 1, Lot 2 and Lot 3 respectively and may be awarded contracts for those lots subject to the Corporate Director of Housing being satisfied that their tenders represent value for money. In reaching her decision, the Corporate Director should have regard to the information set out in exempt appendix 2.

An appropriate proportion of the costs of the contract will be recoverable from the leaseholders of the relevant properties pursuant to the service charges provision of their leases subject to the consultation requirements of section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 having been carried out.

5.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

Environmental implications from these contracts will include direct impacts from the works such as material and energy use, waste generation and transport-related impacts from contractor travel and deliveries (emissions and congestion), as well as indirect impacts, such as ongoing energy consumption from newly-installed electrical equipment.

These impacts will be mitigated by requiring contractors to have sophisticated recycling arrangements in place for all waste building materials, to use recycled materials wherever possible, to reduce the use of cars by staff and purchase materials locally. Much of the work that will be delivered by these contractors will also contribute towards the Council's net zero carbon commitments by alleviating dampness and energy loss (such as repointing and rerendering walls, renewal of waste water pipes, renewal of roof and balcony coverings including the upgrading of roof insulation, installing new windows and external wall and cavity wall insulation) and also through providing far more efficient lighting through the renewal of estate and communal lighting systems.

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 (RIA) was completed on 16.8.17 and is at appendix 1 to this report.

6. Reasons for the decision: (summary)

6.1 These contracts are to be awarded in order to deliver capital major works to the Council's housing stock following a robust and compliant procurement process. The works to be delivered will ensure that the Council delivers its statutory obligations as a landlord and also contribute to the Council's net zero carbon commitments.

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 of HousingDate:

Appendices

Appendix 1 – Resident Impact Assessment

Appendix 2 - Price and Quality Tender Evaluation Matrix – Exempt

Appendix 3 – Leaseholder consultation exercise feedback - Exempt

Appendix 4 – Notes of consultation meeting with tenant and leaseholder forum

Background papers:

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